

TURKEY

CESCR

RESERVATIONS AND DECLARATIONS

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

Declarations and reservation:

The Republic of Turkey declares that; it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Article 1 and 2 thereof).

The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations.

The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

The Republic of Turkey reserves the right to interpret and apply the provisions of the paragraph (3) and (4) of the Article 13 of the Covenant on Economic, Social and Cultural Rights in accordance to the provisions under the Article 3, 14 and 42 of the Constitution of the Republic of Turkey.

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

Cyprus, 26 November 2003

With regard to the declarations made by Turkey upon ratification:

"...the Government of the Republic of Cyprus wishes to express its objection with respect to the declarations entered by the Republic of Turkey upon ratification on 23 September 2003, of the International Covenant on Economic, Social and Cultural Rights, New York, 16 December 1966.

The Government of the Republic of Cyprus considers that the declaration relating to the implementation of the provisions of the Covenant only to the States with which the Republic of Turkey has diplomatic relations, and the declaration that the Convention is "ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied" amount to reservations. These reservations create uncertainty as to the States Parties in respect of which Turkey is undertaking the obligations in the Covenant, and

raise doubt as to the commitment of Turkey to the object and purpose of the said Covenant.

The Government of the Republic of Cyprus objects to the said reservations entered by the Republic of Turkey and states that these reservations or the objection to them shall not preclude the entry into force of the Covenant between the Republic of Cyprus and the Republic of Turkey."

Finland, 13 October 2004

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

"The Government of Finland has examined the declarations and reservation made by the Republic of Turkey to the International Covenant on Economic, Social and Cultural Rights. The Government of Finland notes that the Republic of Turkey reserves the right to interpret and apply the provisions of the paragraphs 3 and 4 of Article 13 of the Covenant in accordance with the provisions under articles 3, 14 and 42 of the Constitution of the Republic of Turkey.

The Government of Finland emphasises the great importance of the rights provided for in paragraphs 3 and 4 of Article 13 of the International Covenant on Economic, Social and Cultural Rights. The reference to certain provisions of the Constitution of the Republic of Turkey is of a general nature and does not clearly specify the content of the reservation. The Government of Finland therefore wishes to declare that it assumes that the Government of the Republic of Turkey will ensure the implementation of the rights recognised in the Covenant and will do its utmost to bring its national legislation into compliance with the obligations under the Covenant with a view to withdrawing the reservation. This declaration does not preclude the entry into force of the Covenant between the Republic of Turkey and Finland."

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.

Greece, 11 October 2004

With regard to the declarations made by Turkey upon ratification:

"The Government of Greece has examined the declarations made by the Republic of Turkey upon ratifying the International Covenant on Economic, Social and Cultural Rights.

The Republic of Turkey declares that it will implement the provisions of the Covenant only to the States with which it has diplomatic relations.

In the view of the Government of Greece, this declaration in fact amounts to a reservation. This reservation is incompatible with the principle that inter-State reciprocity has no place in the context of human rights treaties, which concern the endowment of individuals with rights. It is therefore contrary to the object and purpose of the Covenant.

The Republic of Turkey furthermore declares that the Covenant is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

In the view of the Government of Greece, this declaration in fact amounts to a reservation. This reservation is incompatible with the obligation of a State Party to respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of such State Party. Accordingly, this reservation is contrary to the

object and purpose of the Covenant.

For these reasons, the Government of Greece objects to the aforesaid reservations made by the Republic of Turkey to the International Covenant on Economic, Social and Cultural Rights.

This objection shall not preclude the entry into force of the Covenant between the Hellenic Republic and the Republic of Turkey. The Covenant, therefore, enters into force between the two States without the Republic of Turkey benefiting from these reservations."

Portugal, 13 October 2004

With regard to the 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 Economic, Social and Cultural Rights (ICESCR) 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 ICESCR. This objection shall not constitute an obstacle to the entry into force of the Covenant between Portugal and Turkey."

Sweden, 30 June 2004

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

"The Government of Sweden has examined the declarations and reservation made by the Republic of Turkey upon ratifying the International Covenant on Economic, Social and Cultural Rights.

The Republic of Turkey declares that it will implement the provisions of the Covenant only to the State Parties with which it has diplomatic relations. This statement in fact amounts, in the view of the Government of Sweden, to a reservation. The reservation of the Republic of Turkey makes it unclear to what extent the Republic of Turkey considers itself bound by the obligations of the Covenant. In absence of further clarification, therefore, the reservation raises doubt as to the

commitment of the Republic of Turkey to the object and purpose of the Covenant.

The Government of Sweden notes that the interpretation and application of paragraphs 3 and 4 of article 13 of the Covenant is being made subject to a reservation referring to certain provisions of the Constitution of the Republic of Turkey without specifying their contents. The Government of Sweden is of the view that in the absence of further clarification, this reservation, which does not clearly specify the extent of the Republic of Turkey's derogation from the provisions in question, raises serious doubts as to the commitment of the Republic of Turkey to the object and purpose of the Covenant.

According to established customary law as codified by the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of a treaty shall not be permitted. It is in the common interest of all States that treaties to which they have chosen to become parties are respected as to their object and purpose, by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Sweden therefore objects to the aforesaid reservations made by the Republic of Turkey to the International Covenant on Economic, Social and Cultural Rights.

This objection shall not preclude the entry into force of the Covenant between the Republic of Turkey and Sweden. The Covenant enters into force in its entirety between the two States, without the Republic of Turkey benefiting from its reservations."