

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1995 Nr. 92

A. TITEL

*Verdrag inzake de rechten van het kind;
New York, 20 december 1989*

B. TEKST

De Engelse en de Franse tekst zijn geplaatst in *Trb.* 1990, 46.
Voor de ondertekeningen zie *Trb.* 1990, 46 en 170¹⁾. Behalve de
aldaar genoemde Staten is het Verdrag nog ondertekend voor:

Antigua en Barbuda.	12 maart 1991
Iran ²⁾	5 september 1991
Qatar ³⁾	8 december 1992
Zuid-Afrika	29 januari 1993
de Marshall-eilanden	14 april 1993
Fiji	2 juli 1993
Sint Vincent en de Grenadinen.	20 september 1993
Eritrea	20 december 1993
Kazachstan	16 februari 1994
Uzbekistan.	29 juni 1994

¹⁾ De Regering van *Tsjechoslowakije* heeft op 7 juni 1991 naar aanleiding van de door Koeweit gemaakte voorbehouden het volgende bezwaar gemaakt:

“these reservations are incompatible with the object and purpose of the Convention. In the opinion of the Czechoslovak Government the said reservations are in contradiction to the generally recognized principle of international law according to which a state cannot invoke the provisions of its own internal law as justification for its failure to perform a treaty. Therefore, the Czech and Slovak Federal Republic does not recognize these reservations as valid.”

De Regering van *Portugal* heeft op 15 juli 1992 naar aanleiding van het bij de ondertekening van het Verdrag door Turkije gemaakte voorbehoud de volgende bezwaren gemaakt:

“The Government of Portugal considers that reservations by which a State limits its responsibilities under the Convention by invoking general principles of National Law may create doubts on the commitments of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermining

the basis of International Law. It is in the common interest of States that Treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government therefore objects to the reservations.

..... This objection shall not constitute an obstacle to the entry into force of the Convention between Portugal and [Turkey].”

²⁾ Onder het volgende voorbehoud:

“In signing this convention the Islamic Republic of Iran is making reservation to the articles and provisions which may be contrary to the Islamic Shariah, and preserves the right to make such particular declaration, upon its ratification.” (*vertaling*)

³⁾ Onder het volgende voorbehoud:

“The State of Qatar wishes to make a general reservation with regard to those provisions of the Convention which are incompatible with Islamic Law.”

De Regering van *Finland* heeft op 9 juni 1993 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of Finland has examined the contents of the reservation made by Qatar upon signature of the said Convention, by which Qatar expresses that (zie boven)

In the view of the Government of Finland this reservation is subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of internal law as justification for failure to perform its treaty obligations. For the above reason the Government of Finland objects to the said reservation. However, the Government of Finland does not consider that this objection constitutes an obstacle to the entry into force of the said Convention between Finland and Qatar.”

De Regering van de *Slowaakse Republiek* heeft op 9 augustus 1993 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Slovak Republic regards the general reservation made by the State of Qatar upon signature of the Convention on the Rights of the Child as incompatible with the object and purpose of the said Convention as well as in contradiction with the well established principle of the Law of Treaties according to which a State cannot invoke the provisions of its internal law as justification for its failure to perform a treaty. Therefore, the Slovak Republic objects to the said general reservation.”

De Regering van *Zweden* heeft op 29 maart 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of Sweden has examined the content of the reservation made by Qatar upon signature, by which Qatar states that (zie boven)

Under international treaty law, a State may not invoke internal law as a justification for its failure to perform its treaty obligations. A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may cast doubts upon the commitment of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. All States Parties share a common interest in the respect for the object and purpose of the treaty to which they have chosen to become parties. The Government of Sweden therefore objects to the reservations made by Qatar.

This objection does not constitute an obstacle to the entry into force of the Convention between Sweden and Qatar.”

C. VERTALING

Zie *Trb.* 1990, 170.

D. PARLEMENT

De artikelen 1 en 2 van de Rijkswet van 24 november 1994 (*Stb.* 862) luiden als volgt:

„Artikel 1

Het op 24 november 1990 te New York tot stand gekomen Verdrag inzake de rechten van het kind, waarvan de Engelse en de Franse tekst zijn geplaatst in *Tractatenblad* 1990, 46 en de vertaling in het Nederlands in *Tractatenblad* 1990, 170, wordt goedgekeurd voor het gehele Koninkrijk.

Artikel 2

Goedgekeurd wordt dat bij de binding van het Koninkrijk aan het in artikel 1 genoemde verdrag voor het gehele Koninkrijk de volgende voorbehouden worden gemaakt:

– Bij artikel 26:

Het Koninkrijk der Nederlanden aanvaardt het bepaalde in artikel 26 van het verdrag, onder het voorbehoud dat deze bepaling niet verplicht tot een zelfstandig recht van kinderen op sociale zekerheid, daarbij inbegrepen sociale verzekering.

– Bij artikel 37:

Het Koninkrijk der Nederlanden aanvaardt voor Nederland het bepaalde in artikel 37, onder c, van het verdrag, onder het voorbehoud dat deze bepaling niet belet dat op kinderen in de leeftijd van zestien jaar of ouder het volwassenenstrafrecht kan worden toegepast, indien aan in de wet te bepalen criteria is voldaan.

Het Koninkrijk der Nederlanden aanvaardt voor de Nederlandse Antillen en Aruba het bepaalde in artikel 37, onder c, van het verdrag, onder het voorbehoud dat deze bepaling niet belet

* dat op kinderen in de leeftijd van zestien jaar of ouder het volwassenenstrafrecht kan worden toegepast, indien aan in de wet te bepalen criteria is voldaan, en

* dat een kind dat van zijn of haar vrijheid is beroofd, niet altijd van volwassenen gescheiden kan worden gehouden, gelet op het feit dat bij onverwachte pieken in het aanbod van te detineren kinderen zich de mogelijkheid kan voordoen dat (tijdelijke) detining van kinderen gezamenlijk met volwassenen onvermijdelijk is.

– Bij artikel 40

Het Koninkrijk der Nederlanden aanvaardt het bepaalde in artikel 40 van het verdrag, onder het voorbehoud dat in gevallen van delicten van

lichte aard de berechting plaats kan vinden buiten aanwezigheid van een raadsman en dat voor die delicten gehandhaafd blijft dat niet in alle gevallen is voorzien in de mogelijkheid van een nieuwe beoordeling van de feiten en enige dientengevolge opgelegde maatregel”.

Deze Rijkswet is gecontrasigneerd door de Staatssecretaris van Justitie E. M. A. SCHMITZ, de Minister van Buitenlandse Zaken a.i., H. F. DIJKSTAL, de Minister van Binnenlandse Zaken H. F. DIJKSTAL, de Minister van Onderwijs, Cultuur en Wetenschappen J. M. M. RITZEN, de Minister van Defensie J. J. C. VOORHOEVE, de Staatssecretaris van Sociale Zaken en Werkgelegenheid R. L. O. LINSCHOTEN en de Staatssecretaris van Volksgezondheid, Welzijn en Sport E. G. TERPSTRA.

Voor de behandeling in de Staten-Generaal zie Kamerstukken II 1992/93, 1993/94, 22 855 (R1451); Hand. II 1993/94, blz. 5548-5567; 5703-5725; 5728-5732; 5777-5778; 5782-5791; Kamerstukken I 1993/94, nr. 408; 1994/95, nrs 22, 22a; Hand. I 1994/95, blz. 116.

E. BEKRACHTIGING

Zie *Trb.* 1990, 170¹⁾.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel 47 van het Verdrag een akte van bekrachtiging bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Grenada	5 november 1990
Pakistan ²⁾	12 november 1990
Uruguay ³⁾	20 november 1990
Argentinië ⁴⁾	4 december 1990
Angola	5 december 1990
Djibouti ⁵⁾	6 december 1990
Spanje ⁶⁾	6 december 1990
Panama	12 december 1990
Australië ⁷⁾	17 december 1990
Joegoslavië ⁸⁾	3 januari 1991
de Tsjechische en Slowaakse Federale Republiek ⁹⁾	7 januari 1991
Noorwegen ¹⁰⁾	8 januari 1991
Guyana	14 januari 1991
Ruanda	24 januari 1991
Colombia ¹¹⁾	28 januari 1991
Ivoorkust	4 februari 1991
Cyprus	7 februari 1991
de Maldiven ¹²⁾	11 februari 1991
de Bahamas ¹³⁾	20 februari 1991
Dominica	13 maart 1991
Madagascar	19 maart 1991
Jamaica	14 mei 1991
Libanon	14 mei 1991

Mauritanië	16 mei 1991
Jordanië ¹⁴⁾	24 mei 1991
Bulgarije	3 juni 1991
Polen ¹⁵⁾	7 juni 1991
Tanzania	10 juni 1991
Dominicaanse Republiek	11 juni 1991
Finland	20 juni 1991
Sri Lanka	12 juli 1991
Denemarken ¹⁶⁾	19 juli 1991
Cuba ¹⁷⁾	21 augustus 1991
Oekraïne	28 augustus 1991
Italië	5 september 1991
Israël	3 oktober 1991
Hongarije	7 oktober 1991
Koeweit ¹⁸⁾	21 oktober 1991
Korea ¹⁹⁾	20 november 1991
Trinidad en Tobago	5 december 1991
Zambia	6 december 1991
Canada ²⁰⁾	13 december 1991
België ²¹⁾	16 december 1991
het Verenigd Koninkrijk van Groot-Brit- tannië en Noord-Ierland ²²⁾	16 december 1991
Tunesië ²³⁾	30 januari 1992
Albanië	27 februari 1992
China ²⁴⁾	2 maart 1992
Duitsland ²⁵⁾	6 maart 1992
Lesotho	10 maart 1992
Centrafrikaanse Republiek	23 april 1992
Oostenrijk ²⁶⁾	6 augustus 1992
Ierland ²⁷⁾	28 september 1992
IJsland ²⁸⁾	28 oktober 1992
Kameroen	11 januari 1993
Suriname	1 maart 1993
Papoea Nieuw-Guinea	2 maart 1993
Nieuw-Zeeland ²⁹⁾	6 april 1993
Algerije ³⁰⁾	16 april 1993
Griekenland	11 mei 1993
Liberia	4 juni 1993
Sint Lucia	16 juni 1993
Marokko ³¹⁾	21 juni 1993
Comoren	22 juni 1993
Vanuatu	7 juli 1993
Syrië ³²⁾	17 juli 1993
Fiji	13 augustus 1993
de Marshalleilanden	4 oktober 1993
Antigua en Barbuda	5 oktober 1993
Sint Vincent en de Grenadinen	26 oktober 1993

Gabon	9 februari 1994
Luxemburg ³³⁾	7 maart 1994
Afghanistan	28 maart 1994
Japan ³⁴⁾	22 april 1994
Mozambique.	26 april 1994
Iran ³⁵⁾	13 juli 1994
Eritrea	3 augustus 1994
Kazachstan	12 augustus 1994
Samoa ³⁶⁾	29 november 1994
het Koninkrijk der Nederlanden ³⁷⁾	6 februari 1995
(voor Nederland)	

¹⁾ De Regering van *Finland* heeft op 25 juli 1991 naar aanleiding van het door Indonesië bij de bekrachtiging van het Verdrag gemaakte voorbehoud de volgende bezwaren gemaakt:

“The Government of Finland has taken note of the reservation made by the Republic of Indonesia upon ratification of the said Convention, by which Indonesia expresses that ‘With reference to the provisions of Article 1, 14, 16, 17, 21, 22 and 29 of this Convention, the Government of the Republic of Indonesia declares that it will apply these articles in conformity with its Constitution’.

In the view of the Government of Finland this reservation is subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its internal law as justification for failure to perform a treaty. For the above reason the Government of Finland objects to the said reservation. However, the Government of Finland does not consider that this objection constitutes an obstacle to the entry into force of the said Convention between Finland and the Republic of Indonesia.”

De Regering van *Zweden* heeft op 20 september 1991 naar aanleiding van het door Indonesië bij de bekrachtiging van het Verdrag gemaakte voorbehoud de volgende bezwaren gemaakt:

“The Government of Sweden has examined the content of the reservation made by the Republic of Indonesia, by which the Republic of Indonesia expresses that (zie boven)

A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may cast doubts on the commitments of the reserving state to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government of Sweden therefore objects to the reservation.

This objection does not constitute an obstacle to the entry into force of the Convention between Sweden and the Republic of Indonesia.”

De Regering van *Noorwegen* heeft op 30 december 1991 naar aanleiding van het door Indonesië bij de bekrachtiging van het Verdrag gemaakte voorbehouden de volgende bezwaren gemaakt:

“The Government of Norway has examined the content of the reservation made by the Republic of Indonesia, by which the Republic of Indonesia expresses that ‘The ratification of the Convention on the Rights of the Child by the Republic of Indonesia does not imply the acceptance of obligations going beyond the constitutional limits nor the acceptance of any obligation to introduce any right beyond those prescribed under the Constitution’ and further (zie boven)

A reservation by which a State party limits its responsibilities under the Con-

vention by invoking general principles of national law may create doubts about the commitments of the reserving state to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government of Norway, therefore, objects to this reservation.

This objection shall not constitute an obstacle to the entry into force of the Convention between Norway and the Republic of Indonesia.”

De Regering van *Portugal* heeft op 15 juli 1992 naar aanleiding van de voorbehouden gemaakt door Bangladesh en Indonesië bij de bekrachtiging van het Verdrag de volgende bezwaren gemaakt:

“The Government of Portugal considers that reservations by which a State limits its responsibilities under the Convention by invoking general principles of National Law may create doubts on the commitments of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of International Law. It is in the common interest of States that Treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government therefore objects to the reservation.

..... This objection shall not constitute an obstacle to the entry into force of the Convention between Portugal and [Bangladesh] [Indonesia].”

De Regering van *Zweden* heeft op 20 juli 1993 met betrekking tot het door Bangladesh gemaakte voorbehoud inzake artikel 21 een soortgelijke mededeling gedaan als bij Thailand (zie rubriek F, noot 2).

“.....These objections do not constitute an obstacle to the entry into force of the Convention between Sweden andBangladesh,”

Zie ook het slot van noot 36 voor bezwaar door de *Nederlandse Regering*.

2) Onder het volgende voorbehoud:

“Provisions of the Convention shall be interpreted in the light of the principle of Islamic laws and values.”

De Regering van *Finland* heeft op 25 juli 1991 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Finland has taken note for the reservation made by Pakistan upon signature of the said Convention, by which Pakistan expresses that (zie boven)

In the view of the Government of Finland this reservation is subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its internal law as justification for failure to perform a treaty. For the above reason the Government of Finland objects to the said reservation. However, the Government of Finland does not consider that this objection constitutes an obstacle to the entry into force of the said Convention between Finland and Pakistan.”

De Regering van *Zweden* heeft op 20 september 1991 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Sweden has examined the content of the reservation made by Pakistan, by which Pakistan expresses that (zie boven)

A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may cast doubts on the commitments of the reserving state to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government of Sweden therefore objects to the reservation.

This objection does not constitute an obstacle to the entry into force of the Convention between Sweden and Pakistan.”

De Regering van *Noorwegen* heeft op 30 december 1991 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Norway has examined the content of the reservation made by Pakistan, by which Pakistan expresses that (zie boven)

A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may create doubts about the commitments of the reserving state to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government of Norway, therefore, objects to this reservation.

This objection shall not constitute an obstacle to the entry into force of the Convention between Norway and Pakistan.”

De Regering van *Portugal* heeft op 15 juli 1992 tegen dit voorbehoud hetzelfde bezwaar gemaakt als bij Bangladesh en Indonesië (zie slot noot 1 hierboven).

Zie ook het slot van noot 36 voor bezwaar door de Nederlandse Regering.

³⁾ Onder het volgende voorbehoud:

“With reference to the Declaration submitted on the occasion of the signing, on 26 January 1990, of the Convention on the Rights of the Child, adopted by that Government on 6 December 1989, the Government of the Eastern Republic of Uruguay affirms in regard to the provisions of article 38, paragraphs 2 and 3, that in accordance with Uruguayan law it would have been desirable for the lower age limit for taking a direct part in hostilities in the event of an armed conflict to be set at 18 years instead of 15 years as provided in the Convention.

Furthermore, the Government of Uruguay declares that, in the exercise of its sovereign will, it will not authorize any persons under its jurisdiction who have not attained the age of 18 years to take a direct part in hostilities and will not under any circumstances recruit persons who have not attained the age of 18 years.”

⁴⁾ Onder het volgende voorbehoud en de volgende verklaringen:

Voorbehoud

“The Argentine Republic enters a reservation to subparagraphs (b), (c), (d) en (e) of article 21 of the Convention on the Rights of the Child and declares that those subparagraphs shall not apply in areas within its jurisdiction because, in its view, before they can be applied a strict mechanism must exist for the legal protection of children in matters of inter-country adoption, in order to prevent trafficking in and the sale of children.”

Verklaringen

“Concerning article 1 of the Convention, the Argentine Republic declares that the article must be interpreted to the effect that a child means every human being from the moment of conception up to the age of eighteen.

Concerning subparagraph (f) of article 24 of the Convention, the Argentine Republic considers that questions relating to family planning are the exclusive concern of parents in accordance with ethical and moral principles and understands it to be a State obligation, under this article, to adopt measures providing guidance for parents and education for responsible parenthood.

Concerning article 38 of the Convention, the Argentine Republic declares that it would have liked the Convention categorically to prohibit the use of children in armed conflicts; such a prohibition exists in its domestic law which, by virtue

of article 41 of the Convention, it shall continue to apply in this regard.” (*vertaling*)

⁵⁾ Onder het volgende voorbehoud:

«[Le Gouvernement de la République de Djibouti ne se considérera pas] liée par les dispositions ou articles incompatibles avec sa religion, et ses valeurs traditionnelles.»

De Regering van *Noorwegen* heeft op 30 december 1991 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Norway has examined the content of the reservation made by the Republic of Djibouti, by which the Republic of Djibouti expresses that ‘(The Government of the Republic of Djibouti) hereby formally declares its accession to the convention and pledges, on behalf of the Republic of Djibouti, to adhere to it conscientiously and at all times, except that it shall not consider itself bound by any provisions or articles that are incompatible with its religion and its traditional values.’

A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may create doubts about the commitments of the reserving state to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government of Norway, therefore, objects to this reservation.

This objection shall not constitute an obstacle to the entry into force of the Convention between Norway and the Republic of Djibouti.”

De Regering van *Portugal* heeft op 15 juli 1992 tegen dit voorbehoud hetzelfde bezwaar gemaakt als tegen de voorbehouden van Bangladesh en Indonesië (zie slot van noot 1 hierboven).

De Regering van *Zweden* heeft op 20 juli 1993 een soortgelijke mededeling gedaan als bij Thailand (zie rubriek F, noot 2).

“.....These objections do not constitute an obstacle to the entry into force of the Convention between Sweden andDjibouti,.....”

Zie ook het slot van noot 36 voor bezwaar door de *Nederlandse Regering*.

⁶⁾ Onder het volgende voorbehoud:

“1. Spain understands that article 21, paragraph (d), of the Convention may never be construed to permit financial benefits other than those needed to cover strictly necessary expenditure which may have arisen from the adoption of children residing in another country.

2. Spain, wishing to make common cause with those States and humanitarian organizations which have manifested their disagreement with the contents of article 38, paragraphs 2 and 3, of the Convention, also wishes to express its disagreement with the age limit fixed therein and to declare that the said limit appears insufficient, by permitting the recruitment and participation in armed conflict of children having attained the age of fifteen years.” (*vertaling*)

⁷⁾ Onder de volgende voorbehouden:

“Australia accepts the general principles of Article 37. In relation to the second sentence of paragraph (c), the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligations that children be able to maintain contact with their families, having regard to the geography and demography of Australia. Australia, therefore, ratifies the Convention to

the extent that it is unable to comply with the obligation imposed by Article 37(c).”

⁸⁾ Onder het volgende voorbehoud:

“The competent authorities (ward authorities) of the Socialist Federal Republic of Yugoslavia may, under Article 9, paragraph 1 of the Convention, make decisions to deprive parents of their right to raise their children and give them an upbringing without prior judicial determination in accordance with the internal legislation of the SFR of Yugoslavia.”

⁹⁾ Onder de volgende verklaring:

“In cases of irrevocable adoptions, which are based on the principle of anonymity of such adoptions, and of artificial fertilization, where the physician charged with the operation is required to ensure that the husband and wife on one hand and the donor on the other remain unknown to each other, the non-communication of a natural parent’s name or natural parents’ names to the child is not in contradiction with this provision.”

¹⁰⁾ Onder een voorbehoud met betrekking tot artikel 40, tweede lid, letter b, van het Verdrag.

¹¹⁾ Onder het volgende voorbehoud:

“The Government of Colombia, pursuant to article 2, paragraph 1 (d), of the Vienna Convention on the law of treaties, concluded on 23 May 1969, declares that for the purpose of article 38, paragraphs 2 and 3, of the Convention on the rights of the child, adopted by the General Assembly of the United Nations on 20 November 1989, the age referred to in said paragraphs shall be understood to be 18 years, given the fact that, under Colombian law, the minimum age for recruitment into the armed forces of personnel called for military service is 18 years.” (*vertaling*)

¹²⁾ Onder voorbehouden met betrekking tot de artikelen 14 en 21 van het Verdrag.

¹³⁾ Onder bevestiging van het bij de ondertekening gemaakte voorbehoud (zie *Trb.* 1990, 170 blz. 5).

¹⁴⁾ Onder het volgende voorbehoud:

“The Hashemite Kingdom of Jordan expresses its reservation and does not consider itself bound by articles 14, 20 and 21 of the Convention, which grant the child the right to freedom of choice of religion and concern the question of adoption, since they are at variance with the precepts of the tolerant Islamic Shariah.” (*vertaling*)

De Regering van Zweden heeft op 26 augustus 1992 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Sweden has examined the content of the reservation made by Jordan, by which Jordan states (zie boven)

A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may cast doubts on the commitments of the reserving state to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government of Sweden therefore objects to the reservation.

This objection does not constitute an obstacle to the entry into force of the Convention between Sweden and Jordan.”

De Regering van *Finland* heeft op 9 juni 1993 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Finland has examined the contents of the reservation made by Jordan upon ratification, by which Jordan states (zie boven)

In the view of the Government of Finland this reservation is subject to the general principle of treaty interpretation according to which a party may not invoke general principles of national law as justification for failure to perform its treaty obligations. For the above reason the Government of Finland objects to the said reservation. However, the Government of Finland does not consider that this objection constitutes an obstacle to the entry into force of the said Convention between Finland and Jordan.”

¹⁵⁾ Onder de volgende voorbehouden en verklaringen:

Voorbehouden

“In ratifying the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, the Republic of Poland, in accordance with the provision contained in article 51, paragraph 1, of the Convention, registers the following reservations:

– With respect to article 7 of the Convention, the Republic of Poland stipulates that the right of an adopted child to know its natural parents shall be subject to the limitations imposed by binding legal arrangements that enable adoptive parents to maintain the confidentiality of the child’s origin;

– The law of the Republic of Poland shall determine the age from which call-up to military or similar service and participation in military operations are permissible. That age limit may not be lower than the age limit set in article 38 of the Convention.”

Verklaringen

“– The Republic of Poland considers that a child’s rights as defined in the Convention, in particular the rights defined in article 12 to 16, shall be exercised with respect for parental authority, in accordance with Polish customs and traditions regarding the place of the child within and outside the family;

– With respect to article 24, paragraph 2 (f), of the Convention, the Republic of Poland considers that family planning and education services for parents should be in keeping with the principles of morality.” (*vertaling*)

¹⁶⁾ Onder het volgende voorbehoud en de volgende verklaring:

“Article 40, paragraph 2(b)(v) shall not be binding on Denmark.

It is a fundamental principle in the Danish Administration of Justice Act that everybody shall be entitled to have any penal measures imposed on him or her by a court of first instance reviewed by a higher court. There are, however, some provisions limiting this right in certain cases, for instance verdicts returned by a jury on the question of guilt, which have not been reversed by the legally trained judges of the court.

Until further notice the Convention shall not apply to Greenland and the Faroe Islands.”

De Regering van Denemarken heeft op 11 mei 1993 de verklaring dat het Verdrag niet van toepassing is op Groenland en de Faeroer ingetrokken (zie ook rubriek H).

¹⁷⁾ Onder de volgende verklaring:

“With reference to article 1 of the Convention, the Government of the Republic of Cuba declares that in Cuba, under the domestic legislation in force, majority is not attained at 18 years of age for purposes of the full exercise of civic rights.” (*vertaling*)

¹⁸⁾ Onder de volgende verklaringen:

“Article 7

The State of Kuwait understands the concept of this Article to signify the right of the child who was born in Kuwait and whose parents are unknown (parentless) to be granted the Kuwaiti nationality as stipulated by the Kuwaiti Nationality Laws.

Article 21

The State of Kuwait as it adheres to the provisions of the Islamic shariah as the main source of legislation, strictly bans abandoning the Islamic religion and does not therefore approve adoption.” (*vertaling*)

De Regering van *Portugal* heeft op 15 juli 1992 tegen het bovenstaande hetzelfde bezwaar gemaakt als tegen de voorbehouden van Bangladesh en Indonesië (zie slot van noot 1 hierboven).

¹⁹⁾ Onder de volgende voorbehouden:

“The Republic of Korea considers itself not bound by the provisions of paragraph 3 of Article 9, paragraph (a) of Article 21 and sub-paragraph (b) (v) of paragraph 2 of Article 40.” (*vertaling*)

²⁰⁾ Onder de volgende voorbehouden en de volgende verklaring:

Voorbehouden

“(i) Article 21

With a view to ensuring full respect for the purposes and intent of article 20(3) and article 30 of the Convention, the Government of Canada reserves the right not to apply the provisions of article 21 to the extent that they may be inconsistent with customary forms of care among aboriginal peoples in Canada.

(ii) Article 37(c)

The Government of Canada accepts the general principles of Article 37(c) of the Convention, but reserves the right not to detain children separately from adults where this is not appropriate or feasible.

Verklaring

Article 30

Statement of Understanding

It is the understanding of the Government of Canada that, in matters relating to aboriginal peoples of Canada, the fulfilment of its responsibilities under Article 4 of the Convention must take into account the provisions of Article 30. In particular, in assessing what measures are appropriate to implement the rights recognized in the Convention for aboriginal children, due regard must be paid to not denying their right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion to use their own language.”

²¹⁾ Onder de volgende interpretatieve verklaringen:

«1. Concernant le paragraphe 1^{er} de l'article 2, le Gouvernement belge interprète la non-discrimination fondée sur l'origine nationale comme n'impliquant pas nécessairement l'obligation pour les Etats de garantir d'office aux étrangers les mêmes droits qu'à leurs nationaux. Ce concept doit s'entendre comme visant à écarter tout comportement arbitraire mais non des différences de traitement fondées sur des considérations objectives et raisonnables, conformes aux principes qui prévalent dans les sociétés démocratiques.

2. Les articles 13 et 15 seront appliqués par le Gouvernement belge dans le contexte des dispositions et des limitations énoncées ou autorisées aux articles 10 et 11 de la Convention européenne de Sauvegarde des Droits de l'Homme et des Libertés fondamentales du 4 novembre 1950, par ladite Convention.

3. Le Gouvernement belge déclare interpréter le paragraphe 1^{er} de l'article 14 en ce sens que, conformément aux dispositions pertinentes de l'article 18 du Pacte international relatif aux droits civils et politiques du 19 décembre 1966 ainsi que de l'article 9 de la Convention européenne de Sauvegarde des Droits de l'Homme et des Libertés fondamentales du 4 novembre 1950, le droit de l'enfant à la liberté de pensée, de conscience et de religion implique également la liberté de choisir sa religion ou sa conviction.

4. Concernant le paragraphe 2 b (v) de l'article 40 le Gouvernement belge considère que l'expression 'conformément à la loi *in fine* de cette disposition signifie que:

a) cette disposition ne s'applique pas aux mineurs qui, en vertu de la loi belge, sont déclarés coupables et condamnés en seconde instance à la suite d'un recours contre leur acquittement en première instance;

b) cette disposition ne s'applique pas aux mineurs qui, en vertu de la loi belge, sont directement déferés à une juridiction supérieure telle que la Cour d'Assises.»

22) Onder de volgende voorbehouden en verklaringen:

"a) The United Kingdom interprets the Convention as applicable only following a live birth.

b) The United Kingdom interprets the reference in the Convention to 'parents' to mean only those persons who, as a matter of national law, are treated as parents. This includes cases where the law regards a child as having only one parent, for example where a child has been adopted by one person only and in certain cases where a child is conceived other than as a result of sexual intercourse by the woman who gives birth to it and she is treated as the only parent.

c) The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.

d) Employment legislation in the United Kingdom does not treat persons under 18, but over the school-leaving age as children, but as 'young people'. Accordingly the United Kingdom reserves the right to continue to apply Article 32 subject to such employment legislation.

e) Where at any time there is a lack of suitable accommodation or adequate facilities for a particular individual in any institution in which young offenders are detained, or where the mixing of adults and children is deemed to be mutually beneficial, the United Kingdom reserves the right not to apply Article 37(c) in so far as those provisions require children who are detained to be accommodated separately from adults.

f) In Scotland there are tribunals (known as children's hearings) which consider the welfare of the child and deal with the majority of offences which a child is alleged, to have committed. In some cases, mainly of a welfare nature, the child is temporarily deprived of its liberty for up to seven days prior to attending the hearing. The child and its family are, however, allowed access to a lawyer during this period. Although the decisions of the hearings are subject to appeal to the courts, legal representation is not permitted at the proceedings of the children's hearings themselves. Children's hearings have proved over the years to be a very effective way of dealing with the problems of children in a less formal, non-adversarial manner. Accordingly, the United Kingdom, in respect of Article 37(d), reserves its right to continue the present operation of children's hearings."

".....[The Government of the United Kingdom reserves] the right to extend the

Convention at a later date to any territory for whose international relations the Government of the United Kingdom is responsible....”

²³⁾ Onder de volgende voorbehouden en verklaringen:

Voorbehouden

“1. The Government of the Republic of Tunisia enters a reservation with regard to the provisions of article 2 of the Convention, which may not impede implementation of the provisions of its national legislation concerning personal status, particularly in relation to marriage and inheritance rights.

2. The Government of the Republic of Tunisia regards the provisions of article 40, paragraph 2 (b) (v), as representing a general principle to which exceptions may be made under national legislation, as is the case for some offences on which final judgement is rendered by cantonal or criminal courts without prejudice to the right of appeal in their regard to the Court of Cassation entrusted with ensuring the implementation of the law.

3. The Government of the Republic of Tunisia considers that article 7 of the Convention cannot be interpreted as prohibiting implementation of the provisions of national legislation relating to nationality and, in particular, to cases in which it is forfeited.

Verklaringen

1. The Government of the Republic of Tunisia declares that it shall not, in implementation of this Convention, adopt any legislative or statutory decision that conflicts with the Tunisian Constitution.

2. The Government of the Republic of Tunisia declares that its undertaking to implement the provisions of this Convention shall be limited by the means at its disposal.

3. The Government of the Republic of Tunisia declares that the Preamble to and the provisions of the Convention, in particularly article 6, shall not be interpreted in such a way as to impede the application of Tunisian legislation concerning voluntary termination of pregnancy.” (*vertaling*)

De Regering van Duitsland heeft op 17 maart 1993 met betrekking tot de eerste verklaring en het eerste voorbehoud de volgende bezwaren gemaakt:

“The Federal Republic of Germany considers the first of the declarations deposited by the Republic of Tunisia to be a reservation. It restricts the application of the first sentence of article 4 to the effect that any national legislative or statutory decisions adopted to implement the Convention may not conflict with the Tunisian Constitution. Owing to the very general wording of this passage the Government of the Federal Republic of Germany is unable to perceive which provisions of the Convention are covered, or may be covered at some time in the future, by the reservation and in what manner. There is a similar lack of clarity with regards to the reservations relating to article 2.

The Government of the Federal Republic of Germany therefore objects to both these reservations. This objection does not prevent the Convention from entering into force as between the Federal Republic of Germany and the Republic of Tunisia.”

²⁴⁾ Onder het volgende voorbehoud:

“[T]he People’s Republic of China shall fulfil its obligations provided by Article 6 of the Convention under the prerequisite that the Convention accords with the provisions of Article 25 concerning family planning of the Constitution of the People’s Republic of China and in conformity with the provisions of Article 2 of the Law of Minor Children of the People’s Republic of China.” (*vertaling*)

²⁵⁾ Onder de volgende voorbehouden en verklaringen en onder bevestiging van de op 23 februari 1989 te Genève afgelegde verklaring:

Voorbehouden

“In accordance with the reservations made by it with respect to the parallel guarantees of the International Covenant on Civil and Political Rights, the Federal Republic of Germany declares in respect of Article 40 (2) (b) (ii) and (v) of the Convention that these provisions shall be applied in such a way that, in the case of minor infringement of the penal law, there shall not in each and every case exist:

- a) a right to have ‘legal or other appropriate assistance’ in the preparation and presentation of the defence, and/or
- b) an obligation to have a sentence not calling for imprisonment reviewed by a ‘higher competent authority or judicial body.’

Verklaringen

The Government of the Federal Republic of Germany declares that it welcomes the Convention on the Rights of the Child as a milestone in the development of international law and that it will take the opportunity afforded by the ratification of the Convention to initiate reforms in its domestic legislation that are in keeping with the spirit of the Convention and that it considers appropriate, in line with Article 3 (2) of the Convention, to ensure the well-being of the child. The planned measures include, in particular a revision of the law on parental custody in respect of children whose parents have not married, are permanently living apart while still married, or are divorced. The principal aim will be to improve the conditions for the exercise of parental custody by both parents in such cases as well. The Federal Republic of Germany also declares that domestically the Convention does not apply directly. It establishes state obligations under international law that the Federal Republic of Germany fulfils in accordance with its national law, which conforms with the Convention.

The Government of the Federal Republic of Germany is of the opinion that Article 18 (1) of the Convention does not imply that by virtue of the entry into force of this provision parental custody, automatically and without taking into account the best interests of the respective child, applies to both parents even in the case of children whose parents have not married, are permanently living apart while still married, or are divorced. Such an interpretation would be incompatible with Article 3 (1) of the Convention. The situation must be examined on a case-by-case basis, particularly where the parents cannot agree on the joint exercise of custody.

The Federal Republic of Germany therefore declares that the provisions of the Convention are also without prejudice to the provisions of national law concerning

- a) legal representation of minors in the exercise of their rights;
- b) rights of custody and access in respect of children born in wedlock;
- c) circumstances under family and inheritance law of children born out of wedlock;

This applies irrespective of the planned revision of the law on parental custody, the details of which remain within the discretion of the national legislator.

In addition, the Federal Republic of Germany confirms the declaration it made in Geneva on 23 February 1989:

Nothing in the Convention may be interpreted as implying that unlawful entry by an alien into the territory of the Federal Republic of Germany or his unlawful stay there is permitted; nor may any provision be interpreted to mean that it restricts the right of the Federal Republic of Germany to pass laws and regulations concerning the entry of aliens and the conditions of their stay or to make a distinction between nationals and aliens”.

²⁶⁾ Onder de volgende voorbehouden en verklaringen:

Voorbehouden

“1. Article 13 and Article 15 of the Convention will be applied provided that they will not affect legal restrictions in accordance with Article 10 and Article 11 of the European Convention on the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

2. Article 17 will be applied to the extent that it is compatible with the basic rights of others, in particular with the basic rights of freedom of information and freedom of press.

Verklaringen

1. Austria will not make any use of the possibility provided for in Article 38 paragraph 2 to determine an age limit of 15 years for taking part in hostilities as this rule is incompatible with Article 3, paragraph 1, which determines that the best interest of the child shall be a primary consideration.

2. Austria declares, in accordance with its constitutional law, to apply Article 38, paragraph 3, provided that only male Austrian citizens are subject to compulsory military service.”

²⁷⁾ Onder het volgende voorbehoud:

“The Government of Ireland hereby formally make objection to the reservations made on ratification of the Convention by Bangladesh, Djibouti, Indonesia, Jordan, Kuwait, Myanmar, Pakistan, Thailand, Tunisia, Turkey.

The Government of Ireland consider that such reservations, which seek to limit the responsibilities of the reserving State under the Convention by invoking general principles of national law, may create doubts as to the commitment of those States to the object and purpose of the Convention.

This object shall not constitute an obstacle to the entry into force of the Convention between Ireland and the aforementioned States.”

²⁸⁾ Onder de volgende verklaringen:

“1. With respect to article 9, under Icelandic law the administrative authorities can take final decisions in some cases referred to in the article. These decisions are subject to judicial review in the sense that it is a principle of Icelandic law that courts can nullify administrative decisions if they conclude that they are based on unlawful premises. This competence of the courts to review administrative decisions is based on Article 60 of the Constitution.

2. With respect to article 37, the separation of juvenile prisoners from adult prisoners is not obligatory under Icelandic law. However, the law relating to prisons and imprisonment provides that when deciding in which penal institution imprisonment is to take place, account should be taken of, inter alia, the age of the prisoner. In light of the circumstances prevailing in Iceland it is expected that decisions on the imprisonment of juveniles will always take account of the juvenile's best interest.”

²⁹⁾ Onder de volgende voorbehouden en verklaring:

Voorbehouden

“Nothing in this Convention shall affect the right of the Government of New Zealand to continue to distinguish as it considers appropriate in its law and practice between persons according to the nature of their authority to be in New Zealand including but not limited to their entitlement to benefits and other protection described in the Convention and the Government of New Zealand reserves the right to interpret and apply the Convention accordingly.

The Government of New Zealand considers that the rights of the child provided for in article 32(1) are adequately protected by its existing law. It therefore

reserves the right not to legislate further or to take additional measures as may be envisaged in article 32(2).

The Government of New Zealand reserves the right not to apply article 37(c) in circumstances where the shortage of suitable facilities makes the mixing of juveniles and adults unavoidable; and further reserves the right not to apply article 37(c) where the interests of other juveniles in an establishment require the removal of a particular juvenile offender or where mixing is considered to be of benefit to the persons concerned;"

Verklaring

"the Government of New Zealand declares that such ratification shall extend to Tokelau only upon notification to the Secretary-General of the United Nations of such extension."

³⁰⁾ Onder de volgende interpretatieve verklaringen:

"1. Article 14, paragraphs 1 and 2

The provisions of paragraphs 1 and 2 of article 14 shall be interpreted by the Algerian Government in compliance with the basic foundations of the Algerian legal system, in particular:

– With the Constitution, which stipulates in its article 2 that Islam is the State religion and in its article 35 that there shall be no infringement of the inviolability of the freedom of conviction and the inviolability of the freedom of opinion;

– With Law No. 84-11 of 9 June 1984, comprising the Family Code, which stipulates that a child's education is to take place in accordance with the religion of its father.

2. Articles 13, 16 and 17

Articles 13, 16 and 17 shall be applied while taking account of the interest of the child and the need to safeguard its physical and mental integrity. In this framework, the Algerian Government shall interpret the provisions of these article while taking account of:

– The provisions of the Penal Code, in particular those sections relating to breaches of public order, to public decency and to the incitement of minors to immorality and debauchery;

– The provisions of Law No. 90-07 of 3 April 1990, comprising the Information Code, and particularly its article 24 stipulating that 'the director of a publication destined for children must be assisted by an educational advisory body';

– Article 26 of the same Code, which provides that 'national and foreign periodicals and specialized publications, whatever their nature or purpose, must not contain any illustration, narrative, information or insertion contrary to Islamic morality, national values or human rights or advocate racism, fanaticism and treason Further, such publications must contain no publicity or advertising that may promote violence and delinquency.'" (*vertaling*)

³¹⁾ Onder de volgende voorbehouden:

"The Kingdom of Morocco, whose Constitution guarantees to all the freedom to pursue his religious affairs, makes a reservation to the provisions of article 14, which accords children freedom of religion, in view of the fact that Islam is the State religion.'" (*vertaling*)

³²⁾ Onder de volgende voorbehouden:

"The Syrian Arab Republic has reservations on the Convention's provisions which are not in conformity with the Syrian Arab legislations and with the Islamic Shariaa's principles, in particular the content of Article (14) related to the Right of the Child to the freedom of religion, and articles 2 and 21 concerning the adoption.'" (*vertaling*)

De Regering van *Zweden* heeft op 29 maart 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of Sweden has also examined the content of the reservation made by the Syrian Arab Republic upon ratification, which reads as follows: (zie blz. 17 onderaan)

Under international treaty law, a State may not invoke internal law as a justification for its failure to perform its treaty obligations. A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may cast doubts upon the commitment of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. All States Parties share a common interest in the respect for the object and purpose of the treaty to which they have chosen to become parties. The Government of Sweden therefore objects to the reservation made by the Syrian Arab Republic.

This objection does not constitute an obstacle to the entry into force of the Convention between Sweden and the Syrian Arab Republic.”

De Regering van *Finland* heeft op 24 juni 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of Finland has examined the contents of the reservation made by the Government of the Syrian Arab Republic upon ratification of the said Convention, by which it expresses that (zie blz. 17 onderaan)

In view of the Government of Finland, the unlimited and undefined character of the first part of the said reservation creates serious doubts about the commitment of the reserving State to fulfil its obligations under the Convention. In its present formulation the reservation is clearly contrary to the object and purposes of the Convention. Therefore, the Government of Finland objects to such reservation.

The Government of Finland also recalls that the said reservation is subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its domestic law as a justification for failure to perform its treaty obligations.

The Government of Finland does not, however, consider that this objection constitutes an obstacle to the entry into force of the Convention between Finland and the Syrian Arab Republic.”

De Regering van *Italië* heeft op 18 juli 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of Italy has examined the reservation contained in the instrument of ratification of the Government of the Syrian Arab Republic to the Convention on the Rights of the Child which reads as follows: (zie blz. 17 onderaan)

This reservation is too comprehensive and too general as to be compatible with the object and purpose of the Convention. The Government of Italy therefore objects to the reservation made by the Syrian Arab Republic.

This objection shall not preclude the entry into force of the Convention as between the Syrian Arab Republic and Italy.”

De Regering van *Duitsland* heeft op 21 september 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of the Federal Republic of Germany has examined the reservation contained in the instrument of ratification by the Government of the Syrian Arab Republic, which reads as follows: (zie blz. 17 onderaan)

This reservation, owing to its indefinite nature, does not meet the requirements of international law. The Government of the Federal Republic of Germany therefore objects to the reservation made by the Syrian Arab Republic.

This objection shall not preclude the entry into force of the Convention as between the Syrian Arab Republic and the Federal Republic of Germany.”

Zie ook het slot van noot 36 voor bezwaar door de Nederlandse Regering.

De Regering van *Noorwegen* heeft op 25 oktober 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

“The Government of Norway has examined the content of the reservation made by the Syrian Arab Republic upon ratification, which reads as follows: ... (zie blz. 17 onderaan)

In the view of the Government of Norway, a reservation by which a State party limits its responsibilities under the Convention by invoking general principles of internal law may create doubts about the commitments of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermine the basis of international treaty law. It is in the common interest of States that treaties to which they have chosen to become parties also are respected, as to their object and purpose, by all parties. Furthermore, under well established international treaty law, a State is not permitted to invoke internal law as justification for its failure to perform its treaty obligations. For these reasons, the Government of Norway objects to Syria's reservations.

The Government of Norway does not consider this objection to constitute an obstacle to the entry into force of the above-stated Convention between the Kingdom of Norway and the Syrian Arab Republic.”

³³⁾ Onder de volgende voorbehouden:

“1. The Government of Luxemburg believes that it is the interest of families and children to maintain the provisions of article 334-6 of the Civil Code, which reads as follows:

Article 334-6. If at the time of conception, the father or mother was bound in marriage to another person, the natural child may be raised in the conjugal home only with the consent of the spouse of his parent.

2. The Government of Luxemburg declares that the present Convention does not require modification of the legal status of children born to parents between whom marriage is absolutely prohibited, such status being warranted by the interest of the child, as provided under article 3 of the Convention.

3. The Government of Luxemburg declares that article 6 of the present Convention presents no obstacle to implementation of the provisions of Luxemburg legislation concerning sex information, the prevention of back-street abortion and the regulation of pregnancy termination.

4. The Government of Luxemburg believes that article 7 of the Convention presents no obstacle to the legal process in respect of anonymous births, which is deemed to be in the interest of the child, as provided under article 3 of the Convention.

5. The Government of Luxemburg declares that article 15 of the present Convention does not impede the provisions of Luxemburg legislation concerning the capacity to exercise rights.” (*vertaling*)

³⁴⁾ Onder het volgende voorbehoud en de volgende verklaringen:

“In applying paragraph (c) of Article 37 of the Convention on the Rights of the Child, Japan reserves the right not to be bound by the provision in its second sentence, that is, ‘every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so’, considering the fact that in Japan as regards persons deprived of liberty, those who are below twenty years of age are to be generally separated from those who are of twenty years of age and over under its national law.

1. The Government of Japan declares that paragraph 1 of article 9 of the Con-

vention on the Rights of the Child be interpreted not to apply to a case where a child is separated from his or her parents as a result of deportation in accordance with its immigration law.

2. The Government of Japan declares further that the obligation to deal with applications to enter or leave a State Party for the purpose of family reunification 'in a positive, humane and expeditious manner' provided for in paragraph 1 of Article 10 of the Convention on the Rights of the Child be interpreted not to affect the outcome of such applications."

³⁵⁾ Onder het volgende voorbehoud:

"[T]he Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the internal legislation in effect." (*vertaling*)

Zie het slot van noot 36 voor bezwaar tegen dat voorbehoud door de Nederlandse Regering.

De Regering van *Portugal* heeft op 13 december 1994 tegen dit voorbehoud het volgende bezwaar gemaakt:

"The Government of Portugal has examined the contents of the reservation made by the Islamic Republic of Iran, according to which the Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the internal legislation in effect.

A reservation by which a state limits its responsibilities under the Convention in a broad and vague manner and by invoking its internal law may create doubts on the commitments of the reserving state to the object and purpose of the Convention and contribute to undermining the basis of International Law. It is the common interest of states that treaties to which they have chosen to become parties also are respected, as to the object and purpose, by all parties. The Government of Portugal therefore objects to this reservation.

This objection shall not constitute an obstacle to the entry into force of the Convention between Portugal and the Islamic Republic of Iran."

³⁶⁾ Onder het volgende voorbehoud:

"[T]he Government of Western Samoa whilst recognising the importance of providing free primary education as specified under Article 28(1)(a) of the Convention on the Rights of child

And being mindful of the fact that the greater portion of schools within Western Samoa that provide primary education are controlled by bodies outside the control of the Government

Pursuant then to Article 51 the Government of Western Samoa thus reserves the right to allocate resources to the primary level sector of education in Western Samoa in contrast to the requirement of Article 28(1)(a) to provide free primary education."

³⁷⁾ De aanvaarding door het Koninkrijk der Nederlanden geschiedde onder de volgende voorbehouden, verklaringen en het volgende bezwaar:

Voorbehouden

"Article 26

The Kingdom of the Netherlands accepts the provisions of article 26 of the Convention with the reservation that these provisions shall not imply an independent entitlement of children to social security, including social insurance.

Article 37

The Kingdom of the Netherlands accepts the provisions of article 37 (c) of the Convention with the reservation that these provisions shall not prevent the appli-

cation of adult penal law to children of sixteen years and older, provided that certain criteria laid down by law have been met.

Article 40

The Kingdom of the Netherlands accepts the provisions of article 40 of the Convention with the reservation that cases involving minor offences may be tried without the presence of legal assistance and that with respect to such offences the position remains that no provision is made in all cases for a review of the facts or of any measures imposed as a consequence”.

Verklaringen

Article 14

It is the understanding of the Government of the Kingdom of the Netherlands that article 14 of the Convention is in accordance with the provisions of article 18 of the International Covenant on Civil and Political Rights of 19 December 1966 and that this article shall include the freedom of a child to have or adopt a religion or belief of his or her choice as soon as the child is capable of making such choice in view of his or her age or maturity.

Article 22

With regard to article 22 of the Convention, the Government of the Kingdom of the Netherlands declares:

a) that it understands the term ‘refugee’ in paragraph 1 of this article as having the same meaning as in article 1 of the Convention relating to the Status of Refugees of 28 July 1951; and

b) that it is of the opinion that the obligation imposed under the terms of this article does not prevent

– the submission of a request for admission from being made subject to certain conditions, failure to meet such conditions resulting in inadmissibility;

– the referral of a request for admission to a third State, in the event that such a State is considered to be primarily responsible for dealing with the request for asylum.

Article 38

With regard to article 38 of the Convention, the Government of the Kingdom of the Netherlands declares that it is of the opinion that States should not be allowed to involve children directly or indirectly in hostilities and that the minimum age for the recruitment or incorporation of children in the armed forces should be above fifteen years.

In times of armed conflict, provisions shall prevail that are most conducive to guaranteeing the protection of children under international law, as referred to in article 41 of the Convention.”

Bezwaar

“With regard to the reservations made by Djibouti, Indonesia, Pakistan, the Syrian Arab Republic and Iran upon ratification:

The Government of the Kingdom of the Netherlands considers that such reservations, which seek to limit the responsibilities of the reserving State under the Convention by invoking general principles of national law, may raise doubts as to the commitment of these States to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of States that treaties to which they have chosen to become parties should be respected, as to object and purpose, by all parties. The Government of the Kingdom of the Netherlands therefore objects to these reservations.

This objection does not constitute an obstacle to the entry into force of the Convention between the Kingdom of the Netherlands and the aforementioned States”.

F. TOETREDING

Zie *Trb.* 1990, 170.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel 48 van het Verdrag een akte van toetreding bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Malawi	2 januari 1991
Ethiopië	14 mei 1991
Sao Tome en Principe	14 mei 1991
Myanmar ¹⁾	15 juli 1991
Estland	21 oktober 1991
San Marino	25 november 1991
Litouwen	31 januari 1992
Bahrein	13 februari 1992
Letland	14 april 1992
Thailand ²⁾	27 maart 1992
Kaapverdië	4 juni 1992
Equatoriaal Guinee	15 juni 1992
Azerbajdzjan	13 augustus 1992
Kambodja	15 oktober 1992
India ³⁾	11 december 1992
Moldavië	26 januari 1993
Libië	15 april 1993
Micronesië	5 mei 1993
Monaco ⁴⁾	21 juni 1993
Armenië	23 juni 1993
Turkmenistan	20 september 1993
Congo	13 november 1993
Tadzjikistan	26 oktober 1993
Georgië	2 juni 1994
Iraq ⁵⁾	15 juni 1994
Oezbekistan	29 juni 1994
Nauru	27 juli 1994
Kyrgyzstan	7 oktober 1994

Verklaring van voortgezette gebondenheid

De volgende Staten hebben de Secretaris-Generaal van de Verenigde Naties medegedeeld zich gebonden te achten aan het Verdrag:

Slovenië ⁶⁾	1 juli 1992
Kroatië ⁷⁾	12 oktober 1992
de Tsjechische Republiek ⁸⁾	22 februari 1993
Slowakije ⁹⁾	28 mei 1993
Bosnië-Herzegovina ¹⁰⁾	1 september 1993

De Voormalige Joegoslavische Republiek
Macedonië¹¹⁾. 2 december 1993

¹⁾ Onder de volgende voorbehouden:

“1. The Union of Myanmar interprets the expression ‘the law’ in Article 15, paragraph 2, to mean the Laws, as well as the Decrees and Executive Orders having the force of law, which are for the time being in force in the Union of Myanmar.

2. The Union of Myanmar understands that such restrictions on freedom of association and freedom of peaceful assembly imposed in conformity with the said Laws, Decrees and Executive Orders as are required by the exigencies of the situation obtaining in the Union of Myanmar are permissible under Article 15, paragraph 2.

3. The Union of Myanmar interprets the expression ‘national security’ in the same paragraph as encompassing the supreme national interest, namely, the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of national sovereignty, which constitute the paramount national causes of the Union of Myanmar.

The Union of Myanmar accepts in principle the provisions of Article 37 as they are in consonance with its laws, rules, regulations, procedures and practice as well as with its traditional, cultural and religious values. However, having regard to the exigencies of the situation obtaining in the country at present, the Union of Myanmar states as follows:

1. Nothing contained in Article 37 shall prevent, or be construed as preventing, the Government of the Union of Myanmar from assuming or exercising, in conformity with the laws for the time being in force in the country and the procedures established thereunder, such powers as are required by the exigencies of the situation for the preservation and strengthening of the rule of law, the maintenance of public order (*ordre public*) and, in particular, the protection of the supreme national interest, namely, the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of national sovereignty, which constitute the paramount national causes of the Union of Myanmar.

2. Such powers shall include the powers of arrest, detention, imprisonment, exclusion, interrogation, enquiry and investigation.”

De Regering van *Duitsland* heeft op 25 juni 1992 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Federal Republic of Germany considers that the reservations made by the Union of Myanmar regarding articles 15 and 37 of the Convention on the Rights of the Child are incompatible with the object and purpose of the Convention (article 51, paragraph 2) and therefore objects to them.

This objection shall not preclude the entry into force of the Convention as between the Union of Myanmar and the Federal Republic of Germany.” (*vertaling*)

De Regering van *Portugal* heeft op 15 juli 1992 tegen dit voorbehoud de volgende bezwaren gemaakt:

“The Government of Portugal considers that reservations by which a State limits its responsibilities under the Convention by invoking general principles of National Law may create doubts on the commitments of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of International Law. It is in the common interest of States that Treaties to which they have chosen to become parties also are respected, as to object and purpose, by all parties. The Government therefore objects to the reservation.

This objection shall not constitute an obstacle to the entry into force of the Convention between Portugal and Myanmar.”

De Regering van *Zweden* heeft op 20 juli 1993 met betrekking tot artikel 15 en artikel 37 een soortgelijke mededeling gedaan als bij Thailand (zie hieronder).

“.....These objections do not constitute an obstacle to the entry into force of the Convention between Sweden and Myanmar.”

De Regering van Myanmar heeft op 19 oktober 1993 de bij de toetreding gemaakte voorbehouden met betrekking tot de artikelen 15 en 37 ingetrokken.

2) Onder het volgende voorbehoud:

“The application of Articles 7, 22 and 29 of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand.”

De Regering van *Zweden* heeft op 20 juli 1993 de volgende mededeling gedaan met betrekking tot dit voorbehoud:

“The Government of Sweden has examined the contents of the reservation made by Thailand upon accession, which reads as follows: (zie boven)

A reservation by which a State party limits its responsibilities under the Convention by invoking general principles of national law may cast doubts on the commitment of the reserving State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law. It is in the common interest of States that treaties to which they have chosen to become parties are respected, as to the object and purpose, by all parties. The Government of Sweden therefore objects to the reservations made by Thailand.”

“.....These objections do not constitute an obstacle to the entry into force of the Convention between Sweden and Thailand.....”

3) Onder de volgende verklaring:

“While fully subscribing to the objectives and purposes of the Convention, realising that certain of the rights of the Child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the extent of available resources and within the framework of international co-operation; recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons children of different ages do work in India; having prescribed minimum ages for employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions of Article 32, particularly paragraph 2(a), in accordance with its national legislation and relevant international instruments to which it is a State Party.”

4) Onder het volgende voorbehoud en de volgende verklaring:

«La Principauté de Monaco interprète l'article 40, paragraphe 2b.V comme posant un principe général comportant quelques exceptions qui sont apportées par la Loi. Il en est ainsi, notamment, pour certaines infractions de nature criminelle. Au demeurant, la Cour de Révision Judiciaire statue souverainement en toutes matières sur les pourvois formés contre toute décision rendue en dernier ressort.

La Principauté de Monaco déclare que la présente Convention, notamment son article 7, ne saurait affecter les règles définies par la législation monégasque en matière de nationalité.»

5) Onder het volgende voorbehoud:

“[Iraq] ha[s] seen fit to accept it [the Convention] subject to a reservation in respect of article 14, paragraph 1, concerning the child’s freedom of religion, as allowing a child to change his or her religion runs counter to the provisions of the Islamic Shariah.”

6) Onder het volgende voorbehoud:

“The Republic of Slovenia reserves the right not to apply paragraph 1 of Article 9 of the Convention since the internal legislation of the Republic of Slovenia provides for the right of competent authorities (centres for social work) to determine on separation of a child from his/her parents without a previous judicial review.”

7) Onder het volgende voorbehoud:

“The Republic of Croatia reserves the right not to apply paragraph 1 of article 9 of the Convention since the internal legislation of the Republic of Croatia provides for the right of competent authorities (Centres for Social Work) to determine on separation of a child from his/her parents without a previous judicial review.”

8) Onder de verklaring zich gebonden te achten aan de door Tsjechoslowakije bij de bekrachtiging afgelegde verklaring (zie rubriek E, noot 9).

9) Onder handhaving van de door Tsjechoslowakije bij de bekrachtiging afgelegde verklaring met betrekking tot artikel 7, eerste lid (zie rubriek E, noot 9).

10) Onder het volgende voorbehoud:

“The Republic of Bosnia and Herzegovina reserves the right not to apply paragraph 1 of Article 9 of the Convention since the internal legislation of the Republic of Bosnia and Herzegovina provides for the right of competent authorities (guardianship authorities) to determine on separation of a child from his/her parents without a previous judicial review.”

11) De Regering van Griekenland heeft naar aanleiding van de door De Voorzitter van de Raad van de Joegoslavische Republiek Macedonië afgelegde verklaring van voortgezette gebondenheid het volgende mededegeeld:

“Succession of the Former Yugoslav Republic of Macedonia to the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, does not imply its recognition on behalf of the Hellenic Republic.”

G. INWERKINGTREDING

Zie *Trb.* 1990, 170.

Het Verdrag is ingevolge artikel 49, tweede lid, op 8 maart 1995 in werking getreden voor het *Koninkrijk der Nederlanden* (voor Nederland).

H. TOEPASSELIJKVERKLARING

Denemarken heeft, door intrekking van de verklaring terzake afgelegd bij de bekrachtiging, het Verdrag van toepasselijk verklaard op:

Groenland 11 mei 1993
de Faeroer 11 mei 1993

Het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland heeft het Verdrag uitgebreid tot de volgende gebieden:

het Eiland Man ¹⁾	7 september 1994
Anguilla ¹⁾	7 september 1994
de Bermuda-eilanden ¹⁾	7 september 1994
de Britse Maagden-eilanden ¹⁾	7 september 1994
de Cayman-eilanden ¹⁾	7 september 1994
de Falkland-eilanden ¹⁾	7 september 1994
Hong Kong ¹⁾	7 september 1994
Montserrat ¹⁾	7 september 1994
de eilandengroep Pitcairn (Henderson, Ducie- en Oeno-eilanden ¹⁾)	7 september 1994
Sint Helena met onderhorigheden ¹⁾	7 september 1994
Zuid-Georgia en Zuid-Sandwich-eilan- den ¹⁾	7 september 1994
de Turks- en Caicos-eilanden ¹⁾	7 september 1994

¹⁾ Onder het volgende voorbehoud en de volgende verklaringen:

“The United Kingdom refers to the reservation and declarations a), b) and c) which accompanied its instrument of ratification and makes a similar reservation and declarations in respect of each of its dependent territories. (Zie voor het voorbehoud en de verklaringen blz. .. van dit Tractatenblad.)

The United Kingdom, in respect of each of its dependent territories except Hong Kong and Pitcairn, reserves the right to apply Article 32 subject to the laws of those territories which treat certain persons under 18 not as children but as ‘young people’. In respect of Hong Kong, the United Kingdom reserves the right not to apply Article 32 b) in so far as it might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments.

Where at any time there is a lack of suitable detention facilities or where the mixing of adults and children is deemed to be mutually beneficial the United Kingdom, in respect of each of its dependent territories, reserves the right not to apply Article 37 c) in so far as those provisions require children who are detained to be accommodated separately from adults.

The United Kingdom, in respect of Hong Kong and the Cayman Islands, will seek to apply the Convention to the fullest extent to children seeking asylum in those territories except in so far as conditions and resources make full implementation impracticable. In particular, in relation to Article 22, the United Kingdom reserves the right to continue to apply any legislation in those territories governing the detention of children seeking refugee status, the determination of their states and their entry into, stay in and departure from those territories.

The Government of the United Kingdom reserves the right to extend the Convention at a later date to any other territories for whose international relations the Government of the United Kingdom is responsible.”

J. GEGEVENS

Zie *Trb.* 1990, 46 en 170.

Voor het Handvest van de Verenigde Naties zie ook *Trb.* 1994, 277.

Voor het op 19 december 1966 tot stand gekomen Internationaal Verdrag inzake de burgerrechten en politieke rechten zie ook *Trb.* 1995, 18.

Voor het op 19 december 1996 tot stand gekomen Internationaal Verdrag inzake economische, sociale en culturele rechten zie ook *Trb.* 1995, 19.

Uitgegeven de *zevende* april 1995.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO