

Convention (No.10) relating to the establishment of death in certain cases

signed at Athens on 14 September 1966

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 death to be established in certain cases, have agreed as follows:

Article 1

Where the body of a missing person cannot be found but in the light of all the circumstances it may be taken as certain that he or she is dead, the judicial authority or an administrative authority empowered for the purpose shall be competent to declare that person dead:

- if he or she was reported missing in the territory of the State to which that authority belongs or during a voyage of a vessel or an aircraft registered in that State,
- or if he or she was a national of that State or was domiciled or resident in its territory.

Article 2

In cases where death is certain and occurred outside the territory of the Contracting States, the judicial authority or an administrative authority empowered for the purpose shall, if no certificate has been drawn up or can be produced, be competent to declare the person dead:

- if the death occurred during a voyage of a vessel or an aircraft registered in the State to which that authority belongs,
- or if the deceased was a national of that State or was domiciled or resident in its territory.

Article 3

Decisions pursuant to Articles 1 and 2 shall be given at the request of the competent authority or of any interested party. Should the precise date of death be unknown, it shall be determined by reference to any evidence or indications as to the circumstances or time of death.

Article 4

The operative part of the decisions referred to in Articles 1 and 2 shall be transcribed in the civil status registers of the State where the decisions were given.

In the Contracting States such a transcription shall *ipso iure* be equivalent to a record of death.

Article 5

This Convention shall not preclude the application of provisions making it easier to establish death.

Article 6

The Contracting States shall notify the Swiss Federal Council of the completion of the procedures required by their Constitutions to render this Convention applicable in their territory.

The Swiss Federal Council shall inform the Contracting States and the Secretary General of the International Commission on Civil Status of any notification made pursuant to the preceding paragraph.

Article 7

This Convention shall enter into force from the thirtieth day following the date of deposit of the second notification and shall take effect from that day between the two States which have completed that formality.

For each signatory State which completes the formality mentioned in the preceding Article at a later date, this Convention shall take effect from the thirtieth day following the date of deposit of its notification.

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, of the notification mentioned in Article 6 or of 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 Secretary General of the International Commission on Civil Status of the last-mentioned 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 the declaration.

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

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

Article 9

Any member State of the Council of Europe or 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 Secretary 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 shall remain in force indefinitely. However, each Contracting State shall have the option of denouncing it at any time by written notification to the Swiss Federal Council, which shall give notice thereof to the other Contracting States and the Secretary General of the International Commission on Civil Status.

The option to denounce may not be exercised before the expiry of a period of five years from the date of the notification mentioned in Article 6 or the date of accession.

Denunciation shall take effect six months after the date on which the Swiss Federal Council receives the notification mentioned in the first paragraph of this Article.

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

Done at Athens, on 14 September 1966, 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 Secretary General of the International Commission on Civil Status.

Territorial scope of the Convention

At the time of notification of ratification of the Convention, the Royal Embassy of *the Netherlands* in Bern stated that the procedures required to render this Convention applicable in the territory of the Kingdom of the Netherlands (the Netherlands and the Netherlands Antilles) had been completed. In addition, the Embassy confirmed in that notification the declaration made by the Kingdom of the Netherlands at the time of signature of the Convention, to the effect that, having regard to the equality that exists from the public-law perspective between the Netherlands and the Netherlands Antilles, the terms "metropolitan territory" and "extra-metropolitan territories" used in the text of the Convention signify "European territory" and "non-European territory".

(Editorial note : The expression "non-European territory" must now be taken to mean the Netherlands Antilles, including Aruba).

Concerning the Kingdom of the Netherlands, the terms "metropolitan territory" and "extra-metropolitan territories" used in the Convention shall be, 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), considered to signify "European" and "non-European".

(Editorial note: by "non-European territory", what should be currently understood is the Netherland Antilles, including Aruba).