

BELGIUM

CCPR

RESERVATIONS AND DECLARATIONS

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

Reservations:

...

2. The Belgian Government considers that the provision of article 10, paragraph 2 (a), under which accused persons shall, save in exceptional circumstances, be segregated from convicted persons is to be interpreted in conformity with the principle, already embodied in the standard minimum rules for the treatment of prisoners [resolution (73) 5 of the Committee of Ministers of the Council of Europe of 19 January 1973], that untried prisoners shall not be put in contact with convicted prisoners against their will [rules 7 (b) and 85 (1)]. If they so request, accused persons may be allowed to take part with convicted persons in certain communal activities.

3. The Belgian Government considers that the provisions of article 10, paragraph 3, under which juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status refers exclusively to the judicial measures provided for under the régime for the protection of minors established by the Belgian Act relating to the protection of young persons. As regards other juvenile ordinary-law offenders, the Belgian Government intends to reserve the option to adopt measures that may be more flexible and be designed precisely in the interest of the persons concerned.

4. With respect to article 14, the Belgian Government considers that the last part of paragraph 1 of the article appears to give States the option of providing or not providing for certain derogations from the principle that judgements shall be made public. Accordingly, the Belgian constitutional principle that there shall be no exceptions to the public pronouncements of judgements is in conformity with that provision. Paragraph 5 of the article shall not apply to persons who, under Belgian law, are convicted and sentenced at second instance following an appeal against their acquittal of first instance or who, under Belgian law, are brought directly before a higher tribunal such as the Court of Cassation, the Appeals Court or the Assize Court.

5. Articles 19, 21 and 22 shall be applied by the Belgian Government in the context of the provisions and restrictions set forth or authorized in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, by the said Convention.

Declarations:

6. The Belgian Government declares that it does not consider itself obligated to enact legislation in the field covered by article 20, paragraph 1, and that article 20 as a whole shall be applied

taking into account the rights to freedom of thought and religion, freedom of opinion and freedom of assembly and association proclaimed in articles 18, 19 and 20 of the Universal Declaration of Human Rights and reaffirmed in articles 18, 19, 21 and 22 of the Covenant.

7. The Belgian Government declares that it interprets article 23, paragraph 2, as meaning that the right of persons of marriageable age to marry and to found a family presupposes not only that national law shall prescribe the marriageable age but that it may also regulate the exercise of that right.

Note

In a notification received on 14 September 1998, the Government of Belgium informed the Secretary-General that it had decided to withdraw its reservation with regard to articles 2, 3 and 25 made upon ratification. For the text of the reservation, see United Nations, Treaty Series, vol. 1312, p. 328.

[Ed. note: as follows:

1. With respect to articles 2, 3 and 25, the Belgian Government makes a reservation, in that under the Belgian Constitution the royal powers may be exercised only by males. With respect to the exercise of the functions of the regency, the said articles shall not preclude the application of the constitutional rules as interpreted by the Belgian State.]

(Note 17, Chapter IV.4, 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)

6 November 1984

[The Belgian Government] wishes to observe that the sphere of application of article 11 is particularly restricted. In fact, article 11 prohibits imprisonment only when there is no reason for resorting to it other than the fact that the debtor is unable to fulfil a contractual obligation. Imprisonment is not incompatible with article 11 when there are other reasons for imposing this penalty, for example when the debtor, by acting in bad faith or through fraudulent manoeuvres, has placed himself in the position of being unable to fulfil his obligations. This interpretation of article 11 can be confirmed by reference to the travaux préparatoires (see document A-2929 of 1 July 1955).

After studying the explanations provided by the Congo concerning its reservation, [the Belgian Government] has provisionally concluded that this reservation is unnecessary. It is its understanding that the Congolese legislation authorizes imprisonment for debt when other means

of enforcement have failed when the amount due exceeds 20,000 CFA francs and when the debtor, between 18 and 60 years of age, makes himself insolvent in bad faith. The latter condition is sufficient to show that there is no contradiction between the Congolese legislation and the letter and the spirit of article 11 of the Covenant.

By virtue of article 4, paragraph 2, of the aforementioned Covenant, article 11 is excluded from the sphere of application of the rule which states that in the event of an exceptional public emergency, the States Parties to the Covenant may, in certain conditions, take measures derogating from their obligations under the Covenant. Article 11 is one of the articles containing a provision from which no derogation is permitted in any circumstances. Any reservation concerning that article would destroy its effects and would therefore be in contradiction with the letter and the spirit of the Covenant.

Consequently, and without prejudice to its firm belief that Congolese law is in complete conformity with the provisions of article 11 of the Covenant, [the Belgian Government] fears that the reservation made by the Congo may, by reason of its very principle, constitute a precedent which might have considerable effects at the international level.

[The Belgian Government] therefore hopes that this reservation will be withdrawn and, as a precautionary measure, wishes to raise an objection to that reservation.

5 October 1993

The Government of Belgium wishes to raise an objection to the reservation made by the United States of America regarding article 6, paragraph 5, of the Covenant, which prohibits the imposition of the sentence of death for crimes committed by persons below 18 years of age.

The Government of Belgium considers the reservation to be incompatible with the provisions and intent of article 6 of the Covenant which, as is made clear by article 4, paragraph 2, of the Covenant, establishes minimum measures to protect the right to life.

The expression of this objection does not constitute an obstacle to the entry into force of the Covenant between Belgium and the United States of America.

28 June 2011

With regard to the reservations made by Pakistan upon ratification:

Belgium has carefully examined the reservations made by Pakistan upon accession on 23 June 2010 to the International Covenant on Civil and Political Rights.

The vagueness and general nature of the reservations made by Pakistan with respect to Articles 3, 6, 7, 12, 13, 18, 19 and 25 of the International Covenant on Civil and Political Rights may contribute to undermining the bases of international human rights treaties.

The reservations make the implementation of the Covenant's provisions contingent upon their compatibility with the Islamic Sharia and/or legislation in force in Pakistan. This creates uncertainty as to which of its obligations under the Covenant Pakistan intends to observe and raises doubts as to Pakistan's respect for the object and purpose of the Covenant.

As to the reservation made with respect to Article 40, Belgium emphasizes that the object and purpose of the Covenant are not only to confer rights upon individuals, thereby imposing corresponding obligations on States, but also to establish an effective mechanism for monitoring obligations under the Covenant.

It is in the common interest for all parties to respect the treaties to which they have acceded and for States to be willing to enact such legislative amendments as may be necessary in order to fulfil their treaty obligations.

Belgium also notes that the reservations concern a fundamental provision of the Covenant.

Consequently, Belgium considers the reservations to be incompatible with the object and purpose of the Covenant.

Belgium notes that under 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 is not permitted (article 19 (c)).

Furthermore, under Article 27 of the Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Consequently, Belgium objects to the reservations formulated by Pakistan with respect to Articles 3, 6, 7, 12, 13, 18, 19, 25 and 40 of the International Covenant on Civil and Political Rights.

This objection shall not preclude the entry into force of the Covenant between the Kingdom of Belgium and Pakistan.

DECLARATION RE: ARTICLE 41

5 March 1987

The Kingdom of Belgium declares that it recognizes the competence of the Human Rights Committee under article 41 of the International Covenant on Civil and Political Rights.

18 June 1987

The Kingdom of Belgium declares, under article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee established under article 28 of the Covenant to receive and consider communications submitted by another State Party, provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Belgium, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.