

AUSTRIA

CEDAW

RESERVATIONS AND DECLARATIONS

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

Reservation:

"Austria reserves its right to apply [...], the provision of article 11, as far as night work of women and special protection of working women is concerned, within the limits established by national legislation."

Note

Upon ratification, the Government of Austria made the following reservation:

"Austria reserves its right to apply the provision of article 7 (b), as far as service in the armed forces is concerned, and the provision of article 11, as far as night work of women and special protection of working women is concerned, within the limits established by national legislation."

On 11 September 2000, the Government of Austria informed the Secretary-General that it had decided to withdraw the reservation to article 7 (b) of the Convention made upon ratification.

Further on 14 September 2006, the Government of Austria informed the Secretary-General of the following:

"The reservation formulated by the Republic of Austria to Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women on the occasion of ratification is withdrawn with regard to the night work of women. The Republic of Austria maintains the reservation with regard to the special protection of working women."

The complete text of the reservation is published in United Nations, Treaty Series, vol. 1272, p. 456.

[Ed. note: as follows:

"Austria reserves its right to apply the provision of article 7 (b), as far as service in the armed forces is concerned, and the provision of article 11, as far as night work of women and special protection of working women is concerned, within the limits established by national legislation."]

(Note 4, Chapter IV.8, 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)

26 October 1994

With regard to the reservations made by Maldives upon accession:

"The reservation made by the Maldives is incompatible with the object and purpose of the Convention and is therefore inadmissible under article 19 (c) of the Vienna Convention on the Law of Treaties and shall not be permitted, in accordance with article 28 (2) of the Convention on the Elimination of All Forms of Discrimination Against Women. Austria therefore states that this reservation cannot alter or modify in any respect the obligations arising from the Convention for any State Party thereto."

5 June 1997

With regard to the declaration made by Pakistan upon accession:

"Austria is of the view that a reservation by which a State limits its responsibilities under the Convention in a general and unspecified manner by invoking internal law creates doubts as to the commitment of the Islamic Republic of Pakistan with its obligations under the Convention, essential for the fulfillment of its object and purpose.

It is in the common interests 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.

Austria is further of the view that a general reservation of the kind made by the Government of the Islamic Republic of Pakistan, which does not clearly specify the provisions of the Convention to which it applies and the extent of the derogation therefrom, contributes to undermining the basis of international treaty law.

Given the general character of this reservation a final assessment as to its admissibility under international law cannot be made without further clarification.

According to international law a reservation is inadmissible to the extent as its application negatively affects the compliance by a State with its obligations under the Convention essential for the fulfillment of its object and purpose.

Therefore, Austria cannot consider the reservation made by the Government of the Islamic

Republic of Pakistan as admissible unless the Government of the Islamic Republic of Pakistan, by providing additional information or through subsequent practice, ensures that the reservation is compatible with the provisions essential for the implementation of the object and purpose of the Convention.

This view by Austria would not preclude the entry into force in its entirety of the Convention between Pakistan and Austria."

20 February 1998

With regard to reservations made by Lebanon upon accession:

[Same objection, mutatis mutandis, as the one made for Pakistan.] [*Ed. Note: see above*]

21 August 2001

With regard to reservations made by Saudi Arabia upon ratification:

"Austria has examined the reservations to the Convention on the Elimination of All Forms of Discrimination against Women made by the Government of the Kingdom of Saudi Arabia in its note to the Secretary-General of 7 September 2000.

The fact that the reservation concerning any interpretation of the provisions of the Convention that is incompatible with the norms of Islamic law does not clearly specify the provisions of the Convention to which it applies and the extent of the derogation therefrom raises doubts as to the commitment of the Kingdom of Saudi Arabia to the Convention.

Given the general character of this reservation a final assessment as to its admissibility under international law cannot be made without further clarification. Until the scope of the legal effects of this reservation is sufficiently specified by the Government of Saudi Arabia, Austria considers the reservation as not affecting any provision the implementation of which is essential to fulfilling the object and purpose of the Convention. In Austria's view, however, the reservation in question is inadmissible to the extent that its application negatively affects the compliance by Saudi Arabia with its obligations under the Convention essential for the fulfilment of its object and purpose. Austria does not consider the reservation made by the Government of Saudi Arabia as admissible unless the Government of Saudi Arabia, by providing additional information or through subsequent practice, ensures that the reservation is compatible with the provisions essential for the implementation of the object and purpose of the Convention.

As to the reservation to Paragraph 2 of Article 9 of the Convention Austria is of the view that the

exclusion of such an important provision of non-discrimination is not compatible with object and purpose of the Convention. Austria therefore objects to this reservation.

This position, however, does not preclude the entry into force in its entirety of the Convention between Saudi Arabia and Austria."

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

"Austria has examined the reservations to the Convention on the Elimination of All Forms of Discrimination against Women made by the Government of the Democratic People's Republic of Korea in its note to the Secretary General of 27 February 2001.

Taking into consideration that according to Paragraph 2 of Article 28 of the Convention, reservations which are incompatible with the objective and purpose of the Convention are not acceptable, Austria objects to the reservations in respect of Paragraph f of Article 2 and Paragraph 2 of Article 9.

Both Paragraphs refer to basic aspects of the Convention, that are legislation to abolish existing discrimination against women and a specific form of discrimination, such as the nationality of children.

This position, however, does not preclude the entry into force in its entirety of the Convention between the Democratic People's Republic of Korea and Austria."

13 February 2002

With regard to the reservation made by Mauritania upon accession:

"The Government of Austria has examined the reservation to the Convention on the Elimination of all Forms of Discrimination against Women made by the Government of the Islamic Republic of Mauritania in its note to the Secretary-General of 5 June 2001.

The Government of Austria considers that, in the absence of further clarification, this reservation raises doubts as to the degree of commitment assumed by Mauritania in becoming a party to the Convention since it refers to the contents of Islamic Sharia and to existing national legislation in Mauritania. The Government of Austria would like to recall that, according to art. 28 (2) of the Convention as well as 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.

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 the treaties.

For these reasons, the Government of Austria objects to this reservation made by the Government of Mauritania.

This position, however, does not preclude the entry into force in its entirety of the Convention between Mauritania and Austria."

31 March 2003

With regard to the reservation made by Bahrain upon accession:

"The Government of Austria has examined the reservation to the Convention on the Elimination of all forms of Discrimination against Women made by the Government of the Kingdom of Bahrain in its note to the Secretary-General of 18 June 2002, regarding articles 2, 9(2), 15(4) and 16.

The reservation to articles 9(2) and 15(4), if put into practice, would inevitably result in discrimination against women on the basis of sex. This is contrary to the object and purpose of the Convention.

The Government of Austria further considers that, in the absence of further clarification, the reservation to articles 2 and 16 which does not clearly specify the extent of Bahrain's derogation from the provisions in question raises doubts as to the degree of commitment assumed by Bahrain in becoming a party to the Convention since it refers to the contents of Islamic Sharia.

The Government of Austria would like to recall that, according to art. 28(2) of the Convention as well as 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.

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 the treaties.

For these reasons, the Government of Austria objects to this reservation made by the Government of Bahrain.

This position, however, does not preclude the entry into force in its entirety of the Convention between Bahrain and Austria."

14 August 2003

With regard to the reservations made by the Syrian Arab Republic upon accession:

"The Government of Austria has examined the reservation made by the Government of the Syrian Arab Republic upon accession to the Convention on the Elimination of All Forms of Discrimination against Women regarding article 2, article 9, paragraph 2, article 15, paragraph 4, article 16, paragraphs 1 (c), (d), (f) and (g) and article 16, paragraph 2.

The Government of Austria finds that the reservations to article 2, article 9, paragraph 2, article 15, paragraph 4, article 16, paragraphs 1 (c), (d), (f) and (g), if put into practice, would inevitably result in discrimination against women on the basis of sex. This is contrary to the object and purpose of the Convention.

The Government of Austria further considers that, in the absence of further clarification, the reservation to article 16, paragraph 2, which refers to the contents of Islamic Sharia, does not clearly specify the extent of the reservation and therefore raises doubts as to the degree of commitment assumed by the Syrian Arab Republic in becoming a party to the Convention.

The Government of Austria would like to recall that, according to article 28 (2) of the Convention as well as 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.

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 the treaties.

For these reasons, the Government of Austria objects to the aforementioned reservations made by the Syrian Arab Republic to the Convention on the Elimination of All Forms of Discrimination against Women.

This position, however, does not preclude the entry into force in its entirety of the Convention between the Syrian Arab Republic and Austria."

5 October 2005

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

"The Government of Austria has examined the reservation made by the Government of the United Arab Emirates upon accession to the Convention on the Elimination of All Forms of Discrimination against Women regarding articles 2 (f), 9, 15 (2), 16 and 29 (1).

The Government of Austria finds that the reservations to article 2 (f), article 9, article 15 (2) and article 16, if put into practice, would inevitably result in discrimination against women on the basis of sex. This is contrary to the object and purpose of the Convention.

The Government of Austria would like to recall that, according to article 28 (2) of the Convention as well as 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.

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 the treaties.

For these reasons, the Government of Austria objects to the aforementioned reservations made by the United Arab Emirates to the Convention on the Elimination of All Forms of Discrimination against Women.

This position, however, does not preclude the entry into force in its entirety of the Convention between the United Arab Emirates and Austria."

18 December 2006

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

"The Government of Austria has examined the reservations made by the Government of Brunei Darussalam upon accession to the Convention on the Elimination of All Forms of Discrimination against Women.

The Government of Austria finds that the reservation to article 9, paragraph 2 would inevitably result in discrimination against women on the basis of sex. This is contrary to the object and purpose of the Convention.

The Government of Austria further considers that, in the absence of further clarification, the reservation "regarding those provisions of the said Convention that may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam" does not clearly specify its extent and therefore raises doubts as to the degree of commitment assumed by Brunei Darussalam in becoming a party to the Convention.

The Government of Austria would like to recall that, according to article 28, paragraph 2 of the Convention as well as 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.

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 the treaties.

For these reasons, the Government of Austria objects to the aforementioned reservations made by Brunei Darussalam to the Convention on the Elimination of All Forms of Discrimination against Women.

This position however does not preclude the entry into force in its entirety of the Convention between Brunei Darussalam and Austria."

5 January 2007

With regard to the reservations made by Oman upon accession:

"The Government of Austria has examined the reservations made by the Government of the Sultanate of Oman upon accession to the Convention on the Elimination of All Forms of Discrimination against Women.

The Government of Austria finds that the reservations to article 9, paragraph 2, article 15, paragraph 4, and article 16 would inevitably result in discrimination against women on the basis of sex. This is contrary to the object and purpose of the Convention.

The Government of Austria further considers that, in the absence of further clarification, the reservation to "all provisions of the Convention not in accordance with the provisions of the Islamic sharia and legislation in force in the Sultanate of Oman" does not clearly specify its extent and therefore raises doubts as to the degree of commitment assumed by the Sultanate of Oman in becoming a party to the Convention.

The Government of Austria would like to recall that, according to article 28, paragraph 2 of the Convention as well as customary international law as codified in the Vienna Convention on the Law of Treaties (Art. 19 sub-paragraph c), a reservation incompatible with the object and purpose of a treaty shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become parties are requested 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.

For these reasons, the Government of Austria objects to the aforementioned reservations made by the Sultanate of Oman to the Convention on the Elimination of All Forms of Discrimination against Women.

This position however does not preclude the entry into force in its entirety of the Convention between the Sultanate of Oman and Austria."

12 February 2010

With regard to the reservations made by Qatar upon accession:

The Government of Austria has examined the reservations made by the State of Qatar upon accession to the Convention on the Elimination of All Forms of Discrimination against Women.

The Government of Austria finds that the reservations to article 9 paragraph 2, article 15 paragraphs 2 and 4, article 16 paragraphs 1a, 1c and 1f would inevitably result in discrimination against women on the basis of sex. These reservations affect essential obligations arising from the Convention and their observance is necessary in order to achieve the purpose of the Convention.

The Government of Austria would like to recall that, according to article 28 paragraph 2 of the Convention as well as customary international law as codified in the Vienna Convention on the Law of Treaties (article 19 sub-paragraph c), a reservation incompatible with the object and purpose of a treaty shall not be permitted.

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 the treaties.

For these reasons, the Government of Austria objects to the aforementioned reservations made by the State of Qatar to the Convention on the Elimination of All Forms of Discrimination against Women.

This position however does not preclude the entry into force in its entirety of the Convention between the State of Qatar and Austria."

24 June 2011

With regard to the reservations made by Malaysia upon accession:

"The Government of Austria has examined the modification of the reservations made by Malaysia to the Convention on the Elimination of All Forms of Discrimination against Women as notified on 19 July 2010.

In the view of Austria a reservation should clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Convention. A reservation which consists of a general reference to constitutional provisions and Islamic Sharia law without specifying its implications does not do so. The Government of Austria therefore objects to this general reservation.

The Government of Austria further finds that the reservations to articles 9 (2), 16 (1) a, 16 (1) f and 16 (1) g, if put into practice, would inevitably result in discrimination against women on the basis of sex. This is contrary to the object and purpose of the Convention. The Government of Austria therefore objects to these reservations.

This position, however, does not affect the application of the Convention in its entirety between Austria and Malaysia.”

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)