

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1995 Nr. 18

A. TITEL

*Internationaal Verdrag inzake burgerrechten en politieke rechten, met
Facultatief Protocol;
New York, 19 december 1966*

B. TEKST

De Engelse en de Franse tekst van het Verdrag, met Facultatief Protocol, zijn geplaatst in *Trb.* 1969, 99.

Voor de ondertekeningen zie ook *Trb.* 1970, 52, *Trb.* 1975, 60, *Trb.* 1978, 177 en *Trb.* 1984, 19.

Het *Protocol* is in overeenstemming met zijn artikel 8, eerste lid, voorts nog ondertekend voor:

Joegoslavië 14 maart 1990

C. VERTALING

Zie *Trb.* 1978, 177.

D. PARLEMENT

Zie *Trb.* 1978, 177.

E. BEKRACHTIGING

Zie *Trb.* 1969, 99, *Trb.* 1970, 52, *Trb.* 1975, 60¹⁾, *Trb.* 1978, 177²⁾, *Trb.* 1979, 65 en *Trb.* 1984, 19³⁾.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel 48, tweede lid, van het Verdrag een akte van bekrachtiging met betrekking tot het *Verdrag* bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Argentinië⁴⁾ 8 augustus 1986
de Filippijnen⁵⁾ 23 oktober 1986

Algerije ⁶⁾	12 september 1989
Ierland ⁷⁾	8 december 1989
Israël ⁸⁾	3 oktober 1991
de Verenigde Staten van Amerika ⁹⁾	8 juni 1992

Behalve de in *Trb.* 1969, 99, *Trb.* 1970, 52, *Trb.* 1975, 60, *Trb.* 1978, 177, en *Trb.* 1984, 19 genoemde hebben nog de volgende Staten in overeenstemming met artikel 8, tweede lid, van het Protocol een akte van bekrachtiging met betrekking tot het *Protocol* bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Oostenrijk ¹⁰⁾	10 december 1987
de Filippijnen	22 augustus 1989
Cyprus	15 april 1992
Guinee	17 juni 1993

¹⁾ De Regering van *Wit-Rusland* heeft op 30 september 1992 het bij de bekrachtiging gemaakte voorbehoud ingetrokken.

²⁾ De Regering van *Peru* heeft op 9 april 1984 de volgende verklaring afgelegd:

De Regering van *Spanje* heeft op 25 januari 1985 de volgende verklaring afgelegd:

De Regering van *Argentinië* heeft op 3 oktober 1983 naar aanleiding van de bekrachtiging van het Verdrag door het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland, mede voor de Falkland-eilanden met onderhorigheden het volgende bezwaar gemaakt:

“[The Government of Argentina makes a] formal objection tot the [declaration] of territorial extension issued by the United Kingdom with regard to the Malvinas Islands (and dependencies), which that country is illegally occupying and refers to as the “Falkland Islands”.

The Argentine Republic rejects and considers null and void the [said declaration] of territorial extension.” (*vertaling*)

De Regering van het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* heeft op 28 februari 1985 naar aanleiding van het gemaakte bezwaar door Argentinië op 3 oktober 1983 de volgende verklaring afgelegd:

“The Government of the United Kingdom of Great Britain and Northern Ireland have no doubt as to their right, by notification to the Depositary under the relevant provisions of each of the above treaties to extend the application of the Covenants in question to the Falkland Islands or to the Falkland Islands Dependencies, as the case may be.

For this reason alone, the Government of the United Kingdom are unable to regard the Argentine communications under reference as having any legal effect.”

De Regering van *Finland* heeft op 29 maart 1985 de bij de bekrachtiging gemaakte voorbehouden met betrekking tot de artikelen 13 en 14 van het Verdrag ingetrokken.

De Regering van *België* heeft op 5 maart 1987 de volgende verklaring als bedoeld in artikel 41, eerste lid, van het Verdrag afgelegd:

“The Kingdom of Belgium declares that it recognizes the competence of the Human Rights Committee under article 41 of the International Covenant on Civil and Political Rights.” (*vertaling*)

De Regering van *Spanje* heeft op 21 december 1988 de volgende verklaring afgelegd:

“The Spanish Government declares under article 41 of the International Covenant on Civil and Political Rights that it recognizes, for a period of five years as from the date of deposit of this declaration, 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 this Covenant.”

De Regering van *Finland* heeft op 26 juli 1990 nummer 1 en 5 van de gemaakte voorbehouden op 19 augustus 1975 (zie *Trb.* 1978, 177, zie blz. 32 en 33) ingetrokken.

De Regering van *Polen* heeft op 25 september 1990 de volgende verklaring afgelegd:

De Regering van de *Tsjechische en Slowaakse Federatieve Republiek* heeft op 12 maart 1991 de volgende verklaring afgelegd:

De Regering van het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* heeft op 2 februari 1993 het bij de bekrachtiging gemaakte voorbehoud met betrekking tot artikel 25, letter c, ingetrokken.

³⁾ De Regering van Australië heeft op 6 november 1984 medegedeeld, dat zij de voorbehouden en verklaringen gemaakt en afgelegd bij de bekrachtiging van het Verdrag op 13 augustus 1980 intrekt, met uitzondering van de volgende voorbehouden:

“Article 10

In relation to paragraph 2 (a) the principle of segregation is accepted as an objective to be achieved progressively. In relation to paragraphs 2 (b) and 3 (second sentence) the obligation to segregate is accepted only to the extent that such segregation is considered by the responsible authorities to be beneficial to the juveniles or adults concerned.

Article 14

Australia makes the reservation that the provision of compensation for miscarriage of justice in the circumstances contemplated in paragraph 6 of article 14 may be by administrative procedures rather than pursuant to specific legal provision.

Article 20

Australia interprets the rights provided for by articles 19, 21 and 22 as consistent with article 20; accordingly, the Commonwealth and the constituent States, having legislated with respect to the subject matter of the article in matters of practical concern in the interests of public order (ordre public), the right is reserved not to introduce any further legislative provision on these matters.”

Tevens legde de Regering van Australië de volgende verklaring af:

“Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent States. The implementation of the treaty throughout Australia will be effected by the Commonwealth, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise.”

De Regering van *België* heeft op 18 juni 1987 de volgende verklaring afgelegd:

“The Kingdom of Belgium declares, under article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee established under article 28 of the Covenant to receive and consider communications submitted by another State Party, provided that

such State Party has, not less than twelve months prior to the submission by it of a communication relating to Belgium, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.” (*vertaling*)

De Regering van *Egypte* heeft bij de bekrachtiging de volgende verklaring afgelegd:

“... taking into consideration the provisions of the Islamic Sharia and the fact they do not conflict with the text annexed to the instrument ... we accept, support and ratify it....” (*vertaling*)

De Regering van *IJsland* heeft op 18 oktober 1993 het voorbehoud met betrekking tot artikel 8, derde lid (a), ingetrokken.

4) Onder de volgende verklaring en bezwaar:

“The Argentine Government states that the application of the second part of article 15 of the International Covenant on Civil and Political rights shall be subject to the principle laid down in article 18 of the Argentine National Constitution.

The Argentine Republic rejects the extension, notified to the Secretary-General of the United Nations on 20 May 1976 by the United Kingdom of Great Britain and Northern Ireland, of the application of the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966, to the Malvinas, South Georgia and South Sandwich Islands, and reaffirms its sovereign rights to those archipelagos, which form an integral part of its national territory.

The General Assembly of the United Nations has adopted resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6 and 40/21 in which it recognizes the existence of a sovereignty dispute regarding the question of the Falklands Islands (Malvinas) and urges the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to pursue negotiations in order to find as soon as possible a peaceful and definitive solution to the dispute, through the good offices of the Secretary-General of the United Nations, who shall inform the General Assembly of the progress made.” (*vertaling*)

Voorts bevat de akte van bekrachtiging een verklaring als bedoeld in artikel 41 van het Verdrag (zie rubriek J hieronder).

De Regering van het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* heeft op 13 januari 1988 tegen dit bezwaar de volgende mededeling gedaan:

“The Permanent Representative wishes to inform the Secretary-General that the Government of the United Kingdom of Great Britain and Northern Ireland rejects the statements made by the Argentine Republic, regarding the Falkland Islands and South Georgia and the South Sandwich Island, when ratifying the International Covenant on Civil and Political Rights and when acceding to the Optional Protocol to the latter.

The Government of the United Kingdom of Great Britain and Northern Ireland has no doubt as to British sovereignty over the Falkland Islands and South Georgia and the South Sandwich Islands and its consequent right to extend treaties to those territories.”

5) Onder een verklaring als bedoeld in artikel 41 van het Verdrag (zie rubriek J hieronder).

6) Onder de volgende interpretatieve verklaringen:

«1. Le Gouvernement algérien interprète l'article premier commun aux deux Pactes comme ne portant en aucun cas atteinte au droit inaliénable de tous les peuples à disposer d'eux-mêmes et de leurs richesses et ressources naturelles. Il considère en outre que le maintien de l'état de dépendance de certains territoires auxquels se réfèrent l'article premier, alinéa 3, des deux Pactes et l'article 14 du Pacte sur les droits économiques, sociaux et culturels, est contraire aux buts et objectifs des Nations Unies, à la Charte de l'ONU et à la Déclaration 1514 XV relative à l'octroi de l'indépendance aux pays et aux peuples coloniaux».

2. Le Gouvernement algérien interprète les dispositions de l'article 8 du Pacte sur les droits économiques, sociaux et culturels et de l'article 22 du Pacte sur les droits civils et politiques comme faisant de la loi le cadre d'intervention de l'Etat pour l'organisation et l'exercice du droit syndical.

3. Le Gouvernement algérien considère que les dispositions des alinéas 3 et 4 de l'article 13 du Pacte sur les droits économiques, sociaux et culturels, ne peuvent en aucun cas porter atteinte à son droit d'organiser librement son système éducatif.

4. Le Gouvernement algérien interprète les dispositions de l'alinéa 4 de l'article 23 du Pacte sur les droits civils et politiques relatives aux droits et responsabilités des époux, comme ne portant en aucun cas atteinte aux fondements essentiels du système juridique algérien.»

De Algerijnse regering heeft voorts een verklaring afgelegd als bedoeld in artikel 41 van het Verdrag (zie rubriek J hieronder).

De Regering van *Duitsland* heeft op 25 oktober 1990 tegen deze interpretatieve verklaringen de volgende bezwaren gemaakt:

“The Federal Republic of Germany states the following regarding the declarations made by Algeria upon deposit of its instrument of ratification to the International Covenant of 16 December 1966 on Economic, Social and Cultural Rights and the International Covenant of 16 December 1966 on Civil and Political Rights:

It interprets the declaration under paragraph 2 to mean that the latter is not intended to eliminate the obligation of Algeria to ensure that the rights guaranteed in article 8, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights and in article 22 of the International Covenant on Civil and Political Rights may be restricted only for the reasons mentioned in the said articles and that such restriction shall be prescribed by law.

It interprets the declaration under paragraph 4 to mean that Algeria, by referring to its domestic legal system, does not intend to restrict its obligation to ensure through appropriate steps equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.” (*vertaling*)

De Regering van *Portugal* heeft op 26 oktober 1990 tegen deze interpretatieve verklaringen de volgende bezwaren gemaakt:

“The Government of Portugal hereby presents its formal objection to the interpretative declarations made by the Government of Algeria upon ratification of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. The Government of Portugal having examined the contents of the said declarations reached the conclusion that they can be regarded as reservations and therefore should be considered invalid as well as incompatible with the purposes and object of the Covenants.

This objection shall not preclude the entry into force of the Covenants between Portugal and Algeria.”

Het *Koninkrijk der Nederlanden* heeft op 18 maart 1991 tegen deze interpretatieve verklaringen het volgende bezwaar gemaakt:

“In the opinion of the Government of the Kingdom of the Netherlands, the interpretative declaration concerning article 13, paragraphs 3 and 4 of the International Covenant on Economic, Social and Cultural Rights (adopted by the General Assembly of the United Nations on 16 December 1966) must be regarded as a reservation to the Covenant. From the text and history of the Covenant it follows that the reservation with respect to article 13, paragraphs 3 and 4 made by the Government of Algeria is incompatible with the object and purpose of the Covenant. The Government of the Kingdom of the Netherlands therefore considers the reservation unacceptable and formally raises an objection to it.

[This objection is] not an obstacle to the entry into force of [the Covenant] between the Kingdom of the Netherlands and Algeria.”

7) Onder de volgende verklaring en voorbehouden:

“Article 6, Paragraph 5

Pending the introduction of further legislation to give full effect to the provisions of paragraph 5 of Article 6, should a case arise which is not covered by the provisions of existing law, the Government of Ireland will have regard to its obligations under the Covenant in the exercise of its power to advise commutation of the sentence of death.

Article 10, Paragraph 2

Ireland accepts the principles referred to in paragraph 2 of Article 10 and implements them as far as practically possible. It reserves the right to regard full implementation of these principles as objectives to be achieved.

Article 14

Ireland reserves the right to have minor offenses against military law dealt with summarily in accordance with current procedures which may not, in all respects, conform to the requirements of Article 14 of the Covenant.

Ireland makes the reservation that the provision of compensation for the miscarriage of justice in the circumstances contemplated in paragraph 6 of Article 14 may be by administrative procedures rather than pursuant to specific legal provisions.

Article 19, Paragraph 2

Ireland reserves the right to confer a monopoly on or require the licensing of broadcasting enterprises.

Article 20, Paragraph 1

Ireland accepts the principle in paragraph 1 of Article 20 and implements it as far as it is practicable. Having regard to the difficulties in formulating a specific offence capable of adjudication at national level in such a form as to reflect the general principles of law recognised by the community of nations as well as the right to freedom of expression, Ireland reserves the right to postpone consideration of the possibility of introducing some legislative addition to, or variation of, existing law until such time as it may consider that such is necessary for the attainment of the objective of paragraph 1 of Article 20.

Article 23, Paragraph 4

Ireland accepts the obligations of paragraph 4 of Article 23 on the understanding that the provision does not imply any right to obtain a dissolution of marriage.”

De Regering van Ierland heeft voorts een verklaring als bedoeld in artikel 41 van het Verdrag afgelegd (zie rubriek J hieronder).

De Regering van Ierland heeft op 12 april 1994 de verklaring met betrekking tot artikel 6, vijfde lid, ingetrokken.

8) Onder de volgende verklaring en voorbehoud:

Verklaring

“Since its establishment, the State of Israel has been the victim of continuous threats and attacks on its very existence as well as on the life and property of its citizens.

These have taken the form of threats of war, of actual armed attacks, and campaigns of terrorism resulting in the murder of and injury to human beings.

In view of the above, the State of Emergency which was proclaimed in May 1948 has remained in force ever since. This situation constitutes a public emergency within the meaning of Article 4 (1) of the Covenant.

The Government of Israel has therefore found it necessary, in accordance with the said Article 4, to take measures to the extent strictly required by the exigencies of the situation, for the defence of the State and for the protection of life and property, including the exercise of powers of arrest and detention.

In so far as any of these measures are inconsistent with Article 9 of the Covenant, Israel thereby derogates from its obligations under that provision.”

Voorbehoud

“With reference to Article 23 of the Covenant, and any other provision thereof to which the present reservation may be relevant, matters of personal status are governed in Israel by the religious law of the parties concerned.

To the extent that such law is inconsistent with its obligations under the Covenant, Israel reserves the right to apply that law.”

9) Onder de volgende voorbehouden, mededelingen en verklaringen:

“Reservations

(1) That Article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.

(2) That the United States reserves the right, subject to its Constitutional constraints, to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below eighteen years of age.

(3) That the United States considers itself bound by Article 7 to the extent that ‘cruel, inhuman or degrading treatment or punishment’ means the cruel and unusual treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.

(4) That because U.S. law generally applies to an offender the penalty in force at the time the offense was committed, the United States does not adhere to the third clause of paragraph 1 of Article 15.

(5) That the policy and practice of the United States are generally in compliance with and supportive of the Covenant’s provisions regarding treatment of juveniles in the criminal justice system. Nevertheless, the United States reserves the right, in exceptional circumstances, to treat juveniles as adults, notwithstanding paragraphs 2 (b) and 3 of Article 10 and paragraph 4 of Article 14. The United States further reserves to these provisions with respect to individuals who volunteer for military service prior to age 19.”

Understandings

“(1) That the Constitution and laws of the United States guarantee all persons equal protection of the law and provide extensive protections against discrimination. The United States understands distinctions based upon race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status – as those terms are used in Article 2, paragraph 1 and Article 26 – to be permitted when such distinctions are, at minimum, rationally related

to a legitimate governmental objective. The United States further understands the prohibition in paragraph 1 of Article 4 upon discrimination, in time of public emergency, based 'solely' on the status of race, colour, sex, language, religion or social origin not to bar distinctions that may have a disproportional effect upon persons of a particular status.

(2) That the United States understands the right to compensation referred to in Article 9(5) and 14(6) to require the provision of effective and enforceable mechanisms by which a victim of an unlawful arrest or detention or a miscarriage of justice may seek and, where justified, obtain compensation from either the responsible individual or the appropriate governmental entity. Entitlement to compensation may be subject to the reasonable requirements of domestic law.

(3) That the United States understands the reference to 'exceptional circumstances' in paragraph 2(a) of Article 10 to permit the imprisonment of an accused person with convicted persons where appropriate in light of an individual's overall dangerousness, and to permit accused persons to waive their right to segregation from convicted persons. The United States further understands that paragraph 3 of Article 10 does not diminish the goals of punishment, deterrence, and incapacitation as additional legitimate purposes for a penitentiary system.

(4) That the United States understands that subparagraphs 3(b) and (d) of Article 14 do not require the provisions of a criminal defendant's counsel of choice when the defendant is provided with court-appointed counsel on grounds of indigence, when the defendant is financially able to retain alternative counsel, or when imprisonment is not imposed. The United States further understand that paragraph 3(e) does not prohibit a requirement that the defendant make a showing that any witness whose attendance he seeks to compel is necessary for his defense. The United States understands the prohibition upon double jeopardy in paragraph 7 to apply only when the judgement of acquittal has been rendered by a court of the same governmental unit, whether the Federal Government or a constituent unit, as is seeking a new trial for the same cause.

(5) That the United States understands that this Covenant shall be implemented by the Federal Government to the extent that it exercises legislative and judicial jurisdiction over the matters covered therein, and otherwise by the state and local governments; to the extent that state and local governments exercise jurisdiction over such matters, the Federal Government shall take measures appropriate to the Federal system to the end that the competent authorities of the state or local governments may take appropriate measures for the fulfillment of the Covenant.'

Declarations

"(1) That the United States declares that the provisions of Articles 1 through 27 of the Covenant are not self-executing.

(2) That it is the view of the United States that States Party to the Covenant should wherever possible refrain from imposing any restrictions or limitations on the exercise of the rights recognized and protected by the Covenant, even when such restrictions and limitations are permissible under the terms of the Covenant. For the United States, Article 5, paragraph 2, which provides that fundamental human rights existing in any State Party may not be diminished on the pretext that the Covenant recognizes them to a lesser extent, has particular relevance to Article 19, paragraph 3, which would permit certain restrictions on the freedom of expression. The United States declares that it will continue to adhere to the requirements and constraints of its Constitution in respect to all such restrictions and limitations.

Declaration under Article 41

(3) That the United States declares that it accepts the competence of the Human

Rights Committee to receive and consider communications under Article 41 in which a State Party claims that another State Party is not fulfilling its obligations under the Covenant.

(4) That the United States declares that the right referred to in Article 37 may be exercised only in accordance with international law.”

De Regering van *Zweden* heeft op 18 juni 1993 tegen deze voorbehouden en mededelingen het volgende bezwaar gemaakt:

“The Government of Sweden has examined the content of the reservations and understandings made by the United States of America. In this context the Government recalls that under international treaty law, the name assigned to a statement whereby the legal effect of certain provisions of a treaty is excluded or modified, does not determine its status as a reservation to the treaty. Thus, the Government considers that some of the understandings made by the United States in substance constitute reservations to the Covenant.

A reservation by which a State modifies or excludes the application of the most fundamental provisions of the Covenant, or limits its responsibilities under that treaty by invoking general principles of national law, may cast doubts upon the commitment of the reserving State to the object and purposes of the Covenant. The reservations made by the United States of America include both reservations to essential and non-derogable provisions, and general references to national legislation. Reservations of this nature 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.

Sweden therefore objects to the reservations made by the United States to

- article 2; cf. Understanding (1)
- article 4; cf. Understanding (1)
- article 6; cf. Reservation (2)
- article 7; cf. Reservation (3)
- article 15; cf. Reservation (4)
- article 26; cf. Understanding (1)

This objection does not constitute an obstacle to the entry into force of the Covenant between Sweden and the United States of America.”

De Regering van *Finland* heeft op 28 september 1993 tegen deze voorbehouden, mededelingen en verklaringen het volgende bezwaar gemaakt:

“The Government of Finland has taken note of the reservations, understandings and declarations made by the United States of America upon ratification of the Covenant. It is recalled that under international treaty law, the name assigned to a statement whereby the legal effect of certain provisions of a treaty is excluded or modified, does not determine its status as a reservation to the treaty. Understanding (1) pertaining to Articles 2, 4 and 26 of the Covenant is therefore considered to constitute in substance a reservation to the Covenant, directed at some of its most essential provisions, namely those concerning the prohibition of discrimination. In the view of the Government of Finland, a reservation of this kind is contrary to the object and purpose of the Covenant, as specified in Article 19(c) of the Vienna Convention on the Law of Treaties.

As regards reservation (2) concerning Article 6 of the Covenant, it is recalled that according to Article 4 (2), no restrictions of Articles 6 and 7 of the Covenant are allowed for. In the view of the Government of Finland, the right to life is of fundamental importance in the Covenant and the said reservation therefore is incompatible with the object and purpose of the Covenant.

As regards reservation (3), it is in the view of the Government of Finland sub-

ject 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 reasons the Government of Finland objects to reservations made by the United States to Articles 2, 4 and 26 (cf. Understanding (1)), to Article 6 (cf. Reservation (2)) and to Article 7 (cf. Reservation (3)). However, the Government of Finland does not consider that this objection constitutes an obstacle to the entry into force of the Covenant between Finland and the United States of America.”

Het Koninkrijk der Nederlanden heeft op 28 september 1993 tegen deze voorbehouden, mededelingen en verklaringen het volgende bezwaar gemaakt:

“The Government of the Kingdom of the Netherlands objects to the reservation with respect to capital punishment for crimes committed by persons below eighteen years of age, since it follows from the text and history of the Covenant that the said reservation is incompatible with the text, the object and purpose of Article 6 of the Covenant, which according to Article 4 lays down the minimum standard for the protection of the right of life.

The Government of the Kingdom of the Netherlands objects to the reservation with respect to Article 7 of the Covenant, since it follows from the text and the interpretation of this Article that the said reservation is incompatible with the object and purpose of the Covenant.

In the opinion of the Government of the Kingdom of the Netherlands this reservation has the same effect as a general derogation from this Article, while according to Article 4 of the Covenant, no derogations, not even in times of public emergency, are permitted.

It is the understanding of the Government of the Kingdom of the Netherlands that the understanding and declarations of the United States do not exclude or modify the legal effect of provisions of the Covenant in their application to the United States, and do not in any way limit the competence of the Human Rights Committee to interpret these provisions in their applications to the United States.

Subject to the provision of Article 21 paragraph 3 of the Vienna Convention of the Law of Treaties, these objections do not constitute an obstacle to the entry into force of the Covenant between the Kingdom of the Netherlands and the United States.”

De Regering van Duitsland heeft op 29 september 1993 tegen deze voorbehouden, mededelingen en verklaringen het volgende bezwaar gemaakt:

“The Government of the Federal Republic of Germany objects to the United States’ reservation referring to article 6, paragraph 5 of the Covenant, which prohibits capital punishment for crimes committed by persons below eighteen years of age. The reservation referring to this provision is incompatible with the text as well as the object and purpose of article 6, which, as made clear by paragraph 2 of article 4, lays down the minimum standard for the protection of the right to life.

The Government of the Federal Republic of Germany interprets the United States’ “reservation” with regard to article 7 of the Covenant as a reference to article 2 of the Covenant, thus not in any way affecting the obligations of the United States of America as a state party to the Covenant.”

De Regering van Denemarken heeft op 1 oktober 1993 tegen deze voorbehouden, mededelingen en verklaringen het volgende bezwaar gemaakt:

“... having examined the contents of the reservations made by the United States of America, Denmark would like to recall Article 4, para 2 of the Covenant according to which no derogation from a number of fundamental Articles, inter

alia 6 and 7, may be made by a State Party even in time of public emergency which threatens the life of the nation.

In the opinion of Denmark, reservation (2) of the United States of America with respect to capital punishment for crimes committed by persons below eighteen years of age as well as reservation (3) with respect to Article 7 constitute general derogations from Articles 6 and 7, while according to Article 4, para 2 of the Covenant such derogations are not permitted.

Therefore, and taking into account that Articles 6 and 7 are protecting two of the most basic rights contained in the Covenant, the Government of Denmark regards the said reservations incompatible with the object and purpose of the Covenant, and consequently Denmark objects to the reservations.

These objections do not constitute an obstacle to the entry into force of the Covenant between Denmark and the United States."

De Regeringen van *Frankrijk en Noorwegen* hebben op 4 oktober 1993 tegen deze voorbehouden, mededelingen en verklaringen de volgende bezwaren gemaakt:

Frankrijk

"At the time of the ratification of the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 16 December 1966, the United States of America expressed a reservation relating to article 6, paragraph 5, of the Covenant, which prohibits the imposition of the death penalty for crimes committed by persons below 18 years of age.

France considers that this United States reservation is not valid, inasmuch as it is incompatible with the object and purpose of the Convention.

Such objection does not constitute an obstacle to the entry into force of the Covenant between France and the United States." (*vertaling*)

Noorwegen

"1. In the view of the Government of Norway, the reservation (2) concerning capital punishment for crimes by persons below eighteen years of age is according to the text and history of the Covenant, incompatible with the object and purpose of Article 6 of the Covenant. According to Article 4, 2. paragraph, no derogations from Article 6 may be made, not even in times of public emergency. For these reasons, the Government of Norway objects to this reservation.

2. In the view of the Government of Norway, the reservation (3) concerning Article 7 of the Covenant is according to the text and interpretation of this Article incompatible with the object and purpose of the Covenant. According to Article 4, 2. paragraph, Article 7 is a non-derogable provision, even in the times of public emergency. For these reasons, the Government of Norway objects to this reservation.

The Government of Norway does not consider this objection to constitute an obstacle to the entry into force of the Covenant between Norway and the United States of America."

De Regeringen van *België, Italië, Portugal en Spanje* hebben op 5 oktober 1993 tegen deze voorbehouden, mededelingen en verklaringen de volgende bezwaren gemaakt:

België

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

The Government of Belgium considers the reservation to be incompatible with the provisions and intent of article 6 of the Covenant which, as is made clear by

article 4, paragraph 2, of the Covenant, establishes minimum measures to protect the right to life.

The expression of this objection does not constitute an obstacle to the entry into force of the Covenant between Belgium and the United States of America.” (*ver-
taling*)

Italië

“The Government of Italy,, objects to the reservation to art. 6 paragraph 5 which the United States included in its instrument of ratification.

In the opinion of Italy reservations to the provisions contained in art. 6 are not permitted, as specified in art. 4 para 2, of the Covenant.

Therefore this reservation is null and void since it is incompatible with the object and the purpose of art. 6 of the Covenant.

Furthermore in the interpretation of the Government of Italy, the reservation to art. 7 of the Covenant does not affect obligations assumed by States that are parties to the Covenant on the basis of article 2 of the same Covenant.

These objections do not constitute an obstacle to the entry into force of the Covenant between Italy and the United States.”

Portugal

“The Government of Portugal hereby presents its formal objection to the reservations made by the Government of the United States of America upon ratification of the Covenant on Civil and Political Rights.

The Government of Portugal considers that the reservation made by the United States of America referring to article 6, paragraph 5 of the Covenant which prohibits capital punishment for crimes committed by persons below eighteen years of age is incompatible with article 6 which, as made clear by paragraph 2 of article 4, lays down the minimum standard for the protection of the right to life.

The Government of Portugal also considers that the reservation with regard to article 7 in which a State limits its responsibilities under the Covenant by invoking general principles of National Law may create doubts on the commitments of the reserving State to the object and purpose of the Covenant and, moreover, contribute to undermining the basis of International Law.

The Government of Portugal therefore objects to the reservations made by the United States of America. These objections shall not constitute an obstacle to the entry in force of the Covenant between Portugal and the United States of America.”

Spanje

“..... after careful consideration of the reservations made by the United States of America, Spain wishes to point out that pursuant to article 4, paragraph 2, of the Covenant, a State party may not derogate from several basic articles, among them articles 6 and 7, including in time of public emergency which threatens the life of the nation.

The Government of Spain takes the view that reservation (2) of the United States having regard to capital punishment for crimes committed by individuals under 18 years of age, in addition to reservation (3) having regard to article 7, constitute general derogations from articles 6 and 7, whereas, according to article 4, paragraph 2, of the Covenant, such derogations are not to be permitted.

Therefore, and bearing in mind that articles 6 and 7 protect two of the most fundamental rights embodied in the Covenant, the Government of Spain considers that these reservations are incompatible with the object and purpose of the Covenant and, consequently, objects to them.

This position does not constitute an obstacle to the entry into force of the Covenant between the Kingdom of Spain and the United States of America.” (*verta-
ling*)

¹⁰⁾ Onder het volgende voorbehoud:

“The Republic of Austria ratifies the Optional Protocol to the International Covenant on Civil and Political Rights on the understanding that, further to the provisions of Article 5 (2) of the Protocol, the Committee provided for in Article 28 of the Covenant shall not consider any communication from an individual unless it has been ascertained that the same matter has not been examined by the European Commission of Human Rights established by the European Convention for the Protection of Human Rights and Fundamental Freedoms.”

F. TOETREDING

Zie *Trb.* 1969, 99, *Trb.* 1970, 52, *Trb.* 1975, 60, *Trb.* 1978, 177, *Trb.* 1979, 65 en *Trb.* 1984, 19¹⁾.

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

Zambia	10 april 1984
Togo	24 mei 1984
Kameroen	27 juni 1984
San Marino	18 oktober 1985
Niger	7 maart 1986
Soedan	18 maart 1986
Jemen-(Zuid) ²⁾	9 februari 1987
Equatoriaal-Guinee	25 september 1987
Somalië	24 januari 1990
Korea ³⁾	10 april 1990
Boeroendi	9 mei 1990
Malta ⁴⁾	13 september 1990
Haiti	6 februari 1991
Zimbabwe	13 mei 1991
Nepal	14 mei 1991
Grenada	6 september 1991
Albanië	4 oktober 1991
Estland	21 oktober 1991
Litouwen	20 november 1991
Angola	10 januari 1992
Brazilië	24 januari 1992
Benin	12 maart 1992
Ivoorkust	26 maart 1992
Letland	14 april 1992
Guatemala	5 mei 1992
de Seychellen	5 mei 1992
Paraguay	10 juni 1992
Kambodja	26 mei 1992
Zwitserland ⁵⁾	18 juni 1992
Azerbajdzjan	13 augustus 1992

Lesotho	9 september 1992
Moldavië	26 januari 1993
Ethiopië	11 juni 1993
Dominica	17 juni 1993
Armenië	23 juni 1993
Mozambique	21 juli 1993
Nigeria	29 juli 1993
Kaapverdië	6 augustus 1993
Malawai	22 december 1993
Georgië	3 mei 1994

Behalve de in *Trb.* 1969, 99, *Trb.* 1975, 60, *Trb.* 1978, 77 en *Trb.* 1984, 19 genoemde hebben nog de volgende Staten in overeenstemming met artikel 8, vierde lid, van het Protocol een akte van toetreding tot het *Protocol* bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Trinidad en Tobago	14 november 1980
Frankrijk ⁶⁾	17 februari 1984
Zambia	10 april 1984
Kameroen	27 juni 1984
Spanje ⁷⁾	25 januari 1985
San Marino	18 oktober 1985
Niger	7 maart 1986
Argentinië	8 augustus 1986
Equatoriaal-Guinee	25 september 1987
Togo	30 maart 1988
Gambia	9 juni 1988
Hongarije	7 september 1988
Libië	16 mei 1989
Nieuw-Zeeland	26 mei 1989
Algerije	12 september 1989
Ierland ⁸⁾	8 december 1989
Somalië	24 januari 1990
Korea	10 april 1990
Malta ⁴⁾	13 september 1990
de Tsjechische en Slowaakse Federatieve Republiek	12 maart 1991
Mongolië	16 april 1991
Nepal	14 mei 1991
de Oekraïne	25 juli 1991
de Sovjet-Unie ⁹⁾	1 oktober 1991
Estland	21 oktober 1991
Litouwen	20 november 1991
Polen ¹⁰⁾	7 november 1991
Angola	10 januari 1992
Benin	12 maart 1992
Bulgarije	26 maart 1992
de Seychellen	5 mei 1992

Chili ¹¹⁾	27 mei 1992
Wit-Rusland	30 september 1992
Guyana	10 mei 1993
Armenië	23 juni 1993
Slovenië ¹²⁾	16 juli 1993
Roemenië ¹³⁾	20 juli 1993
Duitsland ¹⁴⁾	25 augustus 1993
Georgië	3 mei 1994
België	17 mei 1994
Letland	22 juni 1994

Verklaring van voortgezette gebondenheid

De volgende Staten hebben een verklaring van voortgezette gebondenheid aan het *Verdrag* afgelegd:

Slovenie	1 juli 1992
Kroatië	12 oktober 1992
de Tsjechische Republiek ¹⁵⁾	22 februari 1993
Slowakije ¹⁶⁾	28 mei 1993
Bosnië-Herzegovina ¹⁷⁾	1 september 1993
De Voormalige Joegoslavische Republiek Macedonië	18 januari 1994

De volgende Staten hebben een verklaring van voortgezette gebondenheid aan het *Protocol* afgelegd:

de Tsjechische Republiek ¹⁵⁾	22 februari 1993
Slowakije ¹⁶⁾	28 mei 1993

¹⁾ De Regeringen van het *Koninkrijk der Nederlanden* en van *België* hebben naar aanleiding van de door Kongo gemaakte voorbehouden op 6 november 1984 het volgende bezwaar gemaakt:

«[Le Gouvernement belge] [le Gouvernement du Royaume des Pays-Bas] souhaiterait faire remarquer que le champ d'application de l'article 11 est particulièrement restreint. En effet, l'article 11 n'interdit l'emprisonnement que dans le cas où il n'existe pas d'autre raison d'y recourir que le fait que le débiteur n'est pas en mesure d'exécuter une obligation contractuelle. L'emprisonnement n'est pas en contradiction avec l'article 11 lorsqu'il existe d'autres raisons d'infliger cette peine, par exemple dans le cas où le débiteur s'est mis de mauvaise foi ou par manoeuvres frauduleuses dans l'impossibilité d'exécuter ses obligations. Pareille interprétation de l'article 11 se trouve confirmée par la lecture des travaux préparatoires (cfr. le document A/2929 du 1er juillet 1955).

Après avoir examiné les explications formulées par le Congo concernant la réserve émise, le [Gouvernement belge] [le Gouvernement du Royaume des Pays-Bas] est arrivé provisoirement à la conclusion que cette réserve est superflue. Il croit en effet comprendre que la législation congolaise autorise l'emprisonnement pour dettes d'argent en cas d'échec des autres moyens de contrainte, lorsqu'il s'agit d'une dette de plus de 20.000 francs CFA et lorsque le débiteur a entre 18 et 60 ans et qu'il s'est rendu insolvable de mauvaise foi. Cette dernière condition

montre à suffisance qu'il n'y pas de contradiction entre la législation congolaise et la lettre et l'esprit de l'article 11 du Pacte.

En vertu des dispositions de l'article 4, paragraphe 2 du Pacte susnommé, l'article 11 est exclu du champ d'application du règlement qui prévoit qu'en cas de danger public exceptionnel, les États Parties au Pacte peuvent, à certaines conditions, prendre des mesures dérogeant aux obligations prévues dans le Pacte. L'article 11 est un de ceux qui contiennent une disposition à laquelle il ne peut être dérogé en aucune circonstance. Toute réserve concernant cet article en détruirait les effets et serait donc en contradiction avec la lettre et l'esprit du Pacte.

En conséquence, et sans préjudice de son opinion ferme selon laquelle le droit congolais est en parfaite conformité avec le prescrit de l'article 11 du Pacte, [le Gouvernement belge] [le Gouvernement du Royaume des Pays-Bas] craint que la réserve émise par le Congo puisse constituer, dans son principe, un précédent dont les effets au plan international pourraient être considérables.

[Le Gouvernement belge] [le Gouvernement du Royaume des Pays-Bas] espère dès lors que cette réserve pourra être levée et, à titre conservatoire, souhaite élever une objection à l'encontre de cette réserve.»

De Regering van *Frankrijk* heeft op 22 maart 1988 het volgende voorbehoud ingetrokken:

«Toutefois, le Gouvernement de la République émet une réserve concernant l'article 19 qui ne saurait faire obstacle au régime de monopole de la radiodiffusion - télévision française.»

De Regering van *Gambia* heeft op 9 juni 1988 de volgende verklaring afgelegd:

“The Government of the Gambia hereby declares that the Gambia recognizes 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 present Covenant.”

De Regering van *Kongo* heeft op 7 juli 1989 de volgende verklaring afgelegd:

“Pursuant to article 41 of the International Covenant on Civil and Political Rights, the Congolese Government recognizes, with effect from today's date, 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 above-mentioned Covenant.”

2) Onder de volgende verklaring:

“The accession of the People's Democratic Republic of Yemen to the Covenant on Civil and Political Rights shall in no way signify recognition of Israel or serve as grounds for the establishment of relations of any sort with Israel.” (*vertaling*)

3) Onder de volgende voorbehouden:

“The Government of the Republic of Korea [declares] that the provisions of paragraphs 5 and 7 of Article 14, Article 22 and paragraph 4 of Article 23 of the Covenant shall be so applied as to be in conformity with the provisions of the local laws including the Constitution of the Republic of Korea.” (*vertaling*)

De Regering van *Korea* heeft op 10 april 1990 een verklaring als bedoeld in artikel 41, eerste lid, van het Verdrag afgelegd (zie rubriek J hieronder).

De Regering van *Korea* heeft op 15 maart 1991 het voorbehoud met betrekking tot artikel 23, vierde lid, van het Verdrag ingetrokken.

De Regering van *Korea* heeft op 19 januari 1993 de verklaring met betrekking tot artikel 14, zevende lid, ingetrokken.

De Regering van *Duitsland* heeft op 24 mei 1991 naar aanleiding van de afgelegde verklaring door *Korea* medegedeeld dat “it interprets the declaration to

mean that the Republic of Korea does not intend to restrict its obligations under article 22 by referring to its domestic legal system.” (*vertaling*)

De Regering van het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* heeft op 25 mei 1991 het volgende medegedeeld:

“The Government of the United Kingdom have noted the statement formulated by the Government of the Republic of Korea on accession, under the title “RESERVATIONS”. They are not however able to take a position on these purported reservations in the absence of a sufficient indication of their intended effect, in accordance with the terms of the Vienna Convention on the Law of Treaties and the practice of the Parties to the Covenant. Pending receipt of such an indication, the Government of the United Kingdom reserve their rights under the Covenant in their entirety.”

De Regering van de *Tsjechische en Slowaakse Federatieve Republiek* heeft op 7 juni 1991 tegen deze voorbehouden de volgende bezwaren gemaakt:

“The Government of the Czech and Slovak Federal Republic considers the reservations entered by the Government of the Republic of Korea to the provisions of paragraphs 5 and 7 of Article 14 and Article 22 of the International Covenant on Civil and Political Rights as incompatible with the object and purpose of the Covenant. In the opinion of the Czechoslovak Government these 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. Nevertheless the present declaration will not be deemed to be an obstacle to the entry into force of the Covenant between the Czech and Slovak Federal Republic and the Republic of Korea.”

Het *Koninkrijk der Nederlanden* heeft op 10 juni 1991 tegen deze voorbehouden het volgende bezwaar gemaakt:

“In the opinion of the Government of the Kingdom of the Netherlands it follows from the text and the history of the International Covenant on Civil and Political Rights that the reservations with respect to articles 14, paragraphs 5 and 7 and 22 of the Covenant made by the Government of the Republic of Korea are incompatible with the object and purpose of the Covenant. The Government of the Kingdom of the Netherlands therefore considers the reservation unacceptable and formally raises objection to it, this objection is not an obstacle to the entry into force of this Covenant between the Kingdom of the Netherlands and the Republic of Korea.”

4) Onder de volgende voorbehouden:

“1. Article 13 – The Government of Malta endorses the principles laid down in Article 13. However, in the present circumstances it cannot comply entirely with the provisions of this article;

2. Article 14 (2) – The Government of Malta declares that it interprets paragraph 2 of Article 14 of the Covenant in the sense that it does not preclude any particular law from imposing upon any person charged under such law the burden of proving particular facts;

3. Article 14 (6) – While the Government of Malta accepts the principle of compensation for wrongful imprisonment, it is not possible at this time to implement such a principle in accordance with Article 14, paragraph 6, of the Covenant;

4. Article 19 – The Government of Malta desiring to avoid any uncertainty as regards the application of Article 19 of the Covenant declares that the Constitution of Malta allows such restrictions to be imposed upon public officers in regard

to their freedom of expression as are reasonably justifiable in a democratic society. The code of Conduct of public officers in Malta precludes them from taking an active part in political discussions or other political activity during working hours or on the premises.

The Government of Malta also reserves the right not to apply Article 19 to the extent that this may be fully compatible with Act 1 of 1987 entitled 'An Act to regulate the limitations on the political activities of aliens', and this is in accordance with Article 16 of the Convention of Rome (1950) for the protection of Human Rights and Fundamental Freedoms or with Section 41 (2) (a) (ii) of the Constitution of Malta;

5. Article 20 – The Government of Malta interprets Article 20 consistently with the rights conferred by Articles 19 and 21 of the Covenant but reserves the right not to introduce any legislation for the purposes of Article 20;

6. Article 22 – The Government of Malta reserves the right not to apply Article 22 to the extent that existing legislative measures may not be fully compatible with this article.

Furthermore, the Government of Malta declares that under Article 41 of this Covenant it recognises the competence of the Human Rights Committee to receive and consider communications submitted by another State Party, provided that such other State Party has, not less than twelve months prior to the submission by it of a communication relating to Malta, made a declaration under Article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.

Met betrekking tot het Facultatief Protocol heeft de Regering van Malta de volgende verklaringen afgelegd:

“1. Malta accedes to the Optional Protocol to the International Covenant on Civil and Political Rights, on the understanding that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee established by Article 28 of the Covenant, shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined or has not already been examined under another procedure of international investigation or settlement.

2. The Government of Malta interprets Article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of Malta who claim to be victims of a violation by Malta of any of the rights set forth in the Covenant which results either from acts, omissions, developments or events occurring after the date on which the protocol enters into force for Malta, or from a decision relating to acts, omissions, developments or events after that date.”

5) Onder de volgende voorbehouden en verklaring:

«a. Réserve portant sur l'article 10, paragraphe 2, lettre b:

La séparation entre jeunes prévenues et adultes n'est pas garantie sans exception.

b. Réserve portant sur l'article 12, paragraphe 1:

Le droit de circuler et de choisir librement sa résidence est applicable sous réserve des dispositions de la législation fédérale sur les étrangers, selon lesquelles les autorisations de séjour et d'établissement ne sont valables que pour le canton qui les a délivrées.

c. Réserves portant sur l'article 14, paragraphe 1:

Le principe de la publicité des audiences n'est pas applicable aux procédures qui ont trait à une contestation relative à des droits et obligations de caractère civil ou au bien-fondé d'une accusation en cantonales, se déroulent devant une

autorité du jugement est appliqué sans préjudice des dispositions des lois cantonales de procédure civile et pénale prévoyant que le jugement n'est pas rendu en séance publique, mais est communiqué aux parties par écrit.

La garantie d'un procès équitable, en ce qui concerne les contestations portant sur des droits et obligations de caractère civil, vise uniquement à assurer en contrôle judiciaire final des actes ou décisions de l'autorité publique qui touchent à de tels droits ou obligations. Par «contrôle judiciaire final,» on entend un contrôle judiciaire limité à l'application de la loi, tel un contrôle de type cassatoire.

d. Réserve portant sur l'article 14, paragraphe 3, lettres d et f:

La garantie de la gratuité de l'assistance d'un avocat d'office et d'un interprète ne libère définitivement le bénéficiaire du paiement des frais qui en résultent.

e. Réserve portant sur l'article 14, paragraphe 5:

Est réservée la législation fédérale en matière d'organisation judiciaire sur le plan pénal, qui prévoit une exception au droit de faire examiner par une juridiction supérieure la déclaration de culpabilité ou la condamnation, lorsque l'intéressé a été jugé en première instance par la plus haute juridiction.

f. Réserve portant sur l'article 20:

La Suisse se réserve le droit de ne pas adopter de nouvelles mesures visant à interdire la propagande en faveur de la guerre, qui est proscrite par l'article 20, paragraphe 1.

La Suisse se réserve le droit d'adopter une disposition pénale tenant compte des exigences de l'article 20, paragraphe 2, à l'occasion de l'adhésion prochaine à la Convention de 1966 sur l'élimination de toutes les formes de discrimination raciale.

g. Réserve portant sur l'article 25, lettre b:

La présente disposition sera appliquée sans préjudice des dispositions du droit cantonal et communal qui prévoient ou admettent que les élections au sein des assemblées ne se déroulent pas au scrutin secret.

h. Réserve portant sur l'article 26:

L'égalité de toutes les personnes devant la loi et leur droit à une égale protection de la loi sans discrimination ne seront garantis qu'en liaison avec d'autres droits contenus dans le présent Pacte."

6) Onder het volgende voorbehoud en verklaringen:

«La France fait une réserve à l'alinéa a) du paragraphe 2 de l'article 5 en précisant que le Comité des droits de l'homme ne sera pas compétent pour examiner une communication émanant d'un particulier si la même question est en course d'examen ou a déjà été examinée par une autre instance internationale d'enquête ou de règlement.

La France interprète l'article 1er du Protocol comme donnant compétence au Comité pour recevoir et examiner des communications émanant de particuliers relevant de la juridiction de la République française qui prétendent être victimes d'une violation, par la République, de l'un quelconque des droits énoncés dans le Pacte, résultant soit d'actes, omissions, faits ou événements postérieurs à la date d'entrée en vigueur à son égard du présent Protocole, soit d'une décision portant sur les actes, omissions, faits ou événements postérieurs de cette même date.

En ce qui concerne l'article 7, l'adhésion de la France au Protocole facultatif ne peut être interprétée comme impliquant une modification de sa position à l'égard de la résolution visée dans cette disposition.»

7) Onder het volgende voorbehoud:

“The Spanish Government accedes to the Optional Protocol to the International Covenant on Civil and Political Rights, on the understanding that the provisions of article 5, paragraph 2, of that Protocol mean that the Human Rights Committee shall not consider any communication from an individual unless it has ascertained that the same matter has not been or is not being examined under another procedure of international investigation or settlement.” (*vertaling*)

⁸⁾ Onder de volgende verklaring:

“Ireland does not accept the competence of the Human Rights Committee to consider a communication from an individual if the matter has already been considered under another procedure of international investigation or settlement.”

⁹⁾ Onder de volgende verklaring:

“The Union of Soviet Socialist Republics, pursuant to article 1 of the Optional Protocol, recognizes the competence of the Human Rights Committee to receive and consider communications from individuals subject to the jurisdiction of the Union of Soviet Socialist Republics, in respect of situations or events occurring after the date on which the Protocol entered into force for the USSR.

The Soviet Union also proceeds from the understanding that the Committee shall not consider any communications unless it has been ascertained that the same matter is not being examined under another procedure of international investigation or settlement and that the individual in question has exhausted all available domestic remedies.” (*vertaling*)

¹⁰⁾ Onder het volgende voorbehoud:

“The Republic of Poland decides to accede to the aforementioned Protocol while making a reservation that would exclude the procedure set out in article 5, paragraph 2 (a), in cases where the matter has already been examined under another international procedure of international investigation or settlement.” (*vertaling*)

¹¹⁾ Onder de volgende verklaring:

“In recognizing the competence of the Human Rights Committee to receive and consider communications from individuals, it is the understanding of the Government of Chile that this competence applies in respect of acts occurring after the entry into force for that State of the Optional Protocol or, in any event, to acts which began after 11 March 1990.” (*vertaling*)

¹²⁾ Onder het volgende voorbehoud en de volgende verklaring:

“With regard to Article 5, Paragraph 2(a) of the Optional Protocol, the Republic of Slovenia specifies that the Human Rights Committee shall not have competence to consider a communication from an individual if the same matter is being examined or has already been considered under another procedure of international investigation or settlement.

The Republic of Slovenia interprets Article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Slovenia who claim to be victims of a violation by the Republic of any of the rights set forth in the Covenant which results either from acts or omissions, developments or events occurring after the date on which the Protocol entered into force for the Republic of Slovenia, or from a decision relating to acts, omissions, developments or events after that date.”

¹³⁾ Onder de volgende verklaring:

“Romania considers that, in accordance with article 5, paragraph 2 (a) of the Protocol, the Human Rights Committee shall not have competence to consider a

communication from an individual if the same matter is being examined or has already been considered under another procedure of international investigation or settlement.”

¹⁴⁾ Onder het volgende voorbehoud:

“The Federal Republic of Germany formulates a reservation concerning Article 5, paragraph 2(a) to the effect that the competence of the Committee shall not apply to communications

a) which have already been considered under another procedure of international investigation or settlement, or

b) by means of which a violation of rights is reprimanded having its origin in events occurring prior to the entry into force of the Optional Protocol for the Federal Republic of Germany, or

c) by means of which a violation of Article 26 of the International Covenant on Civil and Political Rights is reprimanded, if and insofar as the reprimanded violation refers to rights other than those guaranteed under the aforementioned Covenant.” (*vertaling*)

¹⁵⁾ Onder handhaving van de bij de ondertekening van het Verdrag door Tsjechoslowakije afgelegde en bij de bekrachtiging herhaalde verklaring.

¹⁶⁾ Onder handhaving van de door Tsjechoslowakije gemaakte verklaringen, voorbehouden en bezwaren.

¹⁷⁾ Onder de volgende verklaring:

“The Republic of Bosnia and Herzegovina in accordance with Article 41 of the said Covenant, recognizes the competence of the Human Rights Committee to receive and consider communications submitted by another State Party to the effect that a State Party claims that another State party is not fulfilling its obligations under the Covenant.”

G. INWERKINGTREDING

Zie *Trb.* 1978, 177 en *Trb.* 1979, 65.

H. TOEPASSELIJKVERKLARING

Portugal heeft het Verdrag uitgebreid tot:

Macau¹⁾ 27 april 1993

¹⁾ Onder de verklaring dat: “the Covenants are confirmed and proclaimed binding and valid, and they shall have effect and be implemented and observed without exception, bearing in mind that:

Article 1.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, ratified, respectively, by Act No. 29/78 of 12 June, and by Act No. 45/78 of 11 July, shall be applicable in the territory of Macau.

Article 2.

1. The applicability in Macau of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and in particular of article 1 in both Covenants, shall in no way affect the status of Macau as defined in the Constitution of the Portuguese Republic and in the Organic Statute of Macau.

2. The applicability of the Covenants in Macau shall in no way affect the provisions of the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macau, signed on 13 April 1987, especially with respect to the provision specifying that Macau forms part of Chinese territory and that the Government of the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999, and that Portugal will be responsible for the administration of Macau until 19 December 1999.

Article 3.

Article 25 (b) of the International Covenant on Civil and Political Rights shall not apply to Macau with respect to the composition of elected bodies and the method of choosing and electing their officials, as defined in the Constitution of the Portuguese Republic, the Organic Statute of Macau and provisions of the Joint Declaration on the Question of Macau.

Article 4.

Article 12 (4) and article 13 of the International Covenant on Civil and Political Rights shall not apply to Macau with respect to the entry and exit of individuals and the expulsion of foreigners from the territory. These matters shall continue to be regulated by the Organic Statute of Macau and other applicable legislation, and also by the Joint Declaration on the Question of Macau.

Article 5.

1. The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights that are applicable to Macau shall be implemented in Macau, in particular through specific legal documents issued by the organs of government of the territory.

2. The restrictions of the fundamental rights in Macau shall be confined to those cases prescribed by law and shall not exceed the limits permitted by the applicable provisions of the aforementioned Covenants."

J. GEDEVENS

Zie *Trb.* 1969, 99, *Trb.* 1970, 52, *Trb.* 1978, 177, *Trb.* 1979, 65 en *Trb.* 1984, 19.

Voor het op 29 juli 1899 te 's-Gravenhage tot stand gekomen Verdrag voor de vreedzame beslechting van internationale geschillen, zie ook *Trb.* 1981, 91.

Voor het op 18 oktober 1907 te 's-Gravenhage tot stand gekomen Verdrag voor de vreedzame beslechting van internationale geschillen, zie ook *Trb.* 1981, 96.

Voor het op 28 juni 1919 te Versailles tot stand gekomen Statuut van de Internationale Arbeidsorganisatie, zie ook *Trb.* 1987, 53.

Voor het op 17 juni 1925 te Genève tot stand gekomen Protocol nopens de chemische en bacteriologische oorlog, zie ook *Trb.* 1981, 135.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Handvest der Verenigde Naties zie ook, laatstelijk, *Trb.* 1994, 277.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Statuut van het Internationale Gerechtshof zie ook, laatstelijk, *Trb.* 1984, 114.

Voor het op 16 oktober 1945 te Quebec tot stand gekomen Statuut van de Voedsel- en Landbouworganisatie der Verenigde Naties, zie ook *Trb.* 1980, 55.

Voor het op 16 november 1945 te Londen tot stand gekomen Statuut van de Organisatie der Verenigde Naties voor Onderwijs, Wetenschap en Cultuur zie ook, laatstelijk, *Trb.* 1988, 105.

Voor het op 13 februari 1946 te Londen tot stand gekomen Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties, zie ook *Trb.* 1994, 210.

Voor het op 22 juli 1946 te New York tot stand gekomen Statuut van de Wereldgezondheidsorganisatie zie ook, laatstelijk, *Trb.* 1994, 279.

Voor het op 9 december 1948 te Parijs tot stand gekomen Verdrag inzake de voorkoming en de bestraffing van genocide, zie ook, laatstelijk, *Trb.* 1994, 254.

Voor het op 4 november 1950 te Rome tot stand gekomen Verdrag tot bescherming van de rechten van de mens en de fundamentele vrijheden zie ook, laatstelijk, *Trb.* 1990, 156.

Voor het op 31 maart 1953 te New York tot stand gekomen Verdrag betreffende de politieke rechten van de vrouw, zie ook *Trb.* 1986, 16.

Voor het op 25 juni 1958 te Genève tot stand gekomen Verdrag betreffende discriminatie in beroep en beroepsuitoefening (Verdrag No. 111 aangenomen door de Internationale Arbeidsconferentie in haar tweeënveertigste zitting), met Aanbeveling, zie ook *Trb.* 1984, 72.

Voor het op 7 maart 1966 te New York tot stand gekomen internationaal Verdrag inzake de uitbanning van alle vormen van rassendiscriminatie zie ook, laatstelijk, *Trb.* 1993, 94.

Voor het op 19 december 1966 te New York tot stand gekomen Internationaal Verdrag inzake economische, sociale en culturele rechten, zie ook *Trb.* 1995, 19.

Voor het op 31 januari 1967 te New York tot stand gekomen Protocol betreffende de status van vluchtelingen zie ook, laatstelijk, *Trb.* 1987, 107.

Verklaringen afgelegd in overeenstemming met artikel 41 van het Verdrag

Australië

28 januari 1993

“The Government of Australia declares that it recognizes, for and on behalf of Australia, the competence of the 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 aforesaid Convention.”

Algerije

12 september 1989

Le Gouvernement de la République algérienne démocratique et populaire déclare, en vertu de l'article 41 du Pacte, qu'il reconnaît la compétence du comité des Droits de l'homme visé à l'article 28 du Pacte, pour

recevoir et examiner des communications dans laquelle un Etat Partie prétend qu'un autre Etat Partie ne s'acquitte pas des ses obligations au titre du présent Pacte.

Argentinië 8 augustus 1986
De akte van bekrachtiging bevat een "declaration under article 41 of the Covenant by which the Government of Argentina recognizes the competence of the Human Rights Committee established by virtue of the International Covenant on Civil and Political Rights."

België 5 maart 1987
«Le Royaume de Belgique déclare reconnaître la compétence du Comité des droits de l'homme en vertu de l'article 41 du Pacte international relatif aux droits civils et politiques.»

18 juin 1987
«Le Royaume de Belgique déclare, en vertu de l'article 41 du Pacte international relatif aux droits civils et politiques qu'il reconnaît la compétence du Comité des droits de l'homme, institué par l'article 28 du Pacte, pour recevoir et examiner des communications présentées par un autre Etat partie, sous réserve que ledit Etat partie ait, douze mois au moins avant la présentation par lui d'une communication concernant la Belgique, fait une déclaration en vertu de l'article 41 reconnaissant la compétence du Comité pour recevoir et examiner des communications le concernant.»

Bosnië-Herzegovina 1 september 1993
"The Republic of Bosnia and Herzegovina in accordance with Article 41 of the said Covenant, recognizes the competence of the Human Rights Committee to receive and consider communications submitted by another State Party to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant."

Bulgarije 12 mei 1993
"In accordance with article 41(1) of the International Covenant on Civil and Political Rights, the Republic of Bulgaria declares that it recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party which has made a declaration recognizing in regard to itself the competence of the Committee claims that another State Party is not fulfilling its obligations under this Covenant." (*vertaling*)

Chili 7 september 1990
"By virtue of the powers vested in me by the Political Constitution of the Republic, I hereby declare that, as from the date of this instrument, the Government of Chile recognizes the competence of the Human Rights Committee established under the International Covenant on Civil

and Political Rights, in accordance with article 41 thereof, with regard to all actions which may have been initiated since 11 March 1990.” (*vertaling*)

Duitsland 24 maart 1986
 “The Federal Republic of Germany, in accordance with article 41 of the said Covenant, recognizes for a further five years from the date of expiry of the declaration of 28 March 1981 the competence of the Human Rights Committee to receive and consider communications from a State Party insofar as that State Party has recognized in regard to itself the competence of the Committee and as corresponding obligations have been assumed under the Covenant by the Federal Republic of Germany and by the State Party concerned.” (*vertaling*)

De Regering van *Duitsland* heeft op 10 mei 1991 in overeenstemming met artikel 41 een nieuwe verklaring afgelegd:

“.....the Federal Republic of Germany, in accordance with Article 41 of the said Covenant, recognizes for a further five years from the date of expiry of the declaration of 24 March 1986 the competence of the Human Rights Committee to receive and consider communications from a State Party insofar as that State Party has recognized in regard to itself the competence of the Committee and as corresponding obligations have been assumed under the Covenant by the Federal Republic of Germany and by the State Party concerned.”

Voorts deelde de Regering van *Duitsland* mede dat “in this connection, it wished to call attention to the reservations made by the Federal Republic of Germany upon depositing the instrument of ratification of the said International Covenant with regard to article 19, 21 and 22 in conjunction with article 2 (1), 14 (3), 14 (5) and 15 (1)”.” (*vertaling*)

Ecuador 6 augustus 1984
 “In accordance with the provisions of article 41, paragraph 1, of the International Covenant on Civil and Political Rights (ratified by Ecuador on 9 January 1969 and in force since its publication in the Registro Oficial of 24 January 1969), the Government of Ecuador recognizes 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 aforementioned Covenant, as provided for in paragraph 1 (a), (b), (c), (e), (f), (g) and (h) of that article. This recognition of competence is effective for an indefinite period and is subject to the provisions of article 41, paragraph 2, of the International Covenant on Civil and Political Rights.” (*vertaling*)

de Filippijnen 22 augustus 1989
 “The Philippine Government, in accordance with article 41 of the said Covenant recognizes the competence of the Human Rights Committee set up in aforesaid Covenant, 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.”

Gambia 9 juni 1988
 “The Government of the Gambia hereby declares that the Gambia recognises 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 present Covenant.”

Guyana 10 mei 1993
 “... the Government of the Co-operative Republic of Guyana hereby declares that it recognizes 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 aforementioned Covenant.”

Hongarije 7 september 1988
 “The Hungarian People’s Republic declares, under Article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee established under Article 28 of the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.” (*vertaling*)

Ierland 8 december 1989
 “The Government of Ireland hereby declares that in accordance with Article 41 they recognise the competence of the said Human Rights Committee established under Article 28 of the said Covenant.”

Kongo 7 juli 1989
 “Pursuant to article 41 of the International Covenant on Civil and Political Rights, the Congolese Government recognizes, with effect from today’s date, 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 above-mentioned Covenant.” (*vertaling*)

Korea 10 april 1990
 Korea recognizes the competence of the Human Rights Committee under Article 41 of the same Covenant.

Malta 10 april 1990
 “Furthermore, the Government of Malta declares that under Article 41 of this Covenant it recognises the competence of the Human Rights Committee to receive and consider communications submitted by another State Party, provided that such other State Party has, not less than

twelve months prior to the submission by it of a communication relating to Malta, made a declaration under Article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.”

Oekraïne 28 juli 1992
 “In accordance with article 41 of the International Covenant on Civil and Political Rights, Ukraine declares that it recognizes the competence of the Committee on Human Rights to receive and consider communications from any State to the effect that another State is not fulfilling its obligations under the present Covenant.” (*vertaling*)

Peru 25 september 1990
 “..... Peru recognizes 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 on Civil and Political Rights, in accordance with article 41 of the said Covenant.”

Polen 25 september 1990
 “I hereby declare on behalf of the Government of the Republic of Poland that 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.”

Slovenië 1 juli 1992
 “[The] Republic of Slovenia, in accordance with Article 41 of the said Covenant, recognizes the competence of the Human Rights Committee to receive and consider communications submitted by another State Party to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.”

de Sovjet-Unie 1 oktober 1991
 “The Union of Soviet Socialist Republics declares that, pursuant to article 41 of the International Covenant on Civil and Political Rights, it recognizes the competence of the Human Rights Committee to receive and consider communications submitted by another State Party, in respect of situations and events occurring after the adoption of the present declaration, provided that the State Party in question has, not less than 12 months prior to the submission by it of such a communication, recognized in regard to itself the competence of the Committee, established in article 41, in so far as obligations have been assumed under the Covenant by the USSR and by the State concerned.” (*vertaling*)

Spanje 25 januari 1985
 “The Spanish Government declares, with reference to the provisions of article 41 of the International Covenant on Civil and Political Rights, that it recognizes, for a period of three years starting on the date of the deposit of this Declaration, 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.” (*vertaling*)

21 december 1988
 “The Spanish Government declares under article 41 of the International Covenant on Civil and Political Rights that it recognizes, for a period of five years as from the date of deposit of this declaration, 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 this Covenant.” (*vertaling*)

de Tsjechische en Slowaakse Federatieve Republiek 12 maart 1991
 “The Czech and Slovak Federal Republic declares, in accordance with Article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee established on the basis of Article 28 of the Covenant 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.”

Tunesië 24 juni 1993
 “Le Gouvernement de la République tunisienne déclare reconnaître la compétence du Comité des Droits de l’Homme institué par l’article 28 [dudit Pacte] ..., pour recevoir et examiner des communications dans lesquelles un Etat partie prétend que la République tunisienne ne s’acquitte pas de ses obligations au titre du pacte.
 L’Etat partie qui introduit telle communication auprès du Comité doit avoir fait une déclaration reconnaissant, en ce qui le concerne, la compétence du Comité au titre de l’article 41 du pacte international relatif aux droits civils et politiques.”

de Verenigde Staten van Amerika 13 augustus 1992
 “That the United States declares that it accepts the competence of the Human Rights Committee to receive and consider communications under Article 41 in which a State Party claims that another State Party is not fulfilling its obligations under the Covenant.
 That the United States declares that the right referred to in Article 47 may be exercised only in accordance with international law.”

Wit-Rusland 30 september 1992
 “The Republic of Belarus declares that it recognizes the competence of the Committee on Human Rights in accordance with article 41 of the

International Covenant on Civil and Political Rights to receive and consider communications to the effect that a State Party to the International Covenant on Civil and Political Rights claims that another State Party is not fulfilling its obligations under the Covenant.” (*vertaling*)

Zimbabwe 20 augustus 1991
 “Pursuant to Article 41 of the International Convention on Civil and Political Rights, the Government of the Republic of Zimbabwe recognizes with effect from today’s date, 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 above-mentioned Convention.”

27 januari 1993
 “The Government of the Republic of Zimbabwe recognized with effect from today’s date, 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 provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Zimbabwe, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.”

Zwitserland 18 juni 1992
 «La Suisse déclare, en vertu de l’article 41, qu’elle reconnaît, pour une durée de cinq ans, la compétence du Comité des droits de l’homme pour recevoir et examiner des communications dans lesquelles un Etat partie prétend qu’un autre Etat partie ne s’acquitte pas de ses obligations au titre du Pacte.»

Uitgegeven de *zevenentwintigste* januari 1995.

De Minister van Buitenlandse Zaken,

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