

## RESERVATIONS AND DECLARATIONS

### IV. CONCLUDING OBSERVATIONS, CONTINUED

#### CERD

- Austria, CERD, A/57/18 (2002) 15 at para. 27.

27. The Committee welcomes the fact that Austria recently made the declaration under article 14 of the Convention, recognizing the competence of the Committee to examine communications from individuals or groups of individuals.

#### *See also:*

- Belgium, CERD, A/57/18 (2002) 17 at para. 41.

- Belgium, CERD, A/57/18 (2002) 17 at para. 51.

51. The Committee is concerned that there is no legislation prohibiting racist organizations and propaganda activities. It is also concerned about the increasing influence of xenophobic ideology on political parties, especially in Flanders... Taking into account the mandatory nature of article 4 of the Convention, the Committee also recommends that the State party enact legislation that declares illegal and prohibits any organization which promotes or incites to racism and racial discrimination and consider withdrawing its reservation to this article. In this context, the Committee draws the attention of the State party to its general recommendation XV.

- Switzerland, CERD, A/57/18 (2002) 46 at para. 255.

255. Noting that the former "three-circle" immigration policy of Switzerland which classified foreigners according to categories of national origin and capacity for integration was abandoned and replaced by a binary admissions system and in view of the dialogue held with the Swiss delegation in this respect, the Committee invites the State party to consider if the reservation to article 2 (1) (a) of the Convention is still necessary or may be withdrawn.

- Yemen, CERD, A/57/18 (2002) 74 at paras. 462 and 463.

462. While noting that the State party has provided information under article 5 of the Convention despite the reservations lodged, the Committee invites the State party to continue to provide specific information on how this article is implemented and to consider formally withdrawing those reservations.

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463. Given recent political developments, the Committee also invites the State party to consider formally withdrawing its reservations to articles 17, 18 and 20 of the Convention.

- Fiji, CERD, A/58/18 (2003) 25 at para. 81.

81. The Committee notes with concern that the State party formulated, upon accession, declarations and reservations relating to articles 2, 3, 4, 5 and 6 of the Convention. The Committee suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of the Durban Plan of Action. The State party should ensure that the specific protection and enhancement of indigenous Fijians' rights comply with international standards relating to the prohibition of racial discrimination.

- Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 209.

209. The broad and imprecise nature of the State party's general reservation raises concern as to its compatibility with the object and purpose of the Convention. The Committee encourages the State party to review the reservation with a view to formally withdrawing it.

- Malawi, CERD, A/58/18 (2003) 93 at para. 559.

559. The Committee expresses concern over the State party's reservations to the 1951 Convention relating to the Status of Refugees which, in particular, reduce the protection offered to refugees in the field of employment, access to property, right of association, education and social security.

The Committee welcomes the draft Refugee Act, which reflects the intention of the State party to withdraw these reservations, and encourages the State party to give high priority to this process. The Committee recommends, in particular, that the State party take steps to ensure that child refugees are, in practice, given access to education.

- Bahamas, CERD, A/59/18 (2004) 10 at para. 27.

27. The Committee notes with concern the reservations to the Convention entered by the State party, in particular the vague and general statement that the State party will not accept obligations going beyond constitutional limits or the obligation to introduce a judicial process beyond those prescribed under the Constitution.

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The Committee encourages the State party to consider withdrawing all the reservations it entered upon acceding to the Convention.

- Australia, CERD, A/60/18 (2005) 13 at para. 32.

32. The Committee notes that Australia has not withdrawn its reservation to article 4 (a) of the Convention. It notes with concern that the Commonwealth, the State of Tasmania and the Northern Territory have no legislation criminalizing serious acts of racial hatred or incitement to racial hatred.

The Committee reiterates its recommendation that the State party make efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and to withdrawing its reservation to, article 4 (a) of the Convention...

- Barbados, CERD, A/60/18 (2005) 43 at para. 217.

217. The Committee notes with concern that, due to its general character, paragraph 1 of the reservation by the State party affects the application of a number of provisions of the Convention, in particular articles 2, 4, 5 and 6. Furthermore, paragraph 2 of the reservation restricts the interpretation of a key provision for the effective application of the Convention, namely article 4.

The Committee recommends that the State party consider withdrawing its reservation and enact legislation to give full effect to article 4 of the Convention, as well as to provide for effective remedies according to article 6.

## ICCPR

- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(5).

(5) The Committee remains concerned that the State party has not seen fit to withdraw its reservations to the Covenant. It notes the mandate given to the federal administration to examine the question of the removal of reservations to human rights treaties and hopes that by the time the next report is considered all reservations to the Covenant will have been withdrawn...

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- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at para. 77(5).

(5) While observing that the State party considers the provisions of the Islamic Shariah to be compatible with the Covenant, the Committee notes the general and ambiguous nature of the declaration made by the State party upon ratifying the Covenant.

The State party should either clarify the scope of its declaration or withdraw it.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at para. 68(10).

(10) The Committee regrets that Germany maintains its reservations, in particular regarding article 15, paragraph 1, of the Covenant, a non-derogable right, and those made when the Optional Protocol was ratified by the State party which partially limits the competence of the Committee with respect to article 26 of the Covenant.

The State party should consider withdrawing its reservations.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(7) and 95(14).

(7) The Committee notes that some of the declarations made at the time of the accession by Thailand amount to reservations, and regrets their maintenance (article 2 of the Covenant).

The State party should consider the withdrawal of such declarations.

...

(14) The Committee notes with concern that the death penalty is not restricted to the “most serious crimes” within the meaning of article 6, paragraph 2, and is applicable to drug trafficking. The Committee regrets that, despite the amendment in 2003 of the Penal Code, which prohibits imposition of the death penalty on persons below 18 years of age, the State party has not yet withdrawn its declaration to the Covenant on article 6, paragraph 5 (art. 6).

The State party should review the imposition of the death penalty for offences related to drug trafficking in order to reduce the categories of crime punishable by death. The State party should also consider the withdrawal of its declaration on article 6, paragraph 5, of the Covenant.

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### ICESCR

- Sweden, ICESCR, E/2002/22 (2001) 106 at paras. 728 and 739.

728. The Committee takes note that the State party has maintained its reservation with regard to article 7 (d) of the Covenant concerning the right to remuneration for public holidays.

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739. The Committee recommends that the State party withdraw its reservation to article 7 (d) of the Covenant.

- Algeria, ICESCR, E/2002/22 (2001) 116 at para. 833.

833. The Committee recommends that the State party withdraw the interpretative declarations on articles 8 and 13 of the Covenant.

- France, ICESCR, E/2002/22 (2001) 121 at para. 874.

874. The Committee suggests that the State party review its position with regard to minorities, ensuring that minority groups have the right to exist and to be protected as such in the State party. The Committee recommends that the State party withdraw its reservation with regard to article 27 of the International Covenant on Civil and Political Rights and that it ratify the Framework Convention on the Protection of National Minorities, as well as the European Charter for Regional and Minority Languages, signed by State members of the Council of Europe in 1995 and 1992, respectively.

- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at para. 283.

283. The Committee recommends the State party to ratify the ILO Conventions relevant to economic, social and cultural rights and to withdraw its reservation to article 8 of the Covenant. In addition, the Committee notes with interest the State party's declaration that it will reconsider its position regarding the denunciation of human rights instruments.

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### CEDAW

- Tunisia, CEDAW, A/57/38 part II (2002) 102 at paras. 188 and 189.

188. While appreciating the progress made towards creating an environment for withdrawal of the reservations to articles 9, paragraph 2; 15, paragraph 4; and 16, paragraph 1 (c), (d), (f), (g) and (h), through legal reforms, the Committee expresses its concern that these reservations continue to be retained.

189. The Committee urges the State party to expedite the steps necessary for the withdrawal of its reservations.

- Luxembourg, CEDAW, A/58/38 part I (2003) 47 at paras. 300 and 301.

300. While welcoming the positive developments with regard to the ongoing process of amending the Constitution in order to integrate the principle of equality between women and men and to allow for the withdrawal of the reservation to the Convention with regard to article 7 as well as the draft law related to the withdrawal of the reservation to article 16 of the Convention, the Committee remains concerned that these processes have not yet been concluded.

301. The Committee calls upon the State party to accelerate the process of revising the Constitution to integrate the principle of equality between women and men and to withdraw the reservation to article 7 of the Convention, and to adopt the draft law which will allow for the withdrawal of the reservation to article 16 of the Convention.

- Norway, CEDAW, A/58/38 part I (2003) 61 at para. 408.

408. The Committee commends the State party on its willingness to object to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention.

- Kuwait, CEDAW, A/59/38 part I (2004) 15 at paras. 60 and 61.

60. The Committee expresses concern at the reservations entered by the State party to article 7 (a), article 9, paragraph 2, and article 16 (f) of the Convention. While welcoming the State party's stated intention to introduce legislation during the current legislative period that is expected to create the conditions for the withdrawal of the reservation to article 7 (a), the

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Committee is concerned at the failure of the State party to ensure that women have, on equal terms with men, the right to vote in all elections and public referendums, and to be eligible for election to all publicly elected bodies. The Committee considers the lack of political rights of women a very serious limitation of their rights, which also has a significant negative impact on women's enjoyment of other rights protected under the Convention.

61. The Committee calls upon the State party to take all necessary steps, as a matter of the utmost urgency, to introduce and actively support the adoption of legislation to amend the discriminatory provisions of the Electoral Law in line with the constitutional guarantee of equality and in order to ensure compliance with the Convention. The Committee encourages the State party to expedite the necessary steps for the withdrawal of its reservation to article 7 (a) of the Convention, which it believes to be contrary to the object and purpose of the Convention. The Committee draws the State party's attention to its general recommendation 23, on women in political and public life...

- Germany, CEDAW, A/59/38 part I (2004) 62 at para. 377.

377. The Committee...commends the State party for objecting to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention.

- Bangladesh, CEDAW, A/59/38 part II (2004) 134 at paras. 235 and 236.

235. While noting the State party's reference that the withdrawal of reservations is currently before the Cabinet for adoption, the Committee is concerned that reservations to article 2 and article 16 (1) (c) of the Convention which in the opinion of the Committee go against the object and purpose of the Convention, continue to be retained.

236. The Committee urges the State party to expedite the decision on the withdrawal of the remaining reservations to the Convention within a concrete time frame.

- Algeria, CEDAW, A/60/38 part I (2005) 23 at paras. 141 and 142.

141. The Committee reiterates its concern that the State party continues to have reservations to articles 2, 9 (2), 15 (4) and 16. The Committee notes that reservations to articles 2 and 16 are contrary to the object and purpose of the Convention.

142. The Committee urges the State party to expedite legislative reform, especially of the

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Family Code, to allow it to proceed to withdraw its reservations to the Convention within a concrete time frame.

- Democratic People’s Republic of Korea, CEDAW, A/60/38 part II (2005) 101 at paras. 33 and 34.

33. While appreciating the State party’s willingness to amend national legislation and subsequently consider lifting the reservations to article 2, paragraph (f), and article 9, paragraph 2, the Committee considers that the reservations to articles 2 and 9 are contrary to the object and purpose of the Convention.

34. The Committee urges the State party to expedite its efforts towards the withdrawal of reservations to the Convention within a concrete time frame.

- Israel, CEDAW, A/60/38 part II (2005) 129 at paras. 245 and 246.

245. The Committee remains concerned that the State party continues to retain its reservations to articles 7 (b) and 16 of the Convention. The Committee is particularly concerned at the State party’s statement that such reservations are “unavoidable at this point in time” and its position that laws based on religious values cannot be reformed.

246. The Committee urges the State party to consider withdrawing its reservations to articles 7 (b) and 16, which are contrary to the object and purpose of the Convention.

### CAT

- Israel, CAT, A/57/44 (2002) 27 at para. 53.

53. The Committee makes the following recommendations:

...

(k) Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22.

- Ukraine, CAT, A/57/44 (2002) 31 at para. 58.

58. The Committee recommends that the State party:

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(b) Deposit with the Secretary-General its declaration accepting the Committee's competence with respect to articles 21 and 22 of the Convention and the removal of its reservation in regard to article 20;

...

- Zambia, CAT, A/57/44 (2002) at para. 61.

61. The Committee notes with satisfaction the following elements:

(a) The State party's withdrawal of its reservation made with respect to article 20 of the Convention;

...

### CRC

- Oman, CRC, CRC/C/111 (2001) 36 at paras. 156 and 157.

156. The Committee welcomes information that the State party is re-examining its reservations to articles 7, 9, 21 and 30 of the Convention. While noting difficulties that the State party may have, the Committee is nevertheless concerned that its reservation to article 14 is not included in this re-examination.

157. The Committee recommends that the State party:

(a) Expeditiously complete its re-examination of its reservations to articles 7, 9, 21 and 30 of the Convention with a view to withdrawing them in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993);

(b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 on freedom of thought, conscience and religion.

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 273 and 274.

273. The Committee welcomes information that the State party is re-examining its reservation to the Convention with a view to amending or withdrawing it. The Committee is concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the Conventions provisions and raises concern as to its

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compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

274. The Committee encourages the State party to expeditiously complete its re-examination of its reservation with a view to narrowing and ultimately withdrawing it, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993.

- Andorra, CRC, CRC/C/114 (2002) 134 at paras. 510 and 511.

510. The Committee is concerned at the State party's declaration on articles 7 and 8 of the Convention made upon ratification, but welcomes the information by the delegation of the State party regarding its possible withdrawal.

511. The Committee encourages the State party to withdraw its declaration made upon ratification of the Convention as soon as possible.

- Belgium, CRC, CRC/C/118 (2002) 29 at paras. 97 and 98.

97. The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2(v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them. With respect to article 2, the Committee, noting that the general principle of non-discrimination in the Convention prohibits differences in treatment on grounds that are arbitrary and objectively unjustifiable, including nationality, is concerned that the declaration on article 2 may restrict the enjoyment of non-Belgian children in Belgium of rights contained in the Convention. The Committee emphasizes that the guarantee of non-discrimination in the Convention applies to "each child within [the State party's] jurisdiction". With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most severe cases and imposes relatively heavy sentences.

98. The Committee encourages the State party to review its declaration and reservation with a view to withdrawing them in accordance with the Declaration and Programme of Action of the Vienna World Conference on Human Rights (1993).

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- Tunisia, CRC, CRC/C/118 (2002) 68 at paras. 262, 266 and 267.

262. In light of the previous recommendations ([CRC/C/15/Add.39], para. 10), the Committee notes with satisfaction the withdrawal, on 1 March 2002, of the reservation with regard to article 40, paragraph 2 (b)(v), and the declaration in which the State party declared that "its undertaking to implement the provisions of this Convention shall be limited by the means at its disposal."

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266. While welcoming the State party's withdrawal of its reservation with regard to article 40, paragraph 2 (b)(v), and its declaration, as noted above, and noting the statement by the delegation that consideration will be given to withdrawing the remaining reservations, the Committee remains concerned about the extent of reservations and declarations made to the Convention by the State party. In particular, the Committee reiterates that the reservation relating to the application of article 2 appears to be incompatible with the object and purpose of the Convention.

267. The Committee, in line with its previous recommendation, and in light of the Vienna Declaration and Programme of Action (1993), encourages the State party to consider reviewing its reservations and declarations to the Convention with a view to withdrawing them, in particular the reservation relating to article 2.

- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 310, 311, 354 and 355.

310. The Committee is concerned at the reservations made by the State party to articles 5, 7, 10, 37 and the four reservations made with regard to article 40, but welcomes the information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

311. In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:

(a) Expedite as much as possible the process for the withdrawal of the reservations regarding the provision of an interpreter free of charge (article 40(2)(b)(vi)) and use this process to withdraw as soon as possible the reservation to article 5, given the fact that this reservation is, according to the State party, only an interpretative declaration that is not intended to affect the meaning of article 5;

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- (b) Expedite the current revision of the naturalization law and withdraw as soon as possible after the approval of this revision the reservation made to article 7;
- (c) Expedite the current revision of the Foreign Nationals Act (formerly Federal Act concerning the Permanent and Temporary Residence of Foreigners) and withdraw as soon as possible after the approval of the revision the reservation made to article 10, paragraph 1, regarding family reunification;
- (d) Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40(2)(b)(ii) regarding legal assistance and to article 37(c) regarding separation of juveniles deprived of their liberty from adults;
- (e) Reconsider the reservation made with regard to the possibility of having the same juvenile judge as an investigating and a sentencing judge since the requirement of an independent and impartial authority or judicial body (article 40(2)(b)(iii)) does not necessarily and under all circumstances mean that investigating and sentencing juvenile judges cannot be the same person;
- (f) Expedite the current legal reform which abolishes the competence of the Federal Tribunal as a court of first instance and withdraw as soon as possible after approval of that reform the reservation made to article 40(2)(b)(v).

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354. While welcoming the entry into force of the federal asylum legislation (Federal Asylum Act and Ordinance 1 on Asylum Procedure) on 1 October 1999, the Committee remains concerned that the procedure used for unaccompanied minors is not always in their best interests nor fully in line with relevant provisions of the Convention. In addition, in relation to reservation made to article 10 of the Convention, the Committee is concerned that the right to family reunification is too restricted.

355. The Committee recommends that the State party simplify its approach regarding the procedures for requesting asylum and take all necessary measures to expedite them and to ensure they take into account the special needs and requirements of children, in particular unaccompanied children; these include the designation of a legal representative, the placement of such children in centres, and their access to health care and education. In addition, the Committee recommends that the State party review its system for family reunification, notably for refugees who stay for a long period in the State party.

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- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at paras. 371 and 372.

371. The Committee welcomes information by the delegation that the reservation to article 21 will be withdrawn. However, the Committee is concerned about the remaining reservations to the Convention entered by the State party. In particular:

(a) That the exercise of the rights in articles 7 and 17 are subject to their compatibility with domestic law; and

(b) That the broad and imprecise nature of the reservation to article 14 potentially gives rise to infringements of the freedoms of thought, conscience and religion.

372. The Committee emphasizes that it is long established in international law that States parties to a treaty cannot invoke provisions of their domestic laws as justification for their inability to perform obligations under a treaty. The Committee recommends that the State party:

(a) Withdraw its reservations to articles 7 and 21; and

(b) Study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's general comment No. 22 and in the long term, to withdraw it in accordance with the Vienna Declaration and Programme of Action of the World Conference on Human Rights (1993).

- The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at paras. 579, 580 and 587.

579. The Committee notes with concern the State party's declaration concerning article 22. The Committee is further concerned at the absence of legislation, policies and procedures in the Netherlands Antilles regarding the protection of the rights of refugee and unaccompanied children.

580. The Committee recommends that the Netherlands Antilles withdraw the declaration concerning article 22 and take effective legal and other measures to ensure adequate protection of refugee and unaccompanied children and implement programmes and policies to ensure their access to health, education and other social services.

...

587. The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age which is applicable to the Netherlands Antilles, and the reservation to article 40, which stipulates that for minor offences children need not be heard in the presence of a legal

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representative...

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 38 and 39.

38. The Committee reiterates its concern about the reservations ([CRC/C/15/Add.36], para. 8) entered by the Government of Argentina upon ratification of the Convention with respect to article 21 (b), (c), (d) and (e).

39. The Committee reiterates its recommendation ([CRC/C/15/Add.36], para. 14) that the State party consider reviewing the reservations entered upon ratification of the Convention with a view to withdrawing them.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 98 and 99.

98. While welcoming the State party's withdrawal of its reservations made to articles 37 (d) and 32, the Committee remains concerned that the State party does not intend to withdraw its wide-ranging reservation on immigration and citizenship, which is against the object and purpose of the Convention. In addition, the Committee is concerned that the State party is not in a position to withdraw its reservation to article 37 (c) owing to the fact that children are still detained with adults in the State party. In that regard, the Committee is concerned that, while the State party has made efforts to reduce the number of children detained with adults, it appears that only resource considerations now prevent the withdrawal of the reservation.

99. The Committee, in line with its previous recommendation (CRC/C/15/Add.34, paras. 22 and 29), and in light of the Vienna Declaration and Programme of Action, recommends that the State party take all necessary measures to end the detention of children in the same facilities as adults and to withdraw its reservation to article 37 (c). The Committee also recommends that the State party reconsider its reservation to article 22 with a view to withdrawing it given the State party's observation that this reservation is formally unnecessary because the State party's law is in accordance with article 22 of the Convention.

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 502 and 503.

502. The Committee welcomes the information given by the delegation that the process of considering the withdrawal of the State party's reservations to articles 7 and 38 of the Convention and the declarations on articles 12 to 16 and 24 was resumed in 2001.

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503. In light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to continue and complete the process of withdrawing all of its reservations to and declarations on the Convention.

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 87 and 88.

87. The Committee remains very concerned at the State party's reservations to articles 9, paragraph 3, 21, paragraph (a), and 40, paragraph 2 (b) (v).

88. The Committee, noting that juveniles sentenced for having committed a crime have the right to appeal, encourages the State party to withdraw, as soon as possible, the reservations made to article 40, paragraph 2 (b) (v). The State party is also encouraged to expedite the process of reforming the Civil Act so that both children and parents are guaranteed the right to maintain contact with each other, and to strengthen its efforts to change public attitudes to domestic adoption, in order to withdraw the reservations to articles 21, paragraph (a), and 9, paragraph 3, in accordance with the Vienna Declaration and Programme of Action, adopted in 1993.

- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 329 and 330.

329. The Committee regrets that the State party has not withdrawn its reservation to article 7, paragraph 1, of the Convention. Based on the dialogue, it is the Committee's understanding that the civil registration of irreversible adoption does not necessarily mean that the adopted child has no possibility of knowing his or her (biological) parents.

330. The Committee therefore recommends that the State party reconsider its position and withdraw its reservation.

- Iceland, CRC, CRC/124 (2003) 109 at paras. 464 and 465.

464. The Committee notes the information provided by the delegation concerning steps being taken by the State party to comply fully with articles 9 and 37 of the Convention (namely the provisions in the 2002 Child Protection Act and a proposed law expected to be passed soon giving courts the sole power to decide in child protection cases; and the 1998 agreement between the Prison and Probation Administration and the Governmental Agency for Child Protection to allow prisoners under 18, at their request, to be detained in treatment homes under the supervision of the Agency). Nevertheless, the Committee regrets that the State party has not yet withdrawn its declaration on article 9. Moreover, it considers that the 1998

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agreement falls short of a legal guarantee of separation from adults, as contained in article 37 (c) of the Convention.

465. The Committee recommends that the State party:

(a) Expedite the promulgation of legislation to ensure full compliance with article 9 of the Convention

(b) Guarantee by law the separation of detained children and adults, in accordance with article 37 (c) of the Convention.

- Syrian Arab Republic, CRC, CRC/C/132 (2003) 116 at paras. 533 and 534.

533. The Committee regrets that no review has been undertaken with respect to the reservations since the presentation of the initial report. Noting the State party's reasoning in the report, it reiterates its concern that the nature of the general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention. In particular, concerning article 14, the reservation gives rise to infringements of the freedoms of thought, conscience and religion; concerning articles 20 and 21, the reservation is unnecessary: the Committee points out that article 20 (3) of the Convention expressly recognizes *kafalah* as a form of alternative care. Article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which does not apply to the State party because it does not recognize the system of adoption.

534. The Committee recommends that the State party, in accordance with the Vienna Declaration and Plan of Action, and taking account of the Human Rights Committee's general comment No. 22, study its reservation, particularly concerning articles 14, 20 and 21, with a view to withdrawing it.

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 56 and 57.

56. The Committee notes the efforts of the Government towards the removal of the reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).

57. In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the



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Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention.

- Brunei Darussalam, CRC, CRC/C/133 (2003) 73 at paras. 328 and 329.

328. The Committee is deeply concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

329. The Committee strongly recommends that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considers that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee recommends that the State party study its reservations to articles 14, 20 and 21 of the Convention with a view to withdrawing them.

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 442 and 443.

442. The Committee remains deeply concerned about the reservations to articles 14, paragraphs and 21 of the Convention, which might impede the full implementation of the Convention, but welcomes the information from the delegation that the State party is willing to continue to review those reservations with a view to their withdrawal.

443. In light of the Vienna Declaration and Programme of Action (1993), the Committee reiterates its previous recommendation that the State party withdraw its reservations to the Convention (art. 14, paras. 1 and 21) and recommends that the State party take into account the experience of other States parties in this regard.

- Germany, CRC, CRC/C/137 (2004) 51 at paras. 258 and 259.

258. The Committee acknowledges the information (CRC/C/83/Add.7, paras. 84 and 844 and written replies, pp. 46 and 47) that the reservations and declarations the State party made upon ratification have become unnecessary, *inter alia*, due to recent legislation. But the Committee remains concerned at the lack of willingness of the majority of the Länder to accept the withdrawal of these reservations and declarations.

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259. In light of the 1993 Vienna Declaration and Programme of Action, and in line with its previous recommendations (CRC/C/15/43, para. 22), the Committee recommends that the State party expedite the process for the withdrawal of the reservations and declarations it had made before the submission of its next periodic report and increase, in particular, its efforts to convince the Länder of the need to withdraw them.

- France, CRC, CRC/C/140 (2004) 124 at paras. 639 and 640.

639. The Committee welcomes information provided in the State party's report that all children in France are equal before the law and have a right to freedom of religion, expression in their own language in private affairs and right to cultural activities. However, the Committee remains concerned that equality before the law may not be sufficient to ensure equal enjoyment of rights by certain minority groups, such as the Roma, among others, who may face *de facto* discrimination. The Committee regrets that the State party has not considered reviewing its position and withdrawing its reservation to article 30 of the Convention.

640. The Committee encourages the State party to continue measures to prevent and combat racism, xenophobia, discrimination and intolerance, by, *inter alia*, ensuring follow-up to the recommendations of the United Nations treaty bodies and the European Commission against Racism and Intolerance (ECRI), in particular as concerns children. The Committee urges the State party to review its position with respect to children belonging to minority groups and to consider withdrawing its reservation to article 30.

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 164 and 165.

164. The Committee notes with concern that the State party has not withdrawn its reservations to articles 2, 6, 7 and 15 of the Convention.

165. The Committee is of the opinion that the reservations regarding articles 2, 6 and 15 are unnecessary and that the reservation to article 7 seems incompatible with the object and purpose of the Convention, but can become unnecessary as well, if the State party implements the Committee's recommendation contained in paragraph 185 [to prevent and eliminate the practice of anonymous birth]. Accordingly, the Committee reiterates its previous recommendation to the State party (CRC/C/15/Add.92, para. 23) to consider reviewing its reservations with a view to their withdrawal.

## **RESERVATIONS AND DECLARATIONS**

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 441 and 442.

441. The Committee deeply regrets that no review has been undertaken of the broad and imprecise nature of the State party's reservation since the submission of the initial report. It reiterates its concern that the nature of the general reservation potentially negates many provisions of the Convention and raises concern as to its compatibility with the object and purpose of the Convention.

442. In the light of article 51, paragraph 2, of the Convention, the Committee reiterates its previous recommendation that the State party review the general nature of its reservation with a view to withdrawing it, or narrowing it, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993.