

Convention (No.11) on the recognition of decisions relating to the matrimonial bond

signed at Luxembourg on 8 September 1967

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 facilitating the recognition, in the territory of all the Contracting States, of decisions concerning the matrimonial bond given in any of those States, have agreed as follows:

Article 1

Subject to compliance with the provisions of Articles 2, 3 and 4, any decision relating to release from or the dissolution, existence or non-existence, validity or nullity of the matrimonial bond, given in one of the Contracting States, shall be recognised in the other Contracting States as carrying the same authority as in the State where it was given, provided that:

- (1) the decision is not incompatible, in the State where it is invoked, with a decision given or recognised in that State which has become final;
- (2) the parties have had an opportunity to present their case; and
- (3) the decision is not manifestly contrary to public policy in the State where it is invoked.

Article 2

Recognition of a foreign decision may not be refused on the sole ground that the deciding authority was not competent according to the private international law of the State where the decision is invoked, unless both spouses are nationals of that State.

Article 3

Recognition of a foreign decision applying a law other than that designated by the private international law of the State where the decision is invoked may not be refused solely on that ground unless:

- (1) both spouses, or only one of them in the case of a decision dismissing a petition by him or her, held the nationality of that State; and
- (2) the decision has produced a result contrary to that which would have been reached by applying the law designated by the private international law of the State where the decision is invoked.

Article 4

If two incompatible foreign decisions are invoked, the first decision to have become final shall alone be recognised.

Article 5

Decisions on the matters referred to in Article 1 given by the authorities of one Contracting State and invoked in another Contracting State shall not be subject to any review except as regards the above-mentioned conditions.

Article 6

The competent authority in the matter of recognition, as well as the procedure to be followed, shall be determined by the law of each Contracting State.

For each Contracting State, that authority is specified in an Appendix to this Convention.

Article 7

Recognition under this Convention shall apply only to those provisions of a foreign decision which relate to release from or the dissolution, existence or non-existence, validity or nullity of the matrimonial bond, and to those of its provisions which contain findings as to fault attaching to one or both parties or, in the case of an annulment, as to their good faith.

Such recognition may not be called into question even in the course of examination of a provision dealing with family-property matters or matters relating to the custody of children, or of any other accessory or interim provision.

Article 8

Decisions recognised in a Contracting State in pursuance of this Convention shall, without any formality, be entered in the civil status registers and other public registers of that State, if its law provides that decisions of the same nature given in its territory are to be available to the public.

Article 9

When a decision dissolving or annulling a marriage has been recognised in a Contracting State in pursuance of this Convention, the celebration of a remarriage cannot be barred in that State on the sole ground that the law of another State does not allow or does not recognise such dissolution or annulment.

Article 10

If a petition relating to release from or the dissolution, existence or non-existence, validity or nullity of the matrimonial bond has previously been filed with an authority of one of the Contracting States, the authorities of the other Contracting States shall refrain, even *proprio motu*, from giving a decision on the merits of any petition filed with them that has the same object and involves the same parties acting in the same capacity.

However, the authority subsequently seised of the matter shall be entitled to set a time-limit of not less than one year, on the expiry of which it may give a decision if the petition previously filed has not yet been the subject of a determination on the merits.

Article 11

For the purposes of this Convention, the expression "nationals of a State" includes persons who hold the nationality of that State as well as those whose personal status is governed by the laws of that State.

Article 12

As between the State where the decision was given and the State where it is invoked, this Convention shall apply only to decisions post-dating its entry into force between those two States.

Article 13

This Convention shall not prevent the application of international conventions or rules of domestic law more favourable to the recognition of foreign decisions.

Article 14

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 15

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 16

Each Contracting State may, at the time of signature, of the notification mentioned in Article 14 or of accession, declare that it is extending the rules laid down by this Convention to the enforcement in its territory of the accessory or interim provisions mentioned in the second paragraph of Article 7.

Such a declaration may also be made subsequently at any time by notification to the Swiss Federal Council.

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

The declaration mentioned in the second paragraph of this Article shall take effect from the thirtieth day following the date on which the Swiss Federal Council receives the notification.

Article 17

Each Contracting State may, at the time of signature, of the notification mentioned in Article 14 or of accession, declare that, as far as it is concerned, this Convention shall apply only to one or some of the matters listed in Article 1.

Any State which has made a declaration pursuant to the provisions of the first paragraph of this Article may subsequently declare at any time by notification to the Swiss Federal Council that it will extend the application of the Convention to other matters listed in Article 1.

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

The declaration mentioned in the second paragraph of this Article shall take effect from the thirtieth day following the date on which the Swiss Federal Council receives the notification.

Article 18

Each Contracting State may, at the time of signature, of the notification mentioned in Article 14 or of accession, declare that it reserves the right:

- (1) not to recognise decisions given in a Contracting State that dissolve marriages between two spouses who possess only the nationality of States whose law does not permit such dissolution;
- (2) to apply Article 9 only to the annulment of marriage.

Article 19

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 14 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 territory concerned on the sixtieth day following the date on which the Swiss Federal Council receives that notification.

Article 20

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 21

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 one year from the notification mentioned in Article 14 or the 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 Luxembourg, on 8 September 1967, 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 Government of the Kingdom of the Netherlands stated that the Convention will have effect only for the Kingdom of the Netherlands in Europe.

The Republic of Austria informed the Swiss Federal Council that, on 1 March 2001, a change in Austrian legislation concerning the competent authority in application of Article 6 of the Convention came into force. Following this change, the appendix of the Convention shall henceforth be read in the following manner concerning Austria:

For Austria: County Courts of first instance ('die Bezirksgerichte')

Denunciation

On 13 March 2001, the Kingdom of the Netherlands deposited with the Swiss Federal Council the denunciation, by the Kingdom of the Netherlands, of the Convention. In accordance with Article 10, Paragraph 3 of the Convention, the denunciation shall take effect six months after this date, that is to say on 13 September 2001.