

Recommendation (No.10) on marriage

adopted in Paris on 26 September 2014

The International Commission on Civil Status,

Having regard to the fundamental right to marry and the freedom of everyone to conclude marriage,

Recalling the Recommendation on the law of marriage adopted by the General Assembly of the International Commission on Civil Status in Vienna on 8 September 1976,

Recalling the Universal Declaration of Human Rights, of 10 September 1948,

Taking account of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, of 7 November 1962,

Taking account of the International Covenant on Civil and Political Rights, of 16 December 1966,

Taking account of the Convention on the Elimination of All Forms of Discrimination against Women, of 18 September 1979,

Taking account of the Convention for the Protection of Human Rights and Fundamental Freedoms, of 4 November 1950,

Taking account of the Charter of Fundamental Rights of the European Union, of 7 December 2000,

Recalling Resolution 1468 of the Parliamentary Assembly of the Council of Europe on forced marriages and child marriages, of 5 October 2005,

Recalling Recommendation 1723 of the Parliamentary Assembly of the Council of Europe on forced marriages and child marriages, of 5 October 2005,

Recalling the Resolution of 4 December 1997 of the Council of the European Union on measures to be adopted on the combating of marriages of convenience,

Bearing in mind that in all the member States marriage implies the freely-given consent of the spouses expressed before a competent authority,

Bearing in mind that, beyond the diversity of certain rules, a broad consensus exists on the essential elements of the law of marriage,

Bearing in mind that it is necessary to combat bogus marriages and forced marriages,

Considering that, in the light of sociological and legal developments, both international and national, some of the principles enunciated in the above-mentioned Recommendation of the International Commission on Civil Status should be reviewed,

Considering that it is desirable to further, as between the member States of the International Commission on Civil Status, the bringing of the laws and practices in this area more closely into line,

Recommends that the member States take account of the following principles:

Principle I - Consent

1. No marriage can be validly concluded without the full and freely-given consent of the future spouses.

Principle II - Prohibited Impediments

2. No impediments to marriage may be founded on race, nationality or religion.
3. Divorce, for whatever cause, may not constitute an impediment, even temporary, to remarriage.

Principle III - Prohibited Conditions

4. Marriage may not be made conditional on administrative authorisation or proof of a party's professional or military-service situation.
5. Marriage may not be made conditional on the results of a medical examination.

Principle IV – Requisite minimum age

6. Only persons who have attained the age of eighteen years should be allowed to contract marriage.
7. Nevertheless, in the exclusive interests of a minor and taking his or her maturity into account, the competent authority may, for serious reasons, exempt the minor from the age requirement if he or she has attained the age of sixteen years.
8. As regards a minor who has been exempted from the age requirement, the consent of the person or persons exercising parental authority may, if it is required, be replaced by a decision of the competent authority based on the exclusive interests of the minor.
9. In accordance with Principle I, the personal consent of the minor is necessary in all cases.

Principle V - Celebration and registration of marriages

10. Celebration of a marriage may not be made conditional on the giving of prior notice, save where such notice is designed to protect third parties.
11. The possibility of celebrating marriage in a purely civil form must be guaranteed.
12. A marriage shall be entered by the competent authority in a civil-status register or another official register.

Principle VI - Marriage by proxy

13. Marriage by proxy may be permitted only in exceptional cases and if one of the spouses is present. The proxy must indicate expressly the marriage concerned and the identity of the future spouses and the representative and it must be revocable at will until the celebration of the marriage.
14. In accordance with Principle I, the full and freely-given consent of each spouse is necessary.

Principle VII - Posthumous marriage

15. Posthumous marriage may not be permitted.

Principle VIII - Bigamous marriage

16. Bigamous marriage may not be permitted.

Principle IX - Forced marriage

17. Forced marriage may not be permitted.
18. If pointers lead to a presumption that a planned marriage is a forced marriage, its celebration shall be made conditional on further verification, in particular by means of a hearing of the future spouses, that consent was freely given.
19. If there is a hearing, the future spouses shall be heard separately, and in conditions that encourage them to speak freely.

20. The competent authorities shall take all necessary steps to ensure protection of the victim or victims.

Principle X - Bogus Marriage

21. The competent authorities shall take the necessary measures to combat bogus marriages.

Principle XI – Proceedings for nullity

22. A marriage must be regarded as valid as long as it has not been declared null by decision of a court.
23. The grounds for nullity must be provided for by law and reduced to the minimum.
24. The right to institute proceedings for the annulment of a marriage should be exercisable by a restricted number of persons. However, that right may be exercised by the competent authority if the marriage was contracted in breach of public order (*ordre public*), notably in case of forced marriage or bigamy.

Principle XII - Objection procedure

25. The competent authority shall object to celebration of a marriage where it is established that at least one of the two future spouses does not freely and fully consent thereto.
 26. The decision must be taken speedily. An appeal to a court must always be possible.
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