

GERMANY

CESCR

RESERVATIONS AND DECLARATIONS

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

Note

The German Democratic Republic had signed and ratified the Convention with reservations on 27 March 1973 and 8 November 1973, respectively. For the text of the reservations, see United Nations, Treaty Series, vol. 999. p. 294.

[Ed. note: as follows:

"The German Democratic Republic holds the view that Article 48, paragraph 1 of the Covenant is in contradiction to the principle according to which all States, which are guided in their policy by the aims and principles of the United Nations Charter, have the right to become members of covenants which affect the interests of all States.

The GDR has ratified the two covenants in accordance with the policy it has so far pursued with the view to safeguarding human rights. It is convinced that these covenants promote the world-wide struggle for the enforcement of human rights, which is an integral part of the struggle for the maintenance and strengthening of peace. On the occasion of the 25th anniversary of the Universal Declaration of Human Rights it thus contributes to the peaceful international cooperation of states, to the promotion of human rights and to the joint struggle against their violation by aggressive policies, colonialism and apartheid, racism and other forms of assaults on the right of the peoples to self-determination.

"he Constitution of the GDR guarantees the political, economic, social and cultural rights to every citizen independent of race, sex and religion. Socialist democracy has created the conditions for every citizen not only to enjoy these rights but also take an active part in their implementation and enforcement.

Such fundamental human rights as the right to peace, the right to work and social security, the equality of women, and the right to education have been fully implemented in the GDR. The government of the GDR has always paid great attention to the material prerequisites for guaranteeing above all the social and economic rights. The welfare of the working people and its continuous improvement are the leitmotiv of the entire policy of the government of the GDR.

The government of the GDR holds that the signing and ratification of the two human

rights covenants by further member states of the United Nations would be an important step to implement the aims for respecting and promoting the human rights, the aims proclaimed in the United Nations Charter."]

See also note 2 under "Germany" 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://treaties.un.org/pages/HistoricalInfo.aspx>].*

[Ed. note: Note 2 under Germany is as follows:

Germany

Note 2

In a communication dated 3 October 1990, the Federal Minister for Foreign Affairs of the Federal Republic of Germany notified the Secretary-General of the following:

" ... Through the accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States have united to form one sovereign State, which as a single Member of the United Nations remains bound by the provisions of the Charter in accordance with the solemn declaration of 12 June 1973. As from the date of unification, the Federal Republic of Germany will act in the United Nations under the designation 'Germany'."

The former German Democratic Republic was admitted to the Organization on 18 September 1973 by Resolution No. 3050 (XXVIII). For the text of the declaration of acceptance of the obligations contained in the Charter dated 12 June 1973 made by the German Democratic Republic (registered under No. 12758), see United Nations, Treaty Series, vol. 891, p. 103.

[Ed. note: as follows:

On behalf of the Council of Ministers of the German Democratic Republic, I solemnly declare that the German Democratic Republic is willing to accept and conscientiously carry out the obligations contained in the Charter of the United Nations.

*Chairman of the Council of Ministers of the German Democratic Republic
Berlin, 12 June 1973.]*

Consequently, and in the light of articles 11 and 12 of the Treaty of 31 August 1990 (Unification Treaty) between the Federal Republic of Germany and the German Democratic Republic, entries in status lists pertaining to formalities (i.e., signatures, ratifications, accessions, declarations and reservations, etc.) effected by the Federal Republic of Germany will now appear under "Germany" and indicate the dates of such

formalities.

As regards treaties in respect of which formalities had been effected by both the Federal Republic of Germany and the former German Democratic Republic prior to unification, the entry will similarly indicate in the corresponding table the type of formality effected by the Federal Republic of Germany and the date on which it took place, while the type of formality effected by the former German Democratic Republic and the date thereof will appear in a footnote.

Finally, as regards the treatment of treaties in respect of which formalities were effected by the former German Democratic Republic alone, article 12, para. 3 of the Unification Treaty contains the following provision: "Should the united Germany intend to accede to international organizations or other multilateral treaties of which the German Democratic Republic but not the Federal Republic of Germany is a member, agreement shall be reached with the respective contracting parties and with the European Communities where the latter's competence is affected". Accordingly, a footnote indicating the date and type of formality effected by the former German Democratic Republic will be included in the status of the treaties concerned, the corresponding footnote indicator being inserted next to the heading "Participant".]

(Note 2, Chapter IV.3, Multilateral Treaties Deposited with the Secretary-General)

Note

See note 1 under "Germany" 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://treaties.un.org/pages/HistoricalInfo.aspx>]*

[Ed. note: as follows:

Germany

Note 1.

1. Prior to the formation of one sovereign German State through the accession of the German Democratic Republic to the Federal Republic of Germany (effective from 3 October 1990), the Secretary-General received numerous communications relating to the application of international instruments to West Berlin.

2. In each case (noted here), the initial communication took the form of a note, letter, or declaration from the Federal Republic of Germany, in, accompanying or in connection with its instrument of accession, acceptance or ratification of an Amendment, Agreement, Convention or Protocol, to the effect that the relevant Amendment, Agreement,

Convention or Protocol would also apply to "Land Berlin" or "Berlin (West)" (as noted here) with effect from the date on which it entered into force for the Federal Republic of Germany.

[...]

- Note (re: "Land Berlin") accompanying the instrument of ratification (deposited 16 May 1969) of the International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966.

- Declaration (re: "Berlin (West)") accompanying the instrument of ratification (deposited 17 December 1973) of the International Covenant on Economic, Social and Cultural Rights, 16 December 1966.

- Declaration (re: "Berlin (West)") accompanying the instrument of ratification (deposited 17 December 1973) of the International Convention on Civil and Political Rights, 16 December 1966.

- Note (re: "Berlin (West)") accompanying the instrument of ratification (deposited 10 July 1985) of the Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979.

- Letter (re: "Berlin (West)") accompanying the instrument of ratification (deposited 1 October 1990) of the Convention Against Torture: and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984.

[...]

3. In the case of the following Amendments, Agreements, Conventions or Protocols, communications from other States were received by the Secretary-General in response to the application of the relevant amendment, agreement, convention or protocol to West Berlin by the Federal Republic of Germany to the effect that the application to West Berlin by the Federal Republic of Germany had no legal validity on the ground that West Berlin was not a "Land" of, or part of the territory of, the Federal Republic of Germany and could not be governed by it.

[...]

- International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966; communications from the Governments of Bulgaria (received 16 September 1969), Czechoslovakia (received 3 November 1969), Mongolia (received 7 January 1970), Poland (received 20 June 1969), the Ukrainian Soviet Socialist Republic (received 10 November 1969) and the Union of Soviet Socialist Republics (received 4 August 1969).

[...]

5. For a number of amendments, agreements, conventions or protocols (noted here), including some of those noted at points 3 and 4, the initial communication from the Federal Republic of Germany gave rise to communications to the effect that the initial communication was invalid because it was in contradiction to the Quadripartite Agreement of 3 September 1971 between the Governments of France, the Union of Soviet

Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The Quadripartite Agreement was said to confirm that West Berlin was not a "Land" (where this term had been used) or constituent part of the Federal Republic of Germany and could not be governed by it, and that treaties affecting matters of security and status could not be extended to West Berlin by the Federal Republic of Germany. The initial communication of the Federal Republic of Germany was said, in the case of almost every instrument noted here, to contradict or be incompatible with one or a combination of these stipulations (in one case, for the specific reason that it encroached on an area of competence of the German Democratic Republic) (as noted here). In the one exception to this rule (as noted here), the communication was said to encroach on an area of responsibility reserved for the authorities of France, the United Kingdom and the United States.

[...]

- International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966; communication (received 27 December 1973) from the German Democratic Republic (re: government).

- International Covenant on Economic, Social and Cultural Rights, 16 December 1966; communications from the Governments of the Union of Soviet Socialist Republics (received 5 July 1974, and reaffirming position, 13 February 1975), the German Democratic Republic (received 12 August 1974) and the Ukrainian Soviet Socialist Republic (received 16 August 1974) (re: security and status).

- International Convention on Civil and Political Rights, 16 December 1966; communications from the Governments of the Union of Soviet Socialist Republics (received 5 July 1974, and reaffirming position, 13 February 1975), the German Democratic Republic (received 12 August 1974) and the Ukrainian Soviet Socialist Republic (received 16 August 1974) (re: security and status).

- Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979; communication from the Governments of the Union of Soviet Socialist Republics (received 15 April 1986) and the German Democratic Republic (received 22 April 1987) (both re: security and status).

[...]

8. For the amendments, agreements, conventions or protocols noted in point 5 (as listed here), and for a number of such instruments noted in point 3 (as listed here), some of the related communications objecting to the initial declaration of the Federal Republic of Germany on the basis of the provisions of the Quadripartite Agreement or otherwise gave rise to further communications from the Governments of France, the United Kingdom and the United States of America (as noted here). At the essence of these communications was, in one case (as noted here), a denial that the material content of the relevant instrument could affect matters of security and status, and in all cases, the claim that the extension of the relevant instrument by the Federal Republic of Germany was valid and continued to have full effect because it had received proper prior

authorization from the authorities of France, the United Kingdom and the United States which had followed established procedures endorsed under the Agreement to ensure matters of security and status were not affected, and integral elements of the Agreement allowed for the limited extension of instruments to West Berlin where matters of security and status were not affected. Communications of this nature were often followed closely by communications from the Federal Republic of Germany indicating its solidarity with the position taken (as noted here).

[...]

- International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966; communications from the Governments of France, the United Kingdom and the United States of America (received 17 June 1974) and the Federal Republic of Germany in support (received 15 July 1974).

- International Covenant on Economic, Social and Cultural Rights, 16 December 1966; communications from the Governments of France, the United Kingdom and the United States of America (received 5 November 1974) (including denial re: security and status) and the Federal Republic of Germany in support (received 6 December 1974).

- International Convention on Civil and Political Rights, 16 December 1966; communications from the Governments of France, the United Kingdom and the United States of America (received 5 November 1974) (including denial re: security and status) and the Federal Republic of Germany in support (received 6 December 1974).

- Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979; communications from the Governments of France, the United Kingdom and the United States of America (received 20 March 1987).

...

9. For a number of the instruments noted in points 5 and 8 (as listed here), the relevant communications from the Governments of France, the United Kingdom, the United States of America, and the Federal Republic of Germany gave rise to further communications from the Government of the Union of Soviet Socialist Republics (noted here), and in some cases also the Government of the Ukrainian Soviet Socialist Republic (also noted here). These communications expressed solidarity with the position taken by the Government of the German Democratic Republic in the communications noted in point 5, and/or emphasized similar objections to those referred to in point 5 regarding the impropriety and invalidity of the use of the term "Land" in extending the relevant instrument to West Berlin (as noted here). In some cases, the communications also reasserted the breach of the "security and status" provisions of the Quadripartite Agreement described in point 5 (as noted here). In exceptional cases, rather than expressing solidarity with the Government of the German Democratic Republic, the communications expressed the same conditional acceptance of the extension of the relevant instrument to West Berlin as described in point 6 (as noted here).

[...]

- International Convention on the Elimination of All Forms of Racial Discrimination, 7

March 1966; communications from the Governments of the Union of Soviet Socialist Republics (received 12 September 1974, and reaffirming position, 8 December 1975) and the Ukrainian Soviet Socialist Republic (received 19 September 1974) (both re: solidarity and "Land").

[...]

10. For some of the instruments noted at point 9 (as listed here), the communications from the Governments of the Union of Soviet Socialist Republics and the Ukrainian Soviet Socialist Republic, which had expressed solidarity with the German Democratic Republic and protested the extension of the relevant instrument to "Land Berlin", provoked responding communications from the Governments of France, the United Kingdom and the United States of America (noted here). In essence, the communications responding to those of the Government of the Union of Soviet Socialist Republics asserted that the extension of the relevant instrument by the Federal Republic of Germany was valid and continued to have full effect for the same reasons of proper authorization detailed in point 6, and also defended the legitimacy under the Quadripartite Agreement of the terminology ("Land Berlin") used by the Federal Republic of Germany in its extension of the relevant instrument to the Western Sectors of Berlin. The communications responding to those of the Government of the Ukrainian Soviet Socialist Republic asserted that this Government was not competent to comment authoritatively on the provisions of the Quadripartite Agreement because it was not a party to the agreement. The communications were followed closely by communications from the Federal Republic of Germany indicating its solidarity with the position taken.

...

- International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966; communications from the Governments of France, the United Kingdom and the United States of America (two received 8 July 1975) (responding to the preceding communications of the Government of the Union of Soviet Socialist Republics and the Government of the Ukrainian Soviet Socialist Republic respectively), and from the Federal Republic of Germany in support (received 19 September 1975).

[...]

11. For a number of the amendments, agreements, conventions or protocols noted in points 5, 6, 8 and 9, relevant communications provoked further communications from the Governments of France, the United Kingdom and the United States of America with different combinations of content to those described above (noted here). These communications made, in one case (as noted here) a denial of the Government of the German Democratic Republic's assertion of competence for the subject matter of the relevant instrument (as noted here), and in all cases: the same assertion regarding the authorization of the extension of the relevant instrument by the Federal Republic of Germany as described in points 6 and 10 (as noted here); and/or the same assertion regarding the use of terminology in that assertion as described in point 10 (as noted here); and/or the same assertion regarding the competence of the makers of the preceding communications as described in point 10; and/or the same allegation regarding the making of a misleading reference to the Quadripartite Agreement as

described in point 7 (as noted here). Each variety of communication was followed closely by communications from the Federal Republic of Germany indicating its solidarity with the position taken (as noted here).

[...]

- International Covenant on Economic, Social and Cultural Rights, 16 December 1966; communications from the Governments of France, the United Kingdom and the United States of America (received 8 July 1975) (re: competence and authorization), and from the Federal Republic of Germany in support (received 19 September 1975).

- International Convention on Civil and Political Rights, 16 December 1966; communications from the Governments of France, the United Kingdom and the United States of America (received 8 July 1975) (re: competence and authorization), and from the Federal Republic of Germany in support (received 19 September 1975).

[...]

(Note 10, Chapter IV.3, 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)

15 August 1980

"The Government of the Federal Republic of Germany strongly objects ... to the declaration made by the Republic of India in respect of article 1 of the International Covenant on Economic, Social and Cultural Rights and of article 1 of the International Covenant on Civil and Political Rights.

The right of self-determination as enshrined in the Charter of the United Nations and as embodied in the Covenants applies to all peoples and not only to those under foreign domination. All peoples, therefore, have the inalienable right freely to determine their political status and freely to pursue their economic, social and cultural development. The Federal Government cannot consider as valid any interpretation of the right of self-determination which is contrary to the clear language of the provisions in question. It moreover considers that any limitation of their applicability to all nations is incompatible with the object and purpose of the Covenants."

10 July 1997

With regard to the declarations and the reservation made by Kuwait :

"The Government of the Federal Republic of Germany notes that article 2 (2) and article 3 have

been made subject to the general reservation of national law. It is of the view that these general reservations may raise doubts as to the commitment of Kuwait to the object and purpose of the Covenant.

The Government of the Federal Republic of Germany regards the reservation concerning article 8 (1) (d), in which the Government of Kuwait reserves the right not to apply the right to strike expressly stated in the Covenant, as well as the interpretative declaration regarding article 9, according to which the right to social security would only apply to Kuwaitis, as being problematic in view of the object and purpose of the Covenant. It particularly feels that the declaration regarding article 9, as a result of which the many foreigners working on Kuwaiti territory would, on principle, be totally excluded from social security protection, cannot be based on article 2 (3) of the Covenant.

It is in the common interest of all parties that a treaty should be respected, as to its object and purpose, by all parties.

The Government of the Federal Republic of Germany therefore objects to the [said] general reservations and interpretative declarations.

This objection does not preclude the entry into force of the Covenant between Kuwait and the Federal Republic of Germany."

13 October 2004

With regard to the 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 13 paragraphs (3) and (4) of the Covenant in accordance with the provisions of Articles 3, 14 and 42 of the Constitution of the Republic of Turkey.

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 Economic, Social and Cultural 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 liberties recognized in Article 13 paragraphs (3) and (4) 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 this Article will be interpreted and applied in such a way that protects the essence of the freedoms guaranteed therein.

8 November 200[5]

With regard to the declaration made by Pakistan upon signature:

"The Government of the Federal Republic of Germany has carefully examined the declaration made by the Government of the Islamic Republic of Pakistan upon signature of the International Covenant on Economic, Social and Cultural Rights.

The Government of the Islamic Republic of Pakistan declared that it "will implement the (...) Provisions in a progressive manner, in keeping with the existing economic conditions and the development plans of the country". Since some fundamental obligations resulting from the International Covenant on Economic, Social and Cultural Rights, including in particular the principle of non-discrimination found in Article 2 (2) thereof, are not susceptible to progressive implementation and are thus to be guaranteed immediately, the declaration represents a significant qualification of Pakistan's commitment to guarantee the human rights referred to in the Covenant.

The Government of the Islamic Republic of Pakistan also declared that "the provisions of the Covenant shall, however, be subject to the provisions of the constitution of the Islamic Republic of Pakistan". The Government of the Federal Republic of Germany is of the opinion that this leaves it unclear to which extent the Islamic Republic of Pakistan considers itself bound by the obligations resulting from the Covenant.

The Government of the Federal Republic of Germany therefore regards the above-mentioned declarations as reservations and as incompatible with the object and purpose of the Covenant.

The Government of the Federal Republic of Germany therefore objects to the above-mentioned reservations made by the Government of the Islamic Republic of Pakistan to the International Covenant on Economic, Social and Cultural Rights. This objection shall not preclude the entry into force of the Covenant between the Federal Republic of Germany and the Islamic Republic of Pakistan."

Note

[With regard to the signature of Cambodia to the Covenant,] [t]he signature was effected by Democratic Kampuchea. In this regard the Secretary-General received, on 5 November 1980, the following communication from the Government of Mongolia:

"The Government of the Mongolian People's Republic considers that only the People's Revolutionary Council of Kampuchea as the sole authentic and lawful representative of the Kampuchean people has the right to assume international obligations on behalf of the Kampuchean people. Therefore the Government of the Mongolian People's Republic considers that the signature of the Human Rights Covenants by the representative of the so-called Democratic Kampuchea, a régime that ceased to exist as a result of the people's revolution in Kampuchea, is null and void.

The signing of the Human Rights Covenants by an individual, whose régime during its short period of reign in Kampuchea had exterminated about 3 million people and had thus grossly violated the elementary norms of human rights, each and every provision of the Human Rights Covenants is a regrettable precedence, which discredits the noble aims and lofty principles of the United Nations Charter, the very spirit of the above-mentioned Covenants, gravely impairs the prestige of the United Nations."

Thereafter, similar communications were received from the Government of the following States on the dates indicated and their texts were circulated as depositary notifications or, at the request of the States concerned, as official documents of the General Assembly (A-33-781 and A-35-784):

<u>State</u>	<u>Date of receipt</u>
German Democratic Republic*	11 Dec 1980
Poland	12 Dec 1980
Ukraine	16 Dec 1980
Hungary	19 Jan 1981
Bulgaria	29 Jan 1981
Belarus	18 Feb 1981
Russian Federation	18 Feb 1981

Czechoslovakia

10 Mar 1981

* See note 9 in this chapter [*Ed. note: see above*].

(*Note 4, Chapter IV.3, Multilateral Treaties Deposited with the Secretary-General*)

Note

With respect to the interpretative declarations made by Algeria the Secretary-General received, on 25 October 1990, from the Government of Germany the following declaration:

[The Federal Republic of Germany] interprets the declaration under paragraph 2 to mean that the latter is not intended to eliminate the obligation of Algeria to ensure that the rights guaranteed in article 8, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights and in article 22 of the International Covenant on Civil and Political Rights may be restricted only for the reasons mentioned in the said articles and that such restrictions shall be prescribed by law.

It interprets the declaration under paragraph 4 to mean that Algeria, by referring to its domestic legal system, does not intend to restrict its obligation to ensure through appropriate steps equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

(*Note 17, Chapter IV.3, Multilateral Treaties Deposited with the Secretary-General*)

Note

[*With regard to the Declarations made by Bangladesh,*]...the Secretary-General received communications from the following Governments on the dates indicated hereinafter:

Germany (17 December 1999):

"The Government of the Federal Republic of Germany notes that the declaration concerning article 1 constitutes a reservation that places on the exercise of the right of all peoples to self-determination conditions not provided for in international law. To attach such conditions could undermine the concept of self-determination and seriously weaken its universally acceptable character.

The Government of the Federal Republic of Germany further notes that the declarations with regard to articles 2 and 3, 7 and 8, and 10 and 13 constitute reservations of a general nature in respect of provisions of the Covenant which may be contrary to the Constitution, legislation, economic conditions and development plans of Bangladesh.

The Government of the Federal Republic of Germany is of the view that these general

reservations raise doubts as to the full commitment of Bangladesh to the object and purpose of the Covenant. It is in the common interest of 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 these treaties.

The Government of the Federal Republic of Germany objects to the aforementioned reservations made by the Government of the People's Republic of Bangladesh to the International Covenant on Economic, Social and Cultural Rights. This objection does not preclude the entry into force of the Covenant between the Federal Republic of Germany and the People's Republic of Bangladesh".

...

(Note 18, Chapter IV.3, Multilateral Treaties Deposited with the Secretary-General)