

## PORTUGAL

### CEDAW

#### **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 October 1994

With regard to the reservations made by Maldives upon accession:

"The Government of Portugal considers that the reservations formulated by the Maldives are incompatible with the object and purpose of the Convention and they are inadmissible under article 19 (c) of the Vienna Convention on the Law of Treaties.

Furthermore, the Government of Portugal considers that these reservations cannot alter or modify in any respect the obligations arising from the Convention for any State party thereto."

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18 July 2001

With regard to the reservations made by Saudi Arabia upon ratification:

"The Government of the Portuguese Republic has examined the reservation made on 7 September by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women (New York, 18 December 1979), regarding any interpretation of the provisions of the Convention that is incompatible with the precept of Islamic law and the Islamic religion. It has also examined the reservation to article 9.2 of the Convention.

The Government of the Portuguese Republic is of the view that the first reservation refers in general terms to the Islamic law, failing to specify clearly its content and, therefore, leaving the other State parties with doubts as to the real extent of the Kingdom of Saudi Arabia's commitment to the Convention.

Furthermore, it also considers the reservation made by the Government of the Kingdom of Saudi Arabia incompatible with the objective and purpose of the aforesaid Convention, for it refers to the whole of the Convention, and it seriously limits or even excludes its application on a vaguely defined basis, such as the global reference to the Islamic law.

Regarding the reservation to article 9.2, the Government of the Portuguese Republic is of the view that the said reservation intends to exclude one of the obligations of non-discrimination, which is the essence of the Convention.

Therefore, the Government of the Portuguese Republic objects to the aforementioned reservations made by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women.

This objection shall not preclude the entry into force of the Convention between the Portuguese Republic and the Kingdom of Saudi Arabia."

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4 March 2002

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

"The Government of the Portuguese Republic has examined the reservation made by the Government of the Democratic People's Republic of Korea to the Convention on the Elimination of All Forms of Discrimination against Women (New York, 18 December 1979) on 27 February 2001 in respect of articles 2 (f) and 9.2 of the Convention.

Recalling that, according to paragraph 2 of Article 28 of the Convention a reservation incompatible with the object and purpose of the Convention shall not be permitted, the Government of the Portuguese Republic objects to the said reservations.

In fact, the reservation relating to article 2 (f) refers to a basic aspect of the Convention, namely the compromise to enact legislation to abolish all existing legal practices discriminating against women.

Regarding the reservation to article 9.2, the Government of the Portuguese Republic is of the view that the said reservation intends to exclude one of the specific obligations of non-discrimination, which is the essence of the Convention.

It is in the common interests of States that Treaties to which they have chosen to become party are respected by all parties and that the States are prepared to take all appropriate measures, including legislation to comply with their obligations.

Therefore, the Government of the Portuguese Republic objects to the afore mentioned reservations made by the Government of the Democratic People's Republic of Korea to the Convention on the Elimination of All Forms of Discrimination against Women.

This objection shall not preclude the entry into force of the Convention between the Portuguese

Republic and the Democratic People's Republic of Korea."

With regard to the reservation made by Mauritania upon accession:

"The Government of the Portuguese Republic has examined the reservation made by the Government of the Islamic Republic of Mauritania to the Convention on the Elimination of All Forms of Discrimination against Women (New York, 18 December 1979) on 10 May 2001 in respect of any interpretation of the provisions of the Convention that it is incompatible with the precept of Islamic law and its Constitution.

The Government of the Portuguese Republic is of the view that the said reservation refers in a general manner to national law, failing to specify clearly its content and, therefore, leaving the other State parties with doubts as to the real extent of the Islamic Republic of Mauritania's commitment to the Convention.

Furthermore it also considers the reservation made by the Government of the Islamic Republic of Mauritania incompatible with the objective and purpose of the aforesaid Convention, and it seriously limits or even excludes its application on a vaguely defined basis, such as the global reference to the Islamic law.

The Government of the Portuguese Republic therefore objects to the reservation made by the Government of the Islamic Republic of Mauritania to the Convention on the Elimination of All Forms of Discrimination against Women.

This objection shall not preclude the entry into force of the Convention between the Portuguese Republic and the Islamic Republic of Mauritania."

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28 November 2005

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

"The Portuguese Government has carefully examined the reservations made by the United Arab Emirates upon its accession to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Most of these reservations concern fundamental provisions of the Convention, such as articles 2 (f), 9, 15 (2) and 16, since they outline the measures which a State Party is required to take in order to implement the Convention, cover the fundamental rights of women and deal with the key elements for the elimination of discrimination against women.

Portugal considers that such reservations, consisting of references to the precepts of the Shariah and to national legislation, create serious doubts as to the commitment of the reserving State to

the object and purpose of the Convention and to the extent it has accepted the obligations imposed by it 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 reservations made by the United Arab Emirates to the CEDAW.

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

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30 January 2007

With regard to the reservations made by Oman upon accession:

"The first reservation concerns "all provisions of the Convention not in accordance with the provisions of the Islamic sharia and legislation in force in the Sultanate of Oman". Portugal considers that this reservation is too general and vague and seeks to limit the scope of the Convention on an unilateral basis that is not authorised by it. Moreover, 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. 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 second, third and fourth reservations concern fundamental provisions of the Convention, such as articles 9 (2), 15 (4) and 16, that cover the fundamental rights of women and deal with the key elements for the elimination of discrimination against women on the basis of sex. These reservations are thus incompatible with the object and purpose of the Convention and are not permitted under article 28 (2) of the CEDAW.

The Government of the Portuguese Republic, therefore, objects to the above mentioned reservations made by the Sultanate of Oman to the CEDAW.

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

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

"The reservation concerning the "provisions of the said Convention that may be contrary to the

Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the official religion of Brunei Darussalam" is too general and vague and seeks to limit the scope of the Convention on a unilateral basis that is not authorised by it. Moreover, 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. 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 reservation concerning article 9 (2) undermines a key provision of the Convention concerning the elimination of discrimination against women on the basis of sex. This reservation is thus incompatible with the object and purpose of the Convention and is not permitted under article 28 (2) of the CEDAW.

The Government of the Portuguese Republic, therefore, objects to the above mentioned reservations made by the Government of Brunei Darussalam to the CEDAW.

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

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#### Note

*[With regard to the declaration made by Pakistan,]... on 23 July 1997, the Secretary-General received from the Government of Portugal, the following communication:*

"Portugal is of the view that a general declaration of the kind made by Pakistan, constituting in fact in legal terms a general reservation, and not clearly specifying the provisions of the Convention to which it applies and the extent of the derogation therefrom, contributes to undermining the basis of international law.

Furthermore, according to paragraph 2 of article 28 of the Convention, a general reservation of such a kind is incompatible with the object and purpose of the Convention and shall not be permitted.

Portugal therefore objects to the aforesaid general reservation which will not preclude the entry into force of the Convention in its entirety between Pakistan and Portugal."

*(Note 51, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)*

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#### Note

Several Governments notified the Secretary-General that they consider the reservations made by

the Government of Algeria upon accession as incompatible with the object and purpose of the said Convention and, therefore, prohibited by virtue of its article 28 (2), on the dates indicated hereinafter:

<u>Participant:</u>	<u>Date of notification:</u>
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Sweden	4 Aug 1997
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Portugal	14 Aug 1997
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Denmark	24 Mar 1998
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*(Note 65, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)*

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#### Note

Several Governments notified the Secretary-General that they consider the reservations made by the Government of Kuwait concerning article 7 (a) and article 16 (f) as "incompatible with the object and purpose of the said Convention and, therefore, as prohibited by virtue of its article 28 paragraph 2" on the dates indicated hereinafter:

<u>Participant:</u>	<u>Date of notification:</u>
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Belgium	19 Jan 1996
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Austria	22 Feb 1996
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Portugal	15 May 1996
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*(Note 68, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)*

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#### Note

In regard to the reservations made by the Government of Micronesia (Federated States of) upon accession, the Secretary-General received a communication from the following State on the date indicated hereinafter:

Portugal (15 December 2005):

The Government of Portugal has carefully examined the reservations made by the Federated States of Micronesia upon its accession to the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW).

The first and second reservations concern fundamental provisions of the Convention and are not in conformity with its object and purpose. Articles 2, 5, 11 and 16 outline the measures which a State party is required to take in order to implement the Convention, cover the fundamental rights of women and deal with key elements for the elimination and discrimination against women.

Portugal considers that such reservations 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 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, therefore, objects to the above reservations made by the Federated States of Micronesia to CEDAW.

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

*(Note 71, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)*

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#### Note

The Secretary-General received communications with regard to the reservations made by Qatar upon accession from the following States:

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Portugal (10 May 2010)

The Government of the Portuguese Republic considers that the reservations are incompatible with the object and purpose of the Convention, insofar as they disregard fundamental principles that shape the core of the Convention.

According to international law, a reservation which is incompatible with the object and purpose of a treaty shall not be permitted.

The Government of the Portuguese Republic therefore objects to the aforesaid reservations made by the Government of the State of Qatar on 29 April 2009 upon its accession to the Convention on the Elimination of all Forms of Discrimination against Women.

This objection shall not preclude the entry into force of the Convention on the Elimination of all Forms of Discrimination against Women between the Portuguese Republic and the State of

Qatar.

(Note 73, Chapter IV.8, *Multilateral Treaties Deposited with the Secretary-General*)

## **TERRITORIAL APPLICATION**

### Note

On 27 April 1999, the Government of Portugal informed the Secretary-General that the Convention would apply to Macao.

Subsequently, the Secretary-General the Secretary-General received communications concerning the status of Macao from Portugal and China (see note 1 under Portugal and note 3 under China 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 reservation made by China will also apply to the Macao Special Administrative Region.

*(Note 13, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General).*