

POLAND

CCPR

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)

22 November 2005

With regard to reservations made by Mauritania upon ratification:

"The Government of the Republic of Poland has examined the Declaration made by Mauritania upon accession to the International Covenant on Civil and Political Rights, done in New York on 16 December 1966, hereinafter called the Covenant, in respect of Articles 18 and 23 (4).

The Government of the Republic of Poland considers that the Declaration made Mauritania - which constitutes de facto a reservation - is incompatible with the object and purpose of the Covenant which guarantees every person equal enjoyment of the rights set forth in the Covenant.

The Government of the Republic of Poland therefore considers that, according to the customary international law as codified in the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969, a reservation incompatible with the object and purpose of a treaty shall not be permitted (Article 19 c).

Furthermore, the Government of the Republic of Poland considers that the Declaration made by Mauritania is not precise enough to define for the other State Parties the extent to which Mauritania has accepted the obligation of the Covenant.

The Government of the Republic of Poland therefore objects to Declaration made by Mauritania.

This objection does not preclude the entry into force of the Covenant between the Republic of Poland and Mauritania."

20 June 2011

With regard to the reservations made by Pakistan upon ratification:

"The Government of the Republic of Poland has examined the reservations made by the Islamic Republic of Pakistan upon accession to the International Covenant on Civil and Political Rights, opened for signature at New York on 19 December 1966, with regard to Articles 3, 6, 7, 12, 13, 18, 19, 25 and 40 of the Covenant.

In the view of the Government of the Republic of Poland, if put into practice, the reservations made by the Islamic Republic of Pakistan, especially when taking into account their unspecified extent and the vast area of rights they affect, will considerably limit the ability to benefit from the rights guaranteed by the Covenant.

Consequently, the Government of the Republic of Poland considers these reservations as incompatible with the object and purpose of the Covenant, which is to guarantee equal rights to everyone without any discrimination. In consequence, according to Article 19 (c) of the Vienna Convention on the Law of Treaties, which is a treaty and customary norm, these reservations shall not be permitted.

In order to justify its will to exclude the legal consequences of certain provisions of the Covenant, the Islamic Republic of Pakistan raised in its reservations the inconsistency of these provisions with its domestic legislation. The Government of the Republic of Poland recalls that, according to Article 27 of the Vienna Convention on the Law of Treaties, the State Party to an international agreement may not invoke the provisions of its internal law as justification for its failure to perform a treaty. On the contrary, it should be deemed a rule that a State Party adjusts its internal law to the treaty which it decides to be bound by. On these grounds, the reservations made by the Islamic Republic of Pakistan with regard to Articles 3, 6, 7, 12, 13, 18, 19 and 25 of the Covenant shall not be permitted.

The Islamic Republic of Pakistan refers in its reservations to the Sharia laws and to its domestic legislation as possibly affecting the application of the Covenant. Nonetheless it does not specify the exact content of these laws and legislation. As a result, it is impossible to clearly define the extent to which the reserving State has accepted the obligations of the Covenant. Thus, the reservations made by the Islamic Republic of Pakistan with regard to Articles 3, 6, 7, 12, 13, 18, 19 and 25 of the Covenant shall not be permitted.

Furthermore, the Government of the Republic of Poland considers that reservations aimed at limitation or exclusion of the application of treaty norms stipulating non-derogable rights are in opposition with the purpose of this treaty. On these grounds, the reservations made with regard to Articles 6 and 7 of the Covenant are impermissible.

The Government of the Republic of Poland objects also to the reservation made by the Islamic Republic of Pakistan with regard to Article 40 of the Covenant considering it as impermissible as it undermines the basis of the United Nations mechanism of monitoring of the respect of human rights. The Government of the Republic of Poland considers the reporting obligations of States Parties to the Covenant to be of utmost importance for the effectiveness of the UN system of the protection of human rights and as such - not of optional nature.

Therefore, the Government of the Republic of Poland objects to the reservations made by the Islamic Republic of Pakistan upon accession to the International Covenant on Civil and Political Rights opened for signature at New York on 19 December 1966, with regard to Articles

3, 6, 7, 12, 13, 18, 19, 25 and 40 of the Covenant.

This objection does not preclude the entry into force of the Covenant between the Republic of Poland and the Islamic Republic of Pakistan."

Note

The signature was effected by Democratic Kampuchea. In this regard the Secretary-General received, on 5 November 1980, the following communication from the Government of Mongolia:

"The Government of the Mongolian People's Republic considers that only the People's Revolutionary Council of Kampuchea as the sole authentic and lawful representative of the Kampuchean people has the right to assume international obligations on behalf of the Kampuchean people. Therefore the Government of the Mongolian People's Republic considers that the signature of the Human Rights Covenants by the representative of the so-called Democratic Kampuchea, a régime that ceased to exist as a result of the people's revolution in Kampuchea, is null and void."

"The signing of the Human Rights Covenants by an individual, whose régime during its short period of reign in Kampuchea had exterminated about 3 million people and had thus grossly violated the elementary norms of human rights, each and every provision of the Human Rights Covenants is a regrettable precedence, which discredits the noble aims and lofty principles of the United Nations Charter, the very spirit of the above-mentioned Covenants, gravely impairs the prestige of the United Nations."

Thereafter, similar communications were received from the Government of the following States on the dates indicated and their texts were circulated as depositary notifications or, at the request of the States concerned, as official documents of the General Assembly (A/33/781 and A/35/784):

<u>State</u>	<u>Date of receipt</u>
German Democratic Republic	11 Dec 1980
Poland	12 Dec 1980
Ukraine	16 Dec 1980
Hungary	19 Jan 1981
Bulgaria	29 Jan 1981

Belarus 18 Feb 1981

Russian Federation 18 Feb 1981

Czechoslovakia 10 Mar 1981]

(Note 3, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)

Note

The reservation was lodged with the Secretary-General on 4 December 2006 by Bahrain, following its accession to the Covenant on 20 September 2006.

In keeping with the depositary practice followed in similar cases, the Secretary-General proposed to receive the reservation in question for deposit in the absence of any objection on the part of any of the Contracting States, either to the deposit itself or to the procedure envisaged, within a period of 12 months from the date of the present depositary notification. In the absence of any such objection, the above reservation would be accepted in deposit upon the expiration of the above-stipulated 12 month period, that is on 28 December 2007.

In view of the below objections, the Secretary-General did not accept the reservation made by Bahrain in deposit. The Secretary-General received the following objections on the dates indicated hereinafter:

...

Poland (3 December 2007)

“The Government of the Republic of Poland has examined the reservations made by the Kingdom of Bahrain after its accession to the International Covenant on Civil and Political Rights, opened for signature at New York on 19 December 1966, hereinafter called the Covenant, in respect of article 3, article 9 paragraph 5, article 14 paragraph 7, article 18 and article 23.

The Government of the Republic of Poland considers that the reservations made by the Kingdom of Bahrain are so called late reservations, since they were made after the date of accession of the Kingdom of Bahrain to the Covenant. Therefore the reservations are inconsistent with article 19 of the Vienna Convention on the Law of Treaties, which provides for the possibility of formulation of reservations only when signing, ratifying, accepting, approving or acceding to a treaty.

Furthermore, the Government of the Republic of Poland considers that as a result of reservations with respect to articles 3, 18 and 23 of the Covenant, the implementation of provisions of these articles by the Kingdom of Bahrain is made subject to the prescriptions of the Islamic Shariah,

with the result that the extent to which the Kingdom of Bahrain has accepted the obligations of the said articles of the Covenant is not defined precisely enough for the other State Parties. The Republic of Poland considers that these reservations lead to differentiation in enjoyment of the rights warranted in the Covenant, which is incompatible with the purpose and object of the Covenant and therefore not permitted (article 19 c) of the Vienna Convention on the Law of Treaties).

The Government of the Republic of Poland therefore objects to the reservations made by the Kingdom of Bahrain.

However this objection does not preclude the entry into force of the Covenant between the Republic of Poland and the Kingdom of Bahrain."

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(Note 15, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)

DECLARATION RE: ARTICLE 41

25 September 1990

"The Republic of Poland recognizes, in accordance with article 41, paragraph 1, of the International Covenant on Civil and Political Rights, 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."

DEROGATIONS: NOTIFICATIONS UNDER ARTICLE 4 (3) OF THE COVENANT

1 February 1982

"In connection with the proclamation of martial law by the Council of State of the Polish People's Republic, as based on article 33, paragraph 2, of Poland's Constitution, there has been temporary derogation from or limitation of application of provisions of articles 9, 12 (paragraphs 1 and 2), 14 (paragraph 5), 19 (paragraphs 2, 21 and 22) of the Covenant, to the extent strictly required by the exigencies of the situation ...

Temporary limitation of certain rights of citizens has been prompted by the supreme national interest. It was caused by the exigencies of averting a civil war, economic anarchy as well as destabilization of state and social structures ...

The restrictive measures in question are of a temporary nature. They have already been considerably cut back and along with the stabilizing of the situation, will be successively terminated."

22 December 1982

Basing on the law by the Diet (Sejm) of the Polish People's Republic of 18 December 1982 concerning special legal regulation in the time of suspension of martial law, derogation from Covenant's articles 9, 12 paragraphs 1 and 2, articles 21 and 22, has been terminated as of 31 December 1982.

By terms of the same law as well as a result of earlier successive measures, restrictions in the application of Covenant provisions which are still derogated from, namely article 14 paragraph 5 and article 19 paragraph 2, have also been considerably reduced.

For instance, with reference to Covenant's article 14 paragraph 5, emergency procedures have been lifted in relation to crimes and offences committed in social conflicts out of political motivations, they have only been retained with regard to crimes most dangerous to State's basic economic interests as well as to life, health and property of its citizens.

25 July 1983

Termination as from 22 July 1983 of derogations.