

AUSTRIA

CCPR

RESERVATIONS AND DECLARATIONS

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

1. Article 12, paragraph 4, of the Covenant will be applied provided that it will not affect the Act of April 3, 1919, State Law Gazette No. 209, concerning the Expulsion and the Transfer of Property of the House of Habsburg-Lorraine as amended by the Act of October 30, 1919, State Law Gazette No. 501, the Federal Constitutional Act of July 30, 1925, Federal Law Gazette No. 292, and the Federal Constitutional Act of January 26, 1928, Federal Law Gazette No. 30, read in conjunction with the Federal Constitutional Act of July 4, 1963, Federal Law Gazette No. 172.

2. Article 9 and article 14 of the Covenant will be applied provided that legal regulations governing the proceedings and measures of deprivation of liberty as provided for in the Administrative Procedure Acts and in the Financial Penal Act remain permissible within the framework of the judicial review by the Federal Administrative Court or the Federal Constitutional Court as provided by the Austrian Federal Constitution.

3. Article 10, paragraph 3, of the Covenant will be applied provided that legal regulations allowing for juvenile prisoners to be detained together with adults under 25 years of age who give no reason for concern as to their possible detrimental influence on the juvenile prisoner remain permissible.

4. Article 14 of the Covenant will be applied provided that the principles governing the publicity of trials as set forth in article 90 of the Federal Constitutional Law as amended in 1929 are in no way prejudiced and that

(a) paragraph 3, sub-paragraph (d) is not in conflict with legal regulations which stipulate that an accused person who disturbs the orderly conduct of the trial or whose presence would impede the questioning of another accused person, of a witness or of an expert can be excluded from participation in the trial;

(b) paragraph 5 is not in conflict with legal regulations which stipulate that after an acquittal or a lighter sentence passed by a court of the first instance, a higher tribunal may pronounce conviction or a heavier sentence for the same offence, while they exclude the convicted person's right to have such conviction or heavier sentence reviewed by a still higher tribunal;

(c) paragraph 7 is not in conflict with legal regulations which allow proceedings that led up to a person's final conviction or acquittal to be reopened.

5. Articles 19, 21 and 22 in connection with article 2 (1) of the Covenant will be applied

provided that they are not in conflict with legal restrictions as provided for in article 16 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

6. Article 26 is understood to mean that it does not exclude different treatment of Austrian nationals and aliens, as is also permissible under article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination.

OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS

(Ed. Note: for the text targeted by the following objection, see the Reservations and Declarations of the State which is the subject of the objection)

18 September 2007

With regard to the reservation made by Maldives upon accession:

“The Government of Austria has carefully examined the reservation made by the Government of the Republic of Maldives on 19 September 2006 in respect of Article 18 of the International Covenant on Civil and Political Rights.

The Government of Austria is of the opinion that reservations which consist in a general reference to a system of norms (like the constitution of the legal order of the reserving State) without specifying the contents thereof leave it uncertain to which extent that State accepts to be bound by the obligations under the treaty. Moreover, those norms may be subject to changes.

The reservation made by the Republic of Maldives is therefore not sufficiently precise to make it possible to determine the restrictions that are introduced into the agreement. The Government of Austria is therefore of the opinion that the reservation is capable of contravening the object and purpose of the Covenant.

The Government of Austria therefore regards the above-mentioned reservation incompatible with the object and purpose of the Covenant. This objection shall not preclude the entry into force of the Covenant between the Republic of Austria and the Republic of Maldives.”

13 October 2010

With regard to the reservation made by the Lao People's Democratic Republic upon ratification:

“The Government of Austria has examined the reservation made by the Government of the Lao People's Democratic Republic to Article 22 of the International Covenant on Civil and Political Rights at the time of its ratification.

In the view of Austria a reservation should clearly define for the other States Parties to the Covenant the extent to which the reserving State has accepted the obligations of the Covenant. A reservation which consists of a general reference to constitutional provisions without specifying its implications does not do so. The Government of Austria therefore objects to the reservation made by the Government of the Lao People's Democratic Republic.

This objection shall not preclude the entry into force of the Covenant between Austria and the Lao People's Democratic Republic."

24 June 2011

With regard to the reservations made by Pakistan upon ratification:

"The Government of Austria has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the International Covenant on Civil and Political Rights (ICCPR).

The Government of Austria considers that in aiming to exclude the application of those provisions of the Covenant which are deemed incompatible with the Constitution of Pakistan, Sharia laws and certain national laws, the Islamic Republic of Pakistan has made reservations of general and indeterminate scope. These reservations do not clearly define for the other States Parties to the Covenant the extent to which the reserving State has accepted the obligations of the Covenant.

The Government of Austria therefore considers the reservations of the Islamic Republic of Pakistan to Articles 3, 6, 7, 18 and 19; further to Articles 12, 13 and 25 incompatible with the object and purpose of the Covenant and objects to them.

Austria further considers that the Committee provided for in Article 40 of the Covenant has a pivotal role in the implementation of the Covenant. The exclusion of the competence of the Committee is not provided for in the Covenant and in Austria's views incompatible with the object and purpose of the Covenant. Austria therefore objects to this reservation.

These objections shall not preclude the entry into force of the Covenant between Austria and the Islamic Republic of Pakistan."

Note

With regard to the reservation made by Botswana upon signature and confirmed upon ratification, the Secretary-General received, from the following States, communications on the dates

indicated hereinafter:

Austria, 17 October 2001

"Austria has examined the reservation made by the Government of the Republic of Botswana upon signature of the 1966 International Covenant on Civil and Political Rights, and confirmed upon ratification, regarding Articles 7 and 12 para. 3 of the Covenant.

The fact that Botswana is making the said articles subject to a general reservation referring to the contents of existing national legislation, in the absence of further clarification raises doubts as to the commitment of Botswana to the object and purpose of the Covenant. 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 a treaty shall not be permitted. In Austria's view the reservation in question is therefore inadmissible to the extent that its application could negatively affect the compliance by Botswana with its obligations under Articles 7 and 12 para. 3 of the Covenant.

For these reasons, Austria objects to the reservation made by the Government of the Republic of Botswana to the International Covenant on Civil and Political Rights.

This objection shall not preclude the entry into force of the Covenant in its entirety between Botswana and Austria, without Botswana benefitting from its reservation."

...

(Note 18, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)

DECLARATION RE: ARTICLE 41

10 September 1978

[The Government of the Republic of Austria] declares under article 41 of the Covenant on Civil and Political Rights that Austria recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant on Civil and Political Rights.