

**12. SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON  
CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH  
PENALTY**

*New York, 15 December 1989*

**ENTRY INTO FORCE:** 11 July 1991, in accordance with article 8(1).  
**REGISTRATION:** 11 July 1991, No. 14668.  
**STATUS:** Signatories: 35. Parties: 72.  
**TEXT:** United Nations, *Treaty Series*, vol. 1642, p. 414.

*Note:* The said Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, was adopted by resolution 44/128<sup>1</sup> of 15 December 1989 at the Forty-fourth session of the General Assembly of the United Nations and is open for signature at the United Nations Headquarters in New York by all States having signed the International Covenant on Civil and Political Rights.

<i>Participant</i>	<i>Signature</i>	<i>Ratification, Accession(a), Succession(d)</i>	<i>Participant</i>	<i>Signature</i>	<i>Ratification, Accession(a), Succession(d)</i>
Albania.....		17 Oct 2007 a	Iceland.....	30 Jan 1991	2 Apr 1991
Andorra.....	5 Aug 2002	22 Sep 2006	Ireland.....		18 Jun 1993 a
Argentina.....	20 Dec 2006	2 Sep 2008	Italy.....	13 Feb 1990	14 Feb 1995
Australia.....		2 Oct 1990 a	Liberia.....		16 Sep 2005 a
Austria.....	8 Apr 1991	2 Mar 1993	Liechtenstein.....		10 Dec 1998 a
Azerbaijan.....		22 Jan 1999 a	Lithuania.....	8 Sep 2000	27 Mar 2002
Belgium.....	12 Jul 1990	8 Dec 1998	Luxembourg.....	13 Feb 1990	12 Feb 1992
Bosnia and Herzegovina.....	7 Sep 2000	16 Mar 2001	Malta <sup>4</sup> .....		29 Dec 1994 a
Brazil.....		25 Sep 2009 a	Mexico.....		26 Sep 2007 a
Bulgaria.....	11 Mar 1999	10 Aug 1999	Monaco.....		28 Mar 2000 a
Canada.....		25 Nov 2005 a	Montenegro <sup>5</sup> .....		23 Oct 2006 d
Cape Verde.....		19 May 2000 a	Mozambique.....		21 Jul 1993 a
Chile.....	15 Nov 2001	26 Sep 2008	Namibia.....		28 Nov 1994 a
Colombia.....		5 Aug 1997 a	Nepal.....		4 Mar 1998 a
Costa Rica.....	14 Feb 1990	5 Jun 1998	Netherlands <sup>6</sup> .....	9 Aug 1990	26 Mar 1991
Croatia.....		12 Oct 1995 a	New Zealand <sup>7</sup> .....	22 Feb 1990	22 Feb 1990
Cyprus <sup>2</sup> .....		10 Sep 1999 a	Nicaragua.....	21 Feb 1990	25 Feb 2009
Czech Republic.....		15 Jun 2004 a	Norway.....	13 Feb 1990	5 Sep 1991
Denmark.....	13 Feb 1990	24 Feb 1994	Panama.....		21 Jan 1993 a
Djibouti.....		5 Nov 2002 a	Paraguay.....		18 Aug 2003 a
Ecuador.....		23 Feb 1993 a	Philippines.....	20 Sep 2006	20 Nov 2007
Estonia.....		30 Jan 2004 a	Poland.....	21 Mar 2000	
Finland.....	13 Feb 1990	4 Apr 1991	Portugal.....	13 Feb 1990	17 Oct 1990
France.....		2 Oct 2007 a	Republic of Moldova....		20 Sep 2006 a
Georgia.....		22 Mar 1999 a	Romania.....	15 Mar 1990	27 Feb 1991
Germany <sup>3</sup> .....	13 Feb 1990	18 Aug 1992	Rwanda.....		15 Dec 2008 a
Greece.....		5 May 1997 a	San Marino.....	26 Sep 2003	17 Aug 2004
Guinea-Bissau.....	12 Sep 2000		Sao Tome and Principe..	6 Sep 2000	
Honduras.....	10 May 1990	1 Apr 2008	Serbia.....		6 Sep 2001 a
Hungary.....		24 Feb 1994 a	Seychelles.....		15 Dec 1994 a
			Slovakia.....	22 Sep 1998	22 Jun 1999

<i>Participant</i>	<i>Signature</i>	<i>Ratification, Accession(a), Succession(d)</i>	<i>Participant</i>	<i>Signature</i>	<i>Ratification, Accession(a), Succession(d)</i>
Slovenia.....	14 Sep 1993	10 Mar 1994	Turkmenistan .....		11 Jan 2000 a
South Africa .....		28 Aug 2002 a	Ukraine .....		25 Jul 2007 a
Spain <sup>8</sup> .....	23 Feb 1990	11 Apr 1991	United Kingdom of Great Britain and Northern Ireland .....	31 Mar 1999	10 Dec 1999
Sweden.....	13 Feb 1990	11 May 1990	Uruguay .....	13 Feb 1990	21 Jan 1993
Switzerland .....		16 Jun 1994 a	Uzbekistan .....		23 Dec 2008 a
The former Yugoslav Republic of Macedonia .....		26 Jan 1995 a	Venezuela (Bolivarian Republic of).....	7 Jun 1990	22 Feb 1993
Timor-Leste.....		18 Sep 2003 a			
Turkey.....	6 Apr 2004	2 Mar 2006			

***Declarations and Reservations***  
*(Unless otherwise indicated, the declarations and reservations were made upon ratification, accession or succession.)*

**AZERBAIJAN<sup>9</sup>**

*Reservation:*

"The Republic of Azerbaijan, adopting the [said Protocol], in exceptional cases, adopting the special law, allows the application of death penalty for the grave crimes, committed during the war or in condition of the threat of war."

28 September 2000

"It is provided for the application of the death penalty in time of war pursuant to a conviction of a person for a most serious crime of a military nature committed during wartime."

**BRAZIL**

*Reservation:*

... with an express reservation to article 2.

**CHILE**

*Reservation:*

The State of Chile formulates the reservation authorised under article 2, paragraph 1, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death

penalty, and may in consequence apply the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

**CYPRUS<sup>2</sup>**

**GREECE**

*Reservation:*

Subject to article 2 for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

**MALTA<sup>4</sup>**

**REPUBLIC OF MOLDOVA**

*Declaration:*

"Until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Convention shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova."

**SPAIN<sup>8</sup>**

**Notes:**

<sup>1</sup> *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 49 (A/44/49)*, p. 206.

<sup>2</sup> On 20 June 2003, the Government of Cyprus informed the Secretary-General that it had decided to withdraw its reservation made upon accession to the Optional Protocol. The reservation reads as follows:

"The Republic of Cyprus in accordance with article 2.1 of the [...] Protocol reserves the right to apply the Death Penalty in time of war pursuant to a conviction of a most serious crime of a military nature committed during wartime."

<sup>3</sup> The German Democratic Republic signed and ratified the

Protocol on 7 March 1990 and 16 August 1990, respectively. See also note 2 under "Germany" in the "Historical Information" section in the front matter of this volume.

<sup>4</sup> In a communication received on 15 June 2000, the Government of Malta informed the Secretary-General that it had decided to withdraw its reservation made upon accession. For the text of the reservation, see United Nations, *Treaty Series*, vol. 1844, p. 318

<sup>5</sup> See note 1 under "Montenegro" in the "Historical Information" section in the front matter of this volume.

<sup>6</sup> For the Kingdom in Europe, the Netherlands Antilles and Aruba.

<sup>7</sup> See also note 1 under "New Zealand" regarding Tokelau in the "Historical Information" section in the front matter of this volume.

<sup>8</sup> On 13 January 1998, the Government of Spain notified the Secretary-General that it had decided to withdraw its reservation made upon ratification. The reservation reads as follows:

Pursuant to article 2, Spain reserves the right to apply the death penalty in the exceptional and extremely serious cases provided for in Fundamental Act No. 13/1985 of 9 December 1985 regulating the Military Criminal Code, in wartime as defined in article 25 of that Act.

<sup>9</sup> With regard to the reservation made by Azerbaijan upon accession, the Secretary-General received communications from the following States on the dates indicated hereinafter:

*France (8 february 2000):*

The Government of the French Republic has taken note of the reservation made by Azerbaijan to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which was adopted on 15 December 1989. This reservation, in allowing the application of the death penalty for grave crimes committed during war or 'in condition of the threat of war', exceeds the scope of the reservations permitted under article 2, paragraph 1, of the Protocol. Under this article, only a reservation made 'at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime' is admissible. Consequently, the Government of the French Republic expresses its objection to this reservation, without prejudice to the entry into force of the Protocol between Azerbaijan and France.

*Finland (17 March 2000):*

"The Government of Finland notes that, according to Article 2 of the Second Optional Protocol, a reservation other than the kind referred to in the same Article is not acceptable. The reservation made by the Government of Azerbaijan is partly in contradiction with Article 2 as it does not limit the application of death penalty to the most serious crimes of a military nature committed during the time of war.

The Government of Finland therefore objects to the reservation made by the Government of Azerbaijan to the said Protocol.

This objection does not preclude the entry into force of the Second Optional Protocol between Azerbaijan and Finland. The Optional Protocol will thus become operative between the two states without Azerbaijan benefitting from the reservation."

*Germany March 2000):*

"The reservation allows the application of the death penalty for grave crimes committed during war 'or in condition of the threat of war'. Thus the reservation is partly in contradiction of article 2 of the Protocol since it does not limit the application of the death penalty to the most serious crimes of a military nature committed during the time of war.

The Government of the Federal Republic of Germany therefore objects to the reservation by the Government of Azerbaijan. This objection does not preclude the entry into force of the Protocol between Azerbaijan and Germany."

*Sweden (27 April 2000):*

"The Government of Sweden recalls that reservations other than the kind referred to in Article 2 of the Protocol are not permitted. The reservation made by the Government of Azerbaijan goes beyond the limit of Article 2 of the Protocol, as it does not limit the application of the death penalty to the most serious crimes of a military nature committed during the time of war.

The Government of Sweden therefore objects to the aforesaid reservation made by the Government of Azerbaijan to the Second Optional Protocol to the International Covenant on Civil and Political Rights.

This shall not preclude the entry into force of the Second Optional Protocol to the International Covenant on Civil and Political Rights between the Republic of Azerbaijan and the Kingdom of Sweden, without Azerbaijan benefitting from the reservation."

*Netherlands (17 July 2000)*

"The Government of the Kingdom of the Netherlands notes that, according to Article 2 of the Second Optional Protocol, a reservation other than the kind referred to in the same Article is not acceptable. The reservation made by the Government of Azerbaijan is in contradiction with Article 2 as it does not limit the application of death penalty to the most serious crimes of a military nature committed during the time of war.

The Government of the Kingdom of the Netherlands therefore objects to the aforesaid reservation made by the Government of Azerbaijan.

This objection shall not preclude the entry into force of the Convention between the Kingdom of the Netherlands and Azerbaijan."

Subsequently, on 28 September 2000, the Government of Azerbaijan communicated to the Secretary-General a modification to its reservation made upon accession. Within a period of 12 months from the date of its circulation, i.e. on 5 October 2000, none of the Contracting States to the Protocol notified the Secretary-General of an objection. Consequently, the modified reservation was deemed to have been accepted for deposit upon the expiration of the 12 month period, i.e., on 5 October 2001.