

## **Convention (No.5) extending the competence of authorities empowered to receive declaration acknowledging natural children**

*signed at Rome on 14 September 1961*

The Governments of the Federal Republic of Germany, the Republic of Austria, the Kingdom of Belgium, the French Republic, the Kingdom of Greece, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Swiss Confederation and the Turkish Republic, members of the International Commission on Civil Status, being desirous of enabling nationals of their respective States to make declarations acknowledging natural children in the territory of the other Contracting States in the same way as would be open to them in the territory of their own State, and thus to facilitate such acknowledgments, have agreed as follows :

### **Article 1**

For the purposes of this Convention, an instrument whereby a person declares himself to be the father of a natural child is referred to as "acknowledgment with filiation" or "acknowledgment without filiation", according to whether or not it purports to establish a legal bond of filiation between the signatory and the natural child to whom it relates.

### **Article 2**

In the territory of those Contracting States whose legislation provides only for acknowledgment without filiation, nationals of other Contracting States whose legislation provides for acknowledgment with filiation shall be allowed to make a declaration of acknowledgment with filiation.

### **Article 3**

In the territory of those Contracting States whose legislation provides only for acknowledgment with filiation, nationals of other Contracting States whose legislation provides for acknowledgment without filiation shall be allowed to make a declaration of acknowledgment without filiation.

### **Article 4**

The declarations referred to in Articles 2 and 3 shall be received by a civil registrar or any other competent authority, in the authentic form laid down by local law, and must always state the nationality claimed by the declarant. They shall have the same value as if they had been made before the competent authority of the country of the declarant.

### **Article 5**

Certified copies of or extracts from instruments embodying the declarations referred to in Articles 2 and 3, bearing the signature and seal of the issuing authority, shall be exempted from legalisation in the territory of the Contracting States.

### **Article 6**

This Convention shall be ratified and the instruments of ratification shall be deposited with the Swiss Federal Council.

The Council shall inform the Contracting States and the Secretariat General of the International Commission on Civil Status of every deposit of an instrument of ratification.

### **Article 7**

This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification as mentioned in the preceding Article.

For each signatory State ratifying the Convention at a later date, the Convention shall enter into force on the thirtieth day following the date of deposit of its instrument of ratification.

#### **Article 8**

This Convention shall apply *ipso iure* throughout the metropolitan territory of each Contracting State.

Any Contracting State may, at the time of signature, ratification or accession or subsequently, declare by notification to the Swiss Federal Council that the provisions of this Convention shall apply to one or more of its extra-metropolitan territories or the States or territories for whose international relations it is responsible. The Swiss Federal Council shall inform each of the Contracting States and the Secretariat General of the International Commission on Civil Status of such notification. The provisions of this Convention shall become applicable in the territory or territories designated in the notification on the sixtieth day following the date on which the Swiss Federal Council receives the notification.

Any State which has made a declaration pursuant to the provisions of the second paragraph of this Article may subsequently declare at any time by notification to the Swiss Federal Council that this Convention shall cease to apply to one or more of the States or territories designated in that declaration.

The Swiss Federal Council shall inform each of the Contracting States and the Secretariat General of the International Commission on Civil Status of the further notification.

The Convention shall cease to apply to the territory concerned on the sixtieth day following the date on which the Swiss Federal Council receives that notification.

#### **Article 9**

Any member State of the International Commission on Civil Status may accede to this Convention. A State wishing to accede shall give notice of its intention by an instrument deposited with the Swiss Federal Council. The latter shall inform each of the Contracting States and the Secretariat General of the International Commission on Civil Status of every deposit of an instrument of accession. The Convention shall enter into force, for the acceding State, on the thirtieth day following the date of deposit of the instrument of accession.

Deposit of an instrument of accession may take place only after the entry into force of this Convention.

#### **Article 10**

This Convention may be revised.

Any proposal for a revision shall be lodged with the Swiss Federal Council, which shall give notice thereof to the other Contracting States and the Secretariat General of the International Commission on Civil Status.

#### **Article 11**

This Convention shall remain in force for a term of ten years from the date indicated in the first paragraph of Article 7.

The Convention shall be tacitly renewed every ten years, unless it is denounced.

The Swiss Federal Council must be notified of any denunciation at least six months before the expiry of a term; the Council shall inform all the other Contracting States and the Secretariat General of the International Commission on Civil Status of such denunciation.

Denunciation shall have effect only in relation to the State which has given the notification. The Convention shall remain in force for the other Contracting States.

In witness whereof the undersigned representatives, duly authorised to this end, have signed this Convention.

Done at Rome, on 14 September 1961, in a single copy which shall be deposited in the archives of the Swiss Federal Council and a certified copy of which shall be transmitted through diplomatic channels to each of the Contracting States and to the Secretariat General of the International Commission on Civil Status.

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### **Territorial scope of the Convention**

*At the time of signature of the Convention*, the Government of the *Kingdom of the Netherlands* made the following declaration : Having regard to the equality that exists from the public-law perspective between the Netherlands, Surinam and the Netherlands Antilles, the terms "metropolitan" and "extra-metropolitan" mentioned in the Convention cannot be given their initial meaning as far as the Kingdom of the Netherlands is concerned; they will therefore be considered, as far as the Kingdom is concerned, as signifying "European" and "non-European" respectively.

(Editorial note: Since 25 November 1975, the date of the independence of Surinam, the Convention no longer applies in that country. The expression "non-European territory" must now be taken to mean the Netherlands Antilles, including Aruba.)

The *Kingdom of the Netherlands*, on 5 October 2010, sent to the Swiss Federal Council the appended communication concerning a change in the structure of the Kingdom and, on 8 September 2011, a recapitulation of treaties deposited with the Swiss Federal Council. The present convention, then, is applicable to the European part of the Netherlands from 29 July 1963, to the Netherland Antilles (Bonaire Islands, Sint Eustasius and Saba) from 10 October 2010, to Aruba from 1 January 1986, and to Curacao and Sint Maarten from 10 October 2010. It has also been applicable to the former Netherlands Antilles since 29 July 1963. Furthermore, the Kingdom of the Netherlands has reformulated its declaration of 29 June 1963 in these terms : regarding the Kingdom of the Netherlands, the terms "metropolitan territory" and "extra-metropolitan territory", used in the text of the convention, shall be consequently considered, having regard to the relation that exists from the public-law perspective between the European part of the Netherlands, Aruba, Curacao, Sint Maarten and the Netherlands Antilles (Bonaire Islands, Sint Eustasius and Saba), to signify "European" and "non-European".

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### **Declaration**

*At the time of deposit of the instrument of ratification of the Convention*, the Embassy of the *Federal Republic of Germany* in Bern made the following declaration : "Die Botschaft erklärt hierzu im Auftrage der deutschen Bundesregierung, dass das Übereinkommen mit Wirkung von dem Tage, an dem es für die Bundesrepublik Deutschland in Kraft treten wird, auch in dem Lande Berlin gilt."