

**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: 73.
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 44/128¹ 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	Kyrgyzstan.....		6 Dec 2010 a
Austria.....	8 Apr 1991	2 Mar 1993	Liberia.....		16 Sep 2005 a
Azerbaijan.....		22 Jan 1999 a	Liechtenstein.....		10 Dec 1998 a
Belgium.....	12 Jul 1990	8 Dec 1998	Lithuania.....	8 Sep 2000	27 Mar 2002
Bosnia and Herzegovina.....	7 Sep 2000	16 Mar 2001	Luxembourg.....	13 Feb 1990	12 Feb 1992
Brazil.....		25 Sep 2009 a	Malta ⁴		29 Dec 1994 a
Bulgaria.....	11 Mar 1999	10 Aug 1999	Mexico.....		26 Sep 2007 a
Canada.....		25 Nov 2005 a	Monaco.....		28 Mar 2000 a
Cape Verde.....		19 May 2000 a	Montenegro ⁵		23 Oct 2006 d
Chile.....	15 Nov 2001	26 Sep 2008	Mozambique.....		21 Jul 1993 a
Colombia.....		5 Aug 1997 a	Namibia.....		28 Nov 1994 a
Costa Rica.....	14 Feb 1990	5 Jun 1998	Nepal.....		4 Mar 1998 a
Croatia.....		12 Oct 1995 a	Netherlands ⁶	9 Aug 1990	26 Mar 1991
Cyprus ²		10 Sep 1999 a	New Zealand ⁷	22 Feb 1990	22 Feb 1990
Czech Republic.....		15 Jun 2004 a	Nicaragua.....	21 Feb 1990	25 Feb 2009
Denmark.....	13 Feb 1990	24 Feb 1994	Norway.....	13 Feb 1990	5 Sep 1991
Djibouti.....		5 Nov 2002 a	Panama.....		21 Jan 1993 a
Ecuador.....		23 Feb 1993 a	Paraguay.....		18 Aug 2003 a
Estonia.....		30 Jan 2004 a	Philippines.....	20 Sep 2006	20 Nov 2007
Finland.....	13 Feb 1990	4 Apr 1991	Poland.....	21 Mar 2000	
France.....		2 Oct 2007 a	Portugal.....	13 Feb 1990	17 Oct 1990
Georgia.....		22 Mar 1999 a	Republic of Moldova....		20 Sep 2006 a
Germany ³	13 Feb 1990	18 Aug 1992	Romania.....	15 Mar 1990	27 Feb 1991
Greece.....		5 May 1997 a	Rwanda.....		15 Dec 2008 a
Guinea-Bissau.....	12 Sep 2000		San Marino.....	26 Sep 2003	17 Aug 2004
Honduras.....	10 May 1990	1 Apr 2008	Sao Tome and Principe..	6 Sep 2000	
Hungary.....		24 Feb 1994 a	Serbia.....		6 Sep 2001 a
			Seychelles.....		15 Dec 1994 a

<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>
Slovakia.....	22 Sep 1998	22 Jun 1999	Turkmenistan		11 Jan 2000 a
Slovenia.....	14 Sep 1993	10 Mar 1994	Ukraine		25 Jul 2007 a
South Africa		28 Aug 2002 a	United Kingdom of Great Britain and Northern Ireland	31 Mar 1999	10 Dec 1999
Spain ⁸	23 Feb 1990	11 Apr 1991	Uruguay	13 Feb 1990	21 Jan 1993
Sweden.....	13 Feb 1990	11 May 1990	Uzbekistan		23 Dec 2008 a
Switzerland		16 Jun 1994 a	Venezuela (Bolivarian Republic of).....	7 Jun 1990	22 Feb 1993
The former Yugoslav Republic of Macedonia		26 Jan 1995 a			
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.)

AZERBAIJAN⁹

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.

CYPRUS²

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.

MALTA⁴

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."

SPAIN⁸

Objections

(Unless otherwise indicated, the objections were made upon ratification, accession or succession.)

FINLAND

27 September 2010

With regard to the reservation made by Brazil upon accession:

"The Government of Finland welcomes the accession of Brazil to the Second Optional Protocol to the International Covenant on Civil and Political Rights, and has taken note of the reservation made by Brazil to Article 2 thereof upon accession.

The Government of Finland recalls that it is the object and purpose of the Second Optional Protocol to abolish

the death penalty in all circumstances and reservations are, as a main rule, not admissible. This object of aiming at the complete abolition of the death penalty enjoys the full support of Finland. However, the Government observes that, in the light of the wording of Article 2(1), a reservation to the Protocol is allowed to the extent it concerns 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. The acceptability of such a reservation requires that the State Party making the reservation communicates, at the time of ratification or accession, to the Secretary-General of the

United Nations the relevant provisions of its national legislation applicable during wartime.

Accordingly, the Government of Finland would find the reservation made by Brazil acceptable, provided it meets the requirements set out in Article 2(1) and (2). According to information available to the Government, the applicable provisions of the national legislation of Brazil were not communicated to the Secretary-General at the time of accession. Therefore, the Government of

Finland objects to the reservation. Should, to the contrary, Brazil have communicated the provisions to the Secretary-General pursuant to Article 2(2), this objection may be considered null and void.

This objection shall not preclude the entry into force of the Protocol between Brazil and Finland. The Protocol will thus become operative between the two states without Brazil benefiting from its reservation."

Notes:

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

² 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."

³ 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.

⁴ 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

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

⁶ For the Kingdom in Europe, the Netherlands Antilles and Aruba.

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

⁸ 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.

⁹ 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 benefiting 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 benefiting 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.