

## PORTUGAL

CCPR

### **RESERVATIONS AND DECLARATIONS**

*(Ed. note: See note under Territorial Application, below)*

### **OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS**

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

*(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 October 1990

["The Government of Portugal hereby presents its formal objection to the interpretative declarations made by the Government of Algeria upon ratification of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. The Government of Portugal having examined the contents of the said declarations reached the conclusion that they can be regarded as reservations and therefore should be considered invalid as well as incompatible with the purposes and object of the Covenants.

This objection shall not preclude the entry into force of the Covenants between Portugal and Algeria.]

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

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5 October 1993

With regard to the reservations made by the United States of America:

"The Government of Portugal considers that the reservation made by the United States of America referring to article 6, paragraph 5 of the Covenant which prohibits capital punishment for crimes committed by persons below eighteen years of age is in compatible with article 6 which, as made clear by paragraph 2 of article 4, lays down the minimum standard for the protection of the right to life.

The Government of Portugal also considers that the reservation with regard to article 7 in which a State limits its responsibilities under the Covenant by invoking general principles of National Law may create doubts on the commitments of the Reserving State to the object and purpose of the Covenant and, moreover, contribute to undermining the basis of International Law.

The Government of Portugal therefore objects to the reservations made by the United States of America. These objections shall not constitute an obstacle to the entry into force of the Covenant between Portugal and the United States of America."

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26 July 2001

With regard to the reservation to article 7 made by Botswana upon ratification:

"The Government of the Portuguese Republic has examined the reservation made by the Government of the Republic of Botswana to article 7 of the International Covenant on Civil and Political Rights (New York, 16 December 1966).

The Government of the Portuguese Republic is of the view that, according to article 4 (2) of the Covenant, the said reservation is incompatible with its object and purpose.

Furthermore, this reservation goes against the general principle of treaty interpretation according to which a State party to a treaty may not invoke the provisions of its internal law as justification for failure to perform according to the obligations set out by the said treaty. It is 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 the treaties.

The Government of the Portuguese Republic considers that the Government of the Republic of Botswana, by limiting its responsibilities under the Covenant by invoking general principles of its Constitutional Law, may create doubts on its commitment to the Covenant and, moreover, contribute to undermine the basis of International Law.

The Government of the Portuguese Republic therefore objects to the reservation made by the Government of the Republic of Botswana to article 7 of the Covenant. This objection shall not constitute an obstacle to the entry into force of the Covenant between the Portuguese Republic and the Republic of Botswana."

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13 October 2004

With regard to declarations and the reservation made by Turkey upon ratification:

"The Government of Portugal considers that reservations by which a State limits its responsibilities under the International Covenant on Civil and Political Rights (ICCPR) by invoking certain provisions of national law in general terms may create doubts as to the commitment of the reserving State to the object and purpose of the convention and, moreover,

contribute to undermining the basis of international law.

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 Portugal therefore objects to the reservation by Turkey to the ICCPR. This objection shall not constitute an obstacle to the entry into force of the Covenant between Portugal and Turkey."

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21 November 2005

With regard to reservations made by Mauritania upon ratification:

"Portugal considers that the declaration concerning both Article 18 and Article 23, paragraph 4 is a reservation that seeks to limit the scope of the Covenant on a unilateral basis and that is not authorised by the Covenant.

This reservation creates doubts as to the commitment of the reserving State to the object and purpose of the Convention and, moreover, contributes to undermining the basis of international law.

The Government of the Portuguese Republic, therefore, objects to the above reservation made by the Mauritanian Government to the International Covenant on Civil and Political Rights.

This objection shall not preclude the entry into force of the Covenant between Portugal and Mauritania."

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29 August 2007

With regard to the reservation made by Maldives upon accession:

"The Government of the Portuguese Republic has carefully examined the reservation made by the Republic of Maldives to the International Covenant on Civil and Political Rights (ICCPR).

According to the reservation, the application of the principles set out in Article 18 of the Covenant shall be without prejudice to the Constitution of the Republic of Maldives. Portugal considers that this article is a fundamental provision of the Covenant and the reservation makes it unclear to what extent the Republic of Maldives considers itself bound by the obligations of the Covenant, raises concerns as to its commitment to the object and purpose of the Covenant

and, moreover, contribute to undermining the basis of international law. 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 these treaties. The Government of the Portuguese Republic, therefore, objects to the above mentioned reservation made by the Republic of Maldives to the ICCPR. This objection shall not preclude the entry into force of the Convention between Portugal and the Maldives.”

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28 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of the Portuguese Republic has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the International Covenant on Civil and Political Rights, New York, 16 December 1966.

The Government of the Portuguese Republic considers that the reservations made by the Islamic Republic of Pakistan to Articles 3, 6, 7, 12, 13, 18, 19 and 25 are reservations that seek to subject the application of the Covenant to its Constitution, its domestic law or/and Sharia Law, limiting the scope of the [Covenant] on an unilateral basis and contributing to undermining the basis of International Law.

The Government of the Portuguese Republic considers that reservations by which a State limits its responsibilities under the International Covenant on Civil and Political Rights by invoking its Constitution, the domestic law or/and the Sharia Law raise serious doubts as to the commitment of the reserving State to the object and purpose of the Covenant, as the reservations are likely to deprive the provisions of the Covenant of their effect and are contrary to the object and purpose thereof.

It is in the common interest of all the 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 the Portuguese Republic furthermore notes that the Islamic Republic of Pakistan does not recognize the competence of the Committee provided for in Article 40 of the Covenant.

The Government of the Portuguese Republic is of the view that the reporting mechanism is a procedural requirement of the Covenant, an integral undertaking of its States Parties and that the reservation is likely to undermine the international human rights treaty body system. Thus, the reservation to article 40 is contrary to the object and purpose of the Covenant.

The Government of the Portuguese Republic recalls that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, 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 aforesaid reservations made by the Government of the Islamic Republic of Pakistan to Articles 3, 6, 7, 12, 13, 18, 19, 25 and 40 of the International Covenant on Civil and Political Rights, New York, 16 December 1966.

However, these objections shall not preclude the entry into force of the Covenant between the Portuguese Republic and the Islamic Republic of Pakistan."

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#### Note

The reservation was lodged with the Secretary-General on 4 December 2006 by Bahrain, following its accession to the Covenant on 20 September 2006.

In keeping with the depositary practice followed in similar cases, the Secretary-General proposed to receive the reservation 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 12 months from the date of the present depositary notification. In the absence of any such objection, the above reservation would be accepted in deposit upon the expiration of the above-stipulated 12 month period, that is on 28 December 2007.

In view of the below objections, the Secretary-General did not accept the reservation made by Bahrain in deposit. The Secretary-General received the following objections on the dates indicated hereinafter:

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#### **Portugal (29 August 2007):**

"The Government of the Portuguese Republic has carefully examined the reservations made by the Government of the Kingdom of Bahrain to the International Covenant on Civil and Political Rights (ICCPR). The Government of the Portuguese Republic notes that the reservations were made after the accession of the Kingdom of Bahrain to the Covenant and is of the view that the practice of late reservations should be discouraged.

According to the first part of the reservation, the Government of the Kingdom of Bahrain interprets the provisions of articles 3, 18 and 23 as not affecting in any way the prescriptions of the Islamic Shariah. These provisions deal namely with the questions of equality between men and women, freedom of thought, conscience and religion and the protection of family and marriage.

Portugal considers that these articles are fundamental provisions of the Covenant and the first reservation makes it unclear to what extent the Kingdom of Bahrain considers itself bound by the obligations of the Covenant, raises concerns as to the commitment of the Kingdom of Bahrain to the object and purpose of the Covenant and, moreover, contribute to undermining the basis of international law.

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 these treaties.

The Government of the Portuguese Republic, therefore, objects to the above mentioned reservation made by the Kingdom of Bahrain to the ICCPR.

This objection shall not preclude the entry into force of the Convention between Portugal and Bahrain."

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*(Note 15, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)*

#### **TERRITORIAL APPLICATION**

<u>Participant:</u>	<u>Date of receipt of notification:</u>	<u>Territories</u>
Portugal	27 April 1993	Macau

#### **Note**

On 3 December 1999, the Government of China notified the Secretary-General that:

1. The application of the Covenant, and its article 1 in particular, to the Macao Special Administrative Region shall not affect the status of Macao as defined in the Joint Declaration and in the Basic Law.
2. The provisions of the Covenant which are applicable to the Macao Special Administrative Region shall be implemented in Macao through legislation of the Macao Special Administrative Region.

The residents of Macao shall not be restricted in the rights and freedoms that they are entitled to, unless otherwise provided for by law. In case of restrictions, they shall not contravene the provisions of the Covenant that are applicable to the Macao Special Administrative Region.

Within the above ambit, the Government of the People's Republic of China will assume the

responsibility for the international rights and obligations that place on a Party to the Covenant. Subsequently, the Secretary-General received communications concerning the status of Macao from China and Portugal (see note 3 under "China" and note 1 under "Portugal" regarding Macao 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 3 under China is as follows:*

*China*

*Note 3*

*By a notification dated 13 December 1999, the Government of the People's Republic of China informed the Secretary-General of the status of Macao in relation to treaties deposited with the Secretary-General. The notification, in pertinent part, reads as follows:*

*"In accordance with the Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macao signed on 13 April 1987 (hereinafter referred to as the Joint Declaration), the Government of the People's Republic of China will resume the exercise of sovereignty over Macao with effect from 20 December 1999. Macao will from that date, become a Special Administrative Region of the People's Republic of China. [For the full text of the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macao, 13 April 1987, see United Nation Treaty Series volume No. 1498, p. 229 (registration number I-25805)].*

*It is provided in Section 1 of Elaboration by the Government of the People's Republic of China of its Basic Policies Regarding Macao, which is Annex 1 to the Joint Declaration, and in Article 12, 13 and 14 of the Basic Law of the Macao Special Administrative Region of the People's Republic of China (hereinafter referred to as the Basic Law), which was adopted by the National People's Congress of the People's Republic of China on 31 March 1993, that the Macao Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government of the People's Republic of China. Furthermore, it is provided both in Section VIII of Annex 1 of the Joint Declaration and Article 138 of the Basic Law that international agreements to which the People's Republic of China is not yet a party but which are implemented in Macao may continue to be implemented in the Macao Special Administrative Region.*

*In this connection, on behalf of the Government of the People's Republic of China, I have the honour to inform your Excellency that:*

*I. The treaties listed in Annex I to this Note [herein below], to which the People's Republic of China is a Party, will be applied to the Macao Special Administrative Region with effect from 20 December 1999 so long as they are one of the following categories:*

*(i) Treaties that apply to Macao before 20 December 1999;*

*(ii) Treaties that must apply to the entire territory of a state as they concern foreign affairs or defence or their nature or provision so require.*

*II. The Treaties listed in Annex II to this Note, to which the People's Republic of China is not yet a Party and which apply to Macao before 20 December 1999, will continue to apply to the Macao Special Administrative Region with the effect from 20 December 1999.*

*III. The Government of the People's Republic of China has notified the treaty depositaries concerned of the application of the treaties including their amendments and protocols listed in the aforesaid Annexes as well as reservations and declarations made thereto by the Chinese Government to the Macao Special Administrative Region with effect from 20 December 1999.*

*IV. With respect to other treaties that are not listed in the Annexes to this Note, to which the People's Republic of China is or will become a Party, the Government of the People's Republic of China will go through separately the necessary formalities for their application to the Macao Special Administrative Region if it so decided."*

*The treaties listed in Annexes I and II, referred to in the notification, are reproduced below.*

*Information regarding reservations and/or declarations made by China with respect to the application of treaties to the Macao Special Administrative Region can be found in the footnotes to the treaties concerned as published herein. Footnote indicators are placed against China's entry in the status list of those treaties.*

*Moreover, with regard to treaty actions undertaken by China after 1 July 1997, the Chinese Government confirmed that the territorial scope of each treaty action would be specified. As such, declarations concerning the territorial scope of the relevant treaties with regard to the Macao Special Administrative Region can be found in the footnotes to the treaties concerned as published herein. Footnote indicators are placed against China's entry in the status list of those treaties.*

#### *Annex I*

*(The treaties appear in the order as they are provided in these volumes.)*

*...*

#### *Human Rights:*

*- International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966;*

*- Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979;*



- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984;*

- *Convention on the Rights of the Child, 20 November 1989.*  
...]

*[Ed. note: Note 1 under Portugal is as follows:*

*Portugal*

*Note 1*

*On 18 November 1999, the Secretary-General received from the Government of Portugal, the following communication:*

*"In accordance with the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macau signed on 13 April 1987, the Portuguese Republic will continue to have international responsibility for Macau until 19 December 1999 and from that date onwards the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999.*

*From 20 December 1999 onwards the Portuguese Republic will cease to be responsible for the international rights and obligations arising from the application of [Conventions] to Macau."*

*See also note 3 under "China". [Ed. note: reproduced immediately above]]*

Upon resuming the exercise of sovereignty over Macao, China notified the Secretary-General that the Convention with the statement made by China will also apply to the Macao Special Administrative Region.

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