

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1990 Nr. 5

A. TITEL

*Verdrag tegen foltering en andere wrede, onmenselijke of onterende
behandeling of bestraffing;
New York, 10 december 1984*

B. TEKST

De Engelse en de Franse tekst van het Verdrag zijn geplaatst in *Trb.* 1985, 69.

Voor ondertekeningen zie *Trb.* 1985, 69 en *Trb.* 1989, 20. Het Verdrag is voorts nog ondertekend voor de volgende Staten:

Joegoslavië	18 april 1989
Paraguay	23 oktober 1989

C. VERTALING

Zie *Trb.* 1985, 69.

D. PARLEMENT

Zie *Trb.* 1989, 20.

E. BEKRACHTIGING

Zie *Trb.* 1989, 20¹⁾.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel 25, tweede lid, van het Verdrag een akte van bekrachtiging nedergelegd bij de Secretaris-Generaal van de Verenigde Naties:

het Verenigd Koninkrijk van Groot- Brittannië en Noord-Ierland ²⁾	8 december 1988
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Italië	12 januari 1989
Portugal	9 februari 1989
Polen	26 juli 1989
Australië	8 augustus 1989
Finland	30 augustus 1989
Algerije	12 september 1989
Brazilië	28 september 1989
Guinee	10 oktober 1989

¹⁾ *Tunesië* heeft in tegenstelling tot het in noot 2 van rubriek E van *Trb.* 1989, 20 vermelde bij de bekrachtiging de bij de ondertekening gemaakte voorbehouden geheel ingetrokken.

De *Sovjet-Unie* heeft op 8 maart 1989 het voorbehoud met betrekking tot artikel 30, eerste lid, van het Verdrag ingetrokken.

Witrusland heeft op 19 april 1989 het voorbehoud met betrekking tot artikel 30, eerste lid, van het Verdrag ingetrokken.

De *Oekraïne* heeft op 20 april 1989 het voorbehoud met betrekking tot artikel 30, eerste lid, van het Verdrag ingetrokken.

Hongarije heeft op 13 september 1989 de voorbehouden met betrekking tot artikel 20 en artikel 30, eerste lid, van het Verdrag ingetrokken.

Naar aanleiding van de (in noot 6 van rubriek E van *Trb.* 1989, 20 afgedrukte) verklaring van de Duitse Democratische Republiek hebben nog de volgende Staten als volgt gereageerd:

het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* op 8 december 1988

„The Government of the United Kingdom of Great Britain and Northern Ireland has taken note of the reservations formulated by the Government of the German Democratic Republic pursuant to Article 28, paragraph 1, and Article 30, paragraph 2, respectively, and the declaration made by the German Democratic Republic with reference to Article 17, paragraph 7, and Article 18, paragraph 5. It does not regard the said declaration as affecting in any way the obligations of the German Democratic Republic as a State Party to the Convention (including the obligations to meet its share of the expenses of the Committee on Torture as apportioned by the first meeting of the States Parties held on 26 November 1987 or any subsequent such meetings) and do not accordingly raise objections to it. It reserves the rights of the United Kingdom in their entirety in the event that the said declaration should at any future time be claimed to affect the obligations of the German Democratic Republic as aforesaid.”

Italië op 12 januari 1989

The Government of Italy objects to the reservation made by the German Democratic Republic at the time of its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to the effect that it will be responsible only for those expenses which, under the terms of article 17, paragraph 7, and article 18, paragraph 5, have been incurred in connection with activities that the German Democratic Republic recognizes as being within the Committee's competence. The Convention authorizes only the reservations indicated in articles 28 (1) and 30 (2). The reservation made by

the German Democratic Republic is not therefore inadmissible under the terms of article 19 (b) of the 1969 Vienna Convention on the Law of Treaties.

Portugal op 9 februari 1989

„The Government of Portugal hereby presents its formal objection to the declaration made by G.D.R. when ratifying the Convention, in which [it] declares that it will bear its share only of those expenses in accords with article 17, paragraph 7, and article 18, paragraph 5 of the Convention, arising from activities under the competence of the Committee Against Torture, as recognized by G.D.R.

The Government of Portugal considers that this declaration is incompatible with the object and purpose of the present Convention. This objection does not constitute an obstacle to the entry into force of the Convention between Portugal and G.D.R.”

Australië op 8 augustus 1989

„The Government of Australia has examined the Declaration made by the German Democratic Republic upon ratification in the following terms:

The Government of Australia considers that this Declaration is incompatible with the object and purpose of the Convention and, accordingly, hereby conveys Australia's objection to the Declaration.”

Finland op 20 oktober 1989

„The Government of Finland has examined the content of the declaration made by the German Democratic Republic upon ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, by which the German Democratic Republic declares that it will bear its share only of those expenses in accordance with article 17, paragraph 7, and article 18, paragraph 5, of the Convention arising from activities under the competence of the Committee as recognized by the German Democratic Republic.

The Government of Finland cannot accept this declaration made by the German Democratic Republic. The Government of Finland considers that any such declaration is without legal effect, and cannot in any manner diminish the obligation of a government to contribute to the costs of the Committee in conformity with the provisions of the Convention.

Tegen de (in noot 11 van rubriek E van *Trb.* 1989, 20 afgedrukte) voorbehouden van Chili hebben de volgende Staten bezwaar gemaakt:

Italië op 14 augustus 1989

„The Government of Italy considers that the reservations entered by Chile in respect of article 2 (3) and article 3 of this Convention are not valid, as they are incompatible with the object and purpose of the Convention. The present objection is in no way an obstacle to the entry into force of this Convention between Italy and Chile.”

Denemarken op 7 september 1989

„The Government of Denmark hereby enters its formal objection to the reservations to Article 2, Paragraph 3, and Article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, made by the Government of Chile upon ratification of the Convention on 30 September 1988.

The Danish Government considers the said reservations as being incompatible with the object and purpose of the Convention and therefore invalid.

This objection is not an obstacle to the entry into force of the said Convention between Denmark and Chile.”

Luxemburg op 12 september 1989

„Lors de la ratification, le 30 septembre 1988, de la Convention des Nations Unies contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, le Chili a formulé des réserves à l'article 2, paragraphe 3, et à l'article 3 de la convention.

Le Grand-Duché de Luxembourg formule des objections à l'égard de ces réserves qui sont incompatibles avec le but et l'objet de la Convention.

La présente objection ne fait pas obstacle à l'entrée en vigueur, entre le Grand-Duché de Luxembourg et le Chili, de ladite Convention”.

Tsjechoslowakije op 20 september 1989

The Czechoslovak Socialist Republic considers the reservations of the Government of Chile with respect to Article 2, paragraph 3 and Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984 as incompatible with the object and purpose of this Convention.

The obligation of each State to prevent acts of torture in any territory under its jurisdiction is unexceptional. It is the obligation of each State to ensure that all acts of torture are offences under its criminal law. This obligation is confirmed, inter alia, in Article 2, paragraph 3 of the Convention concerned.

The observance of provisions set up in Article 3 of this Convention is necessitated by the need to ensure more effective protection for persons who might be in danger of being subjected to torture and this is obviously one of the principal purposes of the Convention.

Therefore, the Czechoslovak Socialist Republic does not recognize these reservations as valid.

Zweden op 25 september 1989

The Swedish Government has examined the reservations made by Chile with respect to article 2, paragraph 3, and article 3 of the Convention and has come to the conclusion that these reservations are incompatible with the object and purpose of the Convention and therefore are impermissible according to article 19 (c) of the Vienna Convention on the Law of Treaties. For this reason the Government of Sweden objects to these reservations. This objection does not have the effect of preventing the Convention from entering into force between Sweden and Chile, and the said reservations cannot alter or modify, in any respect, the obligations arising from the Convention.

Spanje op 26 september 1989

„The Government of the Kingdom of Spain declares that it objects to the reservations made by Chile to article 2, paragraph 3, and article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, because the aforementioned reservations are contrary to the purposes and aims of the Convention.

“The present objection does not constitute an obstacle to the entry into force of the Convention between Spain and Chile.”

Noorwegen op 28 september 1989

The Government of Norway hereby objects to the reservations to Article 2, Paragraph 3, and Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, made by the Government of Chile upon ratification of the Convention on 30 September 1988. The Government of Norway considers the said reservations as being incompatible with the object and purpose of the convention and therefore invalid.

This objection is not an obstacle to the entry into force of the said convention between Norway and Chile.

Portugal op 6 oktober 1989

„The Government of Portugal hereby presents its formal objection to the reservations to article two, paragraph three and article three of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, made by the Government of Chile upon ratification of the said Convention.

The Government of Portugal considers such reservations to be incompatible with the object and purpose of this Convention and therefore invalid.

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

Griekenland op 13 oktober 1989

„La Grèce ne peut pas accepter les réserves formulées par le Chili, relatives au paragraphe 3 de l'article 2 et à l'article 3, puisqu'elles sont incompatibles avec le but et l'objet de la Convention.

L'objection susmentionnée n'empêche pas l'entrée en vigueur de la Convention entre la Grèce et le Chili”.

Finland op 20 oktober 1989

The Government of Finland hereby enters its formal objection to the reservations to Article 2, Paragraph 3, and Article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, made by the Government of Chile upon ratification of the Convention on 30 September 1988.

The Government of Finland considers the said reservations as being incompatible with the object and purpose of the Convention and therefore invalid.

This objection is not an obstacle to the entry into force of the said Convention between Finland and Chile.

Canada op 23 oktober 1989

The Government of Canada hereby formally objects to the reservations made by Chile in respect of Article 2, Paragraph 3 and Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The reservations by Chile are incompatible with the object and purpose of the Convention Against Torture and thus inadmissible under Article 19(C) of the Vienna Convention on the Law of Treaties.

Turkije op 3 november 1989

The Government of Turkey presents its formal objection to the reservation regarding to article two, paragraph three of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, made by the Government of Chile upon ratification of the said Convention.

The Government of Turkey considers such reservations to be incompatible with the object and purpose of this Convention and therefore invalid.

This objection does not constitute an obstacle to the entry into force of the Convention between turkey and Chile.

Australië op 7 november 1989

The Government of Australia has examined the reservations made by Chile with respect to article 2, paragraph 3, and article 3 of the Convention and has come to the conclusion that these reservations are incompatible with the object and purpose of the Convention and therefore are impermissible according to article 19 of the Vienna Convention on the Law of Treaties. The Government of Australia therefore objects to these reservations.

This objection does not have the effect of preventing the Convention from entering into force between Australia and Chile, and the aforementioned

reservations cannot alter or modify, in any respect, the obligations arising from the Convention.

het Koninkrijk der Nederlanden op 7 november 1989

The Government of the Kingdom of the Netherlands objects to the reservations to Article 2, paragraph 3, and Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, concluded at New York on 10 December 1984, made by Chile upon ratification on 30 September 1988, as being contrary to the object and purpose of that Convention.

Since the purpose of the Convention is the strengthening of the existing prohibition of torture and similar practices, the reservation to Article 2, paragraph 3, to the effect that an order from a superior officer or a public authority may – in some cases – be invoked as a justification of torture, must be rejected as contrary to the object and purpose of the Convention.

For similar reasons the reservation to Article 3 must be regarded as incompatible with the object and purpose of the Convention.

These objections are not an obstacle to the entry into force of this Convention between the Kingdom of the Netherlands and Chili.

het Verenigd Koninkrijk op 8 november 1989

(a) The reservations to Article 28, paragraph 1, and to Article 30, paragraph 1, being reservations expressly permitted by the Convention, do not call for any observations by the United Kingdom.

(b) The United Kingdom takes note of the reservation referring to the Inter-American Convention to Prevent and Punish Torture, which cannot, however, affect the obligations of Chile in respect of the United Kingdom, as a non-Party to the said Convention.

(c) The United Kingdom is unable to accept the reservation to Article 2, paragraph 3, or the reservation to Article 3.

Zwitserland op 8 november 1989

The Swiss Government objects to the following reservations made by the Republic of Chile upon ratification on 30 September 1988:

– to reservation (a), according to which the Government of Chile will not apply article 2, paragraph 3, in so far as it modifies the principle of “obedience upon reiteration” contained in Chilean domestic law;

– to reservation (b), to article 3 (principle of non-refoulement).

These reservations are not compatible with the object and purpose of the Convention, which are to improve respect for a human right of fundamental importance and to make more effective the struggle against torture throughout the world.

This objection does not have the effect of preventing the Convention from entering into force between the Swiss Confederation and the Republic of Chile.

²⁾ De bekrachtiging geschiedde voor het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland, Anguilla, de Britse Maagden-eilanden, de Cayman-eilanden, de Falkland-eilanden, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie en Oeno-eilanden, St Helena en onderhorigheden, de Turks- en Caicos-eilanden. Tegen de bekrachtiging voor de Falkland-eilanden heeft Argentinië bezwaar gemaakt op 14 april 1989.

F. TOETREDING

Zie *Trb.* 1989, 20.

Behalve de aldaar genoemde Staten heeft nog de volgende Staat in overeenstemming met artikel 26 van het Verdrag een akte van toetreding nedergelegd bij de Secretaris-Generaal van de Verenigde Naties:

Libië 16 mei 1989

G. INWERKINGTREDING

Zie *Trb.* 1989, 20.

J. GEGEVENS

Zie *Trb.* 1985, 69 en *Trb.* 1989, 20

Verklaringen door Staten die partij zijn bij het Verdrag betreffende de erkenning van de bevoegdheid van het Comité tegen Foltering krachtens de artikelen 21 en 22 van het Verdrag

Algerije op 12 september 1989

Article 21: The Algerian Government declares, pursuant to article 21 of the Convention, that it recognizes the competence of the Committee Against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Article 22: The Algerian Government declares, pursuant to article 22 of the Convention, that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.

Canada op 13 november 1989

The Government of Canada declares that it recognizes the competence of the Committee Against Torture, pursuant to Article 21 of the said Convention, to receive and consider communications to the effect that a state party claims that another state party is not fulfilling its obligations under this Convention.

The Government of Canada also declares that it recognizes the competence of the Committee Against Torture, pursuant to Article 22 of the said Convention, to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a state party of the provisions of the Convention.

Finland op 30 augustus 1989

„Finland declares that it recognizes fully the competence of the Committee against Torture as specified in Article 21 paragraph 1 and Article 22 paragraph 1 of the Convention.”

Hongarije op 13 september 1989

Hongarije heeft op genoemde datum een verklaring krachtens de artikelen 21 en 22 van het Verdrag afgelegd waarbij Hongarije de bevoegdheid van het Comité tegen Foltering erkent.

Italië op 10 oktober 1989

„Article 21: Italy hereby declares, in accordance with Article 21, paragraph 1, of the Convention, that it recognizes the competence of the Committee against torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Article 22: Italy hereby declares, in accordance with Article 22, paragraph 1, of the Convention, that it recognizes the competence of the Committee against torture to receive and to its jurisdiction who claim to be victims of violations by a State Party of the provisions of the Convention.”

Portugal op 9 februari 1989

Article 21: Portugal hereby declares, in accordance with article 21, paragraph 1, of the Convention, that it recognizes the competence of the Committee Against Torture to receive and consider communications to the effect that the State Party claims that another State Party is not fulfilling its obligations under this Convention.

Article 22: Portugal hereby declares, in accordance with article 22, paragraph 1 of the Convention, that it recognizes the competence of the Committee Against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of violation by a State Party of the provisions of the Convention.”

Het Verenigd Koninkrijk op 8 december 1989

„The Government of the United Kingdom declares under Article 21 of the said Convention that it recognizes the competence of the Committee Against Torture 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 in regard to the United Kingdom, made a declaration under Article 21 recognizing the competence of the Committee to receive and consider communications in regard to itself."

Uitgegeven de zeventiende januari 1990.

De Minister van Buitenlandse Zaken a.i.,

R. F. M. LUBBERS