

**Recommendation (No.11) relating to the recognition of certain adoption decisions taken or recognised in a member State of International Commission on Civil Status**

*adopted in Strasbourg on 17 September 2015*

The International Commission on Civil Status,

Noting the difficulties connected with the recognition by a member State of the International Commission on Civil Status of adoption decisions taken or recognised in another member State when those decisions do not fall within the scope of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption;

Bearing in mind the Recommendation of the International Commission on Civil Status (No. 9) of 17 March 2005 on combating documentary fraud with respect to civil status, and notably its Point 6 which provides that "Member States should collaborate together to pool their information and the means of identifying defective, erroneous or fraudulent records and documents. In particular, they should take into consideration the result of checks already carried out by the authorities of another member State."

Noting that it is advisable to facilitate recognition of adoption decisions taken or recognised in another member State in order to improve legal certainty for the person adopted;

Noting that recognition of those adoption decisions, taken or recognised in a member State of the International Commission on Civil Status, would be facilitated if that first State were to share with the other interested States useful information that would enable them to take advantage of the checks carried out in the first State;

Considering that the present Recommendation does not concern adoptions falling within the scope of the above-mentioned Hague Convention of 29 May 1993, which are or should have been covered by the certificate of conformity referred to in Article 23 of that Convention;

Considering that the present Recommendation covers only adoptions creating a parent-child relationship;

Recommends its member States to adopt the following rules:

1° An attestation relating to an adoption decision or to a recognition of an adoption decision shall be issued to an interested party. There shall be considered to be an interested party the adopter or adopters, the person adopted or any other person or authority establishing a legitimate interest.

2° The attestation shall be drawn up in conformity with the models appended to the present Recommendation and in accordance with the applicable rules set out in Appendix 3.

3° The attestation shall be issued when the adoption decision or the decision recognising the adoption has become final.

4° The member States shall designate the authority or authorities empowered to issue the attestation and shall supply the information relating thereto to the Secretary General.

5° The interested party shall produce the attestation to the authority called upon to determine whether the foreign adoption decision should be recognised.

## **Appendix 1**

### **ICCS models**

Model A : Attestation relating to an adoption decision

Model B : Attestation relating to the recognition of a foreign adoption decision

1-6-1-6

## ATTESTATION RELATING TO AN ADOPTION DECISION \*

\*This attestation does not concern adoptions falling within the scope of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, which are or should have been covered by the certificate of conformity referred to in Article 23 of that Convention.

|         |   |                                    |                                   |   |
|---------|---|------------------------------------|-----------------------------------|---|
| 2-1-2-3 | <b>State where the adoption decision was taken</b>                                      |                                    |                                   |   |
| 1-1-2   | Decision-making authority   |                                    |                                   |   |
| 8-6-5   | Date of decision  | [8-1 DD/MM/YY]                     | .. / .. / ....                    |   |
| 1-9-7-4 | Decision final since  | [8-1 DD/MM/YY]                     | .. / .. / ....                    |   |
| 8-6-6-7 | Effective date of adoption  | [8-1 DD/MM/YY]                     | .. / .. / ....                    |   |
| 3-7-4-7 | International transfer of the child within the framework of the adoption                | 9-8-5                              | <input type="checkbox"/> Yes      | 9-8-6 <input type="checkbox"/> No               |
| 3-7-4-6 | Adoption of the child of the spouse / partner / cohabitant                              | 9-8-5                              | <input type="checkbox"/> Yes      | 9-8-6 <input type="checkbox"/> No               |
| 3-7-5-4 | Definitive termination of the legal parent-child relationship with the family of origin | 9-8-5                              | <input type="checkbox"/> Yes      | 9-8-6 <input type="checkbox"/> No               |
| 3-7-5-3 | Adoption may be revoked   | 9-8-5                              | <input type="checkbox"/> Yes      | 9-8-6 <input type="checkbox"/> No               |
| 3-7-6-3 | Adoption may be annulled  | 9-8-5                              | <input type="checkbox"/> Yes      | 9-8-6 <input type="checkbox"/> No               |
| 1-8-7-7 | Application of a bilateral agreement  | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No | 1-8-6-5 <input type="checkbox"/> No information |
| 3-4-2-5 | Surrogacy   | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No | 1-8-6-5 <input type="checkbox"/> No information |

|         |   |  |                |  |
|---------|---|--|----------------|--|
| 3-3-5   | <b>Adopted person</b>                                   |  |                |  |
| 7-2-2-2 | Surname after the adoption                              |  |                |  |
| 7-9-3-7 | Forenames after the adoption                            |  |                |  |
|         | 1-8-2-1 <input type="checkbox"/> Male                   | 1-8-2-2 <input type="checkbox"/> Female  |                |  |
| 8-2     | Date of birth   | [8-1 DD/MM/YY]   | .. / .. / .... |  |
| 2-2     | Place of birth  |  |                |  |
| 2-8-3-5 | State of habitual residence at the time of the adoption |  |                |  |
| 2-7     | Current address   |  |                |  |
| 6-3-4-6 | Nationality(ies) before                                 |  |                |  |
| 6-3-4-7 | Nationality(ies) after                                  |  |                |  |
| 5-1-1-6 | Legal representative                                    | 3-4-3-2 <input type="checkbox"/> Adopter(s)<br>9-8-3 <input type="checkbox"/> Other person or institution<br>1-8-6-5 <input type="checkbox"/> No information |                |  |

| 9-8     | Consent(s)   | 9-8-1 Consent(s) required |                          | 9-8-2 Consent(s) given   |                          |
|---------|--|---------------------------|--------------------------|--------------------------|--------------------------|
|         |  | 9-8-5 Yes                 | 9-8-6 No                 | 9-8-5 Yes                | 9-8-6 No                 |
| 3-3-5   | Adopted person                                     | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3-4-3   | Parent 1   | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3-4-3   | Parent 2   | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4-3-5-1 | Spouse /partner / cohabitant of the adopted person | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4-3-5-2 | Spouse /partner / cohabitant of the adopter        | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9-8-3   | Other person or institution                        | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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| 3-4-3-2 | Adopter(s)   | Adopter 1                          |                                   | Adopter 2                          |                                   |
|---------|--|------------------------------------|-----------------------------------|------------------------------------|-----------------------------------|
| 7       | Surname  |                                    |                                   |                                    |                                   |
| 7-9     | Forenames  |                                    |                                   |                                    |                                   |
| 1-8-2-1 | Male   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 1-8-2-2 | Female   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 8-2     | Date of birth  | [8-1 DD/MM/YY] .. / .. / ....      |                                   | [8-1 DD/MM/YY] .. / .. / ....      |                                   |
| 2-2     | Place of birth   |                                    |                                   |                                    |                                   |
| 2-8-3-5 | State of habitual residence at the time of the adoption    |                                    |                                   |                                    |                                   |
| 2-7     | Current address  |                                    |                                   |                                    |                                   |
| 6       | Nationality(ies)   |                                    |                                   |                                    |                                   |
| 4-3-3   | Single   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 4-3-1-1 | Married  | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 4-3-2-1 | Bound by a registered partnership                          | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 4-3-5   | Cohabitant   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 8-8-4   | Date and place of marriage / partnership                   | [8-1 DD/MM/YY] .. / .. / ....      |                                   | [8-1 DD/MM/YY] .. / .. / ....      |                                   |
| 7-8-2-7 | Surname and forenames of the spouse / partner / cohabitant |                                    |                                   |                                    |                                   |
| 9-8-3-5 | Accreditation required                                     | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No |
| 9-8-3-6 | Accreditation granted                                      | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No |
|         | 9-5-3 Validity [8-1 DD/MM/YY]                              | [8-1 DD/MM/YY] .. / .. / ....      |                                   | [8-1 DD/MM/YY] .. / .. / ....      |                                   |

|         |                                   |                 |
|---------|-----------------------------------|-----------------|
| 1-1-5-6 | <b>Issuing authority</b>          |                 |
| 7-8-6-1 | Signatory's surname and forenames |                 |
| 9-4-5-4 | Signatory's capacity              |                 |
| 2-7-2   | Address                           |                 |
| 9-3-8-1 | Phone                             |                 |
| 9-3-8-2 | Fax                               |                 |
| 2-7-3-1 | Email                             |                 |
| 8-6-3   | Date of issue                     | 9-4-1 Signature |
|         | [8-1 DD/MM/YY] .. / .. / ....     |                 |

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1-6-1-7

**ATTESTATION RELATING TO THE RECOGNITION OF A FOREIGN ADOPTION DECISION \***

\*This attestation does not concern adoptions falling within the scope of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, which are or should have been covered by the certificate of conformity referred to in Article 23 of that Convention.

|  |  |
|--|--|
| <b>2-1-2-4 State which recognised the foreign decision</b> |  |
| 1-1-2  | Decision-making authority                          |
| 8-6-5  | Date of decision [8-1 DD/MM/YY] .. / .. / ....     |
| 1-9-7-4  | Decision final since [8-1 DD/MM/YY] .. / .. / .... |

|  |  |
|--|--|
| <b>2-1-2-3 State where the adoption decision was taken</b> |  |
| 1-1-2  | Decision-making authority  |
| 8-6-5  | Date of decision [8-1 DD/MM/YY] .. / .. / ....   |
| 1-9-7-4  | Decision final since [8- DD/MM/YY] .. / .. / ....  |
| 8-6-6-7  | Effective date of adoption [8-1 DD/MM/YY] .. / .. / ....   |
| 3-7-4-7  | International transfer of the child within the framework of the adoption 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No                |
| 3-7-4-6  | Adoption of the child of the spouse / partner / cohabitant 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No                              |
| 3-7-5-4  | Definitive termination of the legal parent-child relationship with the family of origin 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No |
| 3-7-5-3  | Adoption may be revoked 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No 1-8-6-5 <input type="checkbox"/> No information                 |
| 3-7-6-3  | Adoption may be annulled 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No 1-8-6-5 <input type="checkbox"/> No information                |
| 1-8-7-7  | Application of a bilateral agreement 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No 1-8-6-5 <input type="checkbox"/> No information    |
| 3-4-2-5  | Surrogacy 9-8-5 <input type="checkbox"/> Yes 9-8-6 <input type="checkbox"/> No 1-8-6-5 <input type="checkbox"/> No information                               |

|                             |   |
|-----------------------------|---|
| <b>3-3-5 Adopted person</b> |   |
| 7-2-2-2                     | Surname after the adoption  |
| 7-9-3-7                     | Forenames after the adoption  |
|                             | 1-8-2-1 <input type="checkbox"/> Male 1-8-2-2 <input type="checkbox"/> Female   |
| 7-7-5-4                     | Surname following the decision recognising the adoption   |
| 8-2                         | Date of birth [8-1 DD/MM/YY] .. / .. / ....   |
| 2-2                         | Place of birth  |
| 2-8-3-5                     | State of habitual residence at the time of the adoption   |
| 2-7                         | Current address   |
| 6-3-4-8                     | Nationality(ies) after the adoption decision  |
| 6-3-4-9                     | Nationality(ies) after the decision recognising the adoption  |
| 5-1-1-6                     | Legal representative 3-4-3-2 <input type="checkbox"/> Adopter(s) 9-8-3 <input type="checkbox"/> Other person or institution 1-8-6-5 <input type="checkbox"/> No information |

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| 9-8     | Consent(s)   | 9-8-1 Consent(s) required |                          | 9-8-2 Consent(s) given   |                          |
|---------|--|---------------------------|--------------------------|--------------------------|--------------------------|
|         |  | 9-8-5 Yes                 | 9-8-6 No                 | 9-8-5 Yes                | 9-8-6 No                 |
| 3-3-5   | Adopted person                                     | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3-4-3   | Parent 1   | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3-4-3   | Parent 2   | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4-3-5-1 | Spouse /partner / cohabitant of the adopted person | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4-3-5-2 | Spouse /partner / cohabitant of the adopter        | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9-8-3   | Other person or institution                        | <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| 3-4-3-2 | Adopter(s)   | Adopter 1                          |                                   | Adopter 2                          |                                   |
|---------|--|------------------------------------|-----------------------------------|------------------------------------|-----------------------------------|
| 7       | Surname  |                                    |                                   |                                    |                                   |
| 7-9     | Forenames  |                                    |                                   |                                    |                                   |
| 1-8-2-1 | Male   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 1-8-2-2 | Female   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 8-2     | Date of birth  | [8-1 DD/MM/YY] .. / .. / ....      |                                   | [8-1 DD/MM/YY] .. / .. / ....      |                                   |
| 2-2     | Place of birth   |                                    |                                   |                                    |                                   |
| 2-8-3-5 | State of habitual residence at the time of the adoption    |                                    |                                   |                                    |                                   |
| 2-7     | Current address  |                                    |                                   |                                    |                                   |
| 6       | Nationality(ies)   |                                    |                                   |                                    |                                   |
| 4-3-3   | Single   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 4-3-1-1 | Married  | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 4-3-2-1 | Bound by a registered partnership                          | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 4-3-5   | Cohabitant   | <input type="checkbox"/>           |                                   | <input type="checkbox"/>           |                                   |
| 8-8-4   | Date and place of marriage / partnership                   | [8- DD/MM/YY] .. / .. / ....       |                                   | [8-1 DD/MM/YY] .. / .. / ....      |                                   |
| 7-8-2-7 | Surname and forenames of the spouse / partner / cohabitant |                                    |                                   |                                    |                                   |
| 9-8-3-5 | Accreditation required                                     | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No |
| 9-8-3-6 | Accreditation granted                                      | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No | 9-8-5 <input type="checkbox"/> Yes | 9-8-6 <input type="checkbox"/> No |
|         | 9-5-3 Validity [8-1 DD/MM/YY]                              | .. / .. / ....                     |                                   | .. / .. / ....                     |                                   |

| 1-1-5-6 | Issuing authority                           |                 |
|---------|---|-----------------|
| 7-8-6-1 | Signatory's surname and forenames           |                 |
| 9-4-5-4 | Signatory's capacity                        |                 |
| 2-7-2   | Address                                     |                 |
| 9-3-8-1 | Phone                                       |                 |
| 9-3-8-2 | Fax   |                 |
| 2-7-3-1 | Email                                       |                 |
| 8-6-3   | Date of issue [8-1 DD/MM/YY] .. / .. / .... | 9-4-1 Signature |

## Appendix 2

Only the French original is authentic.

### List of standard entries and their code numbers

|         |   |
|---------|---|
| 1-1-2   | Decision-making authority   |
| 1-1-5-6 | Issuing authority   |
| 1-6-1-6 | Attestation relating to an adoption decision  |
| 1-6-1-7 | Attestation relating to the recognition of a foreign adoption decision                  |
| 1-8-2-1 | Male  |
| 1-8-2-2 | Female  |
| 1-8-6-5 | No information  |
| 1-8-7-7 | Application of a bilateral agreement  |
| 1-9-7-4 | Decision final since  |
| 2-1-2-3 | State where the adoption decision was taken   |
| 2-1-2-4 | State which recognised the foreign decision   |
| 2-2     | Place of birth  |
| 2-7     | Current address   |
| 2-7-2   | Address   |
| 2-7-3-1 | Email   |
| 2-8-3-5 | State of habitual residence at the time of the adoption                                 |
| 3-3-5   | Adopted person  |
| 3-4-2-5 | Surrogacy   |
| 3-4-3   | Parent  |
| 3-4-3-2 | Adopter(s)  |
| 3-7-4-6 | Adoption of the child of the spouse / partner / cohabitant                              |
| 3-7-4-7 | International transfer of the child within the framework of the adoption                |
| 3-7-5-3 | Adoption may be revoked   |
| 3-7-5-4 | Definitive termination of the legal parent-child relationship with the family of origin |
| 3-7-6-3 | Adoption may be annulled  |
| 4-3-1-1 | Married   |
| 4-3-2-1 | Bound by a registered partnership   |
| 4-3-3   | Single  |
| 4-3-5   | Cohabitant  |
| 4-3-5-1 | Spouse /partner / cohabitant of the adopted person                                      |
| 4-3-5-2 | Spouse /partner / cohabitant of the adopter   |
| 5-1-1-6 | Legal representative  |
| 6-      | Nationality(ies)  |
| 6-3-4-6 | Nationality(ies) before   |
| 6-3-4-7 | Nationality(ies) after  |
| 6-3-4-8 | Nationality(ies) after the adoption decision  |
| 6-3-4-9 | Nationality(ies) after the decision recognising the adoption                            |
| 7-      | Surname   |
| 7-2-2-2 | Surname after the adoption  |
| 7-7-5-4 | Surname following the decision recognising the adoption                                 |
| 7-8-2-7 | Surname and forenames of the spouse / partner / cohabitant                              |
| 7-8-6-1 | Signatory's surname and forenames   |
| 7-9     | Forenames   |
| 7-9-3-7 | Forenames after the adoption  |

|         |  |
|---------|--|
| 8-1     | Day, month, year [DD/MM/YY]              |
| 8-2     | Date of birth                            |
| 8-6-3   | Date of issue                            |
| 8-6-5   | Date of decision                         |
| 8-6-6-7 | Effective date of adoption               |
| 8-8-4   | Date and place of marriage / partnership |
| 9-3-8-1 | Phone                                    |
| 9-3-8-2 | Fax                                      |
| 9-4-1   | Signature                                |
| 9-4-5-4 | Signatory's capacity                     |
| 9-5-3   | Validity                                 |
| 9-8     | Consent(s)                               |
| 9-8-1   | Consent(s) required                      |
| 9-8-2   | Consent(s) given                         |
| 9-8-3   | Other person or institution              |
| 9-8-3-5 | Accreditation required                   |
| 9-8-3-6 | Accreditation granted                    |
| 9-8-5   | Yes                                      |
| 9-8-6   | No                                       |

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### **Appendix 3**

#### **Rules applicable to the ICCS attestations relating to an adoption decision and to the recognition of a foreign adoption decision**

1. The attestations issued pursuant to this Recommendation shall be prepared in conformity with the ICCS models reproduced in Appendix 1.
2. Each attestation shall reproduce on the front and the back page all the standard entries appearing in the ICCS models. However, in order to take computer and electronic technology into account, a document may be prepared on two pages.
3. The ICCS's logo and a reference to this Recommendation shall appear in each attestation.
4. The attestations shall be prepared by the competent authority and reproduce the data in its possession. All the entries must be as precise as possible. If the competent authority is unable to fill in a space or part of a space in the attestation, that space or part of a space shall be scored through. With the exception of space "3-4-2-5 Surrogacy", this course will be followed only if the issuing authority does not have an item of information. The ISO codes for States shall be used to indicate nationality. In case of statelessness, the symbol APA will be inserted in the spaces concerning nationality. In the case of a person of indeterminate sex, the spaces "1-8-2-1 Male" and "1-8-2-2 Female" shall be left blank.
5. The reference to the Recommendation and the standard entries appearing in the ICCS models shall be written at least in the official language or one of the official languages of the issuing authority and in the French language. When the documents are transmitted via the ICCS Platform, the reference and the standard entries shall also be written at least in the official language or one of the official languages of the receiving State, with a limit of three languages in all; the official language of the issuing authority shall in principle be the one chosen by the civil registrar when connecting to the Platform.
6. The standard entries appearing in the ICCS models shall bear the code numbers a list whereof is set out in Appendix 2 to this Recommendation. This list will be translated into the official language or languages of the ICCS member States and into the English language and those translations will be adopted by the ICCS Bureau. An authority issuing an attestation will attach a translation of the standard entries appearing therein; for this purpose, it will reproduce the translation into the language of the receiving authority of the list in Appendix 2.
7. All the entries to be inserted in the ICCS models shall be written in Latin characters in detached script; they may also be written in the characters of the language of the authority drawing up the document.
8. Dates shall be written in Arab numerals denoting successively the day, the month and the year (DD/MM/YY). The day and the month shall be indicated by two figures, and the year by four figures. The first nine days of the month and the first nine months of the year shall be indicated by numbers running from 01 to 09.
9. The name of any place mentioned in an ICCS model shall be followed by the name of the State in which the place is situated, whenever that State is not the State where the attestation is being issued.
10. Each attestation shall indicate the name and capacity of the person drawing it up. When a paper document is issued, it shall be dated and bear the requisite signature and seal. When a document is transmitted via the ICCS Platform, the signature and seal of the sender shall be created in conformity with the Convention on the use of the International Commission on Civil Status Platform for the international communication of civil-status data by electronic means, signed at Rome on 19 September 2012; if appropriate, the receiving authority shall issue a paper copy of the document, declared by it to conform to the data it has received.
11. Each attestation shall have the same value as a similar document issued in conformity with the rules of domestic law in force in the issuing State. The attestation shall be accepted without legalisation or equivalent formality in the territory of each of the ICCS member States.

## Explanatory Report

### I. Introduction

1. A wish to undertake work linked to international adoption was adverted to as early as 2006, especially by the Spanish Section of the International Commission on Civil Status ("ICCS"). Adoptions of this kind, which were becoming much more frequent in numerous European countries, raised particular problems in Spain because, adoption being a non-contentious procedure, a foreign adoption cannot under Spanish law be submitted to the *exequatur* procedure. For an adoption pronounced abroad to produce legal effects and be capable of inscription in the Spanish civil-status records, Spain knows three prescribed channels: application of a bilateral agreement between Spain and a third State; application of the specific regime of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption ("the Hague Convention of 1993") or application of a Spanish private-international-law provision contained in the Civil Code. In the absence of an applicable international instrument, an adoption pronounced by foreign authorities must satisfy the conditions set out in the fourth paragraph of Article 9 n°5 of the Civil Code, namely: 1° competence of the foreign authority; 2° verification of the law applied; 3° equivalence of effects between the foreign adoption and adoption in Spain; and 4° formal regularity of the document establishing the adoption. The Spanish Civil Code thus shows clearly that an adoption concluded abroad by a Spanish adopter will not be recognised in Spain if the effects it produces are not equivalent to those produced by an adoption pronounced in Spain. In concrete terms, the foreign adoption must be irrevocable and must entail, on the one hand, the extinction of the legal bonds between the person adopted and his or her previous family and, on the other hand, the establishment of a parent-child relationship identical to that established where there is no adoption.
2. It appeared in this context that adoptions pronounced abroad may receive divergent classifications in the different ICCS member States, notably due to difficulties in knowing or interpreting the foreign law -Asiatic or African, for example- applied to the adoption. Whilst the resolution of these problems was facilitated by the inter-State co-operation introduced in the context of the Hague Convention of 1993, difficulties of interpretation and co-operation between States persist, for example when specific problems arise for adoptions that are not covered by the Hague Convention of 1993 and there are no other inter-State co-operation mechanisms.
3. It is the above findings, but also the fact that other States had cited difficulties in the context of fraud (notably a question of certain civil-status records in adoption files), that gave birth to the proposal that the ICCS member States should engage in more active co-operation regarding adoption and in particular organise an exchange of information between the ICCS member States on the States' administrative practice and domestic law, the view being taken that such an exchange could only be beneficial to all the States.
4. The co-operation envisaged is not aimed at harmonising the classifications of adoptions and should not duplicate work in progress in other instances, in particular the Hague Conference on Private International Law and the Council of Europe, but rather at providing, for adoptions outside the scope of the Hague Convention of 1993, assistance to the States on the basis of concrete situations.
5. As regards the international context, the success of the Convention of 29 May 1993 drawn up by the Hague Conference on Private International Law needs no illustration and all the ICCS member States are party thereto. That Convention provides for the recognition by operation of law of the adoption when it is certified to be in conformity with the Convention. It covers only adoptions creating a parent-child relationship and applies when a child habitually resident in a Contracting State (the State of origin) has been, is being or is to be moved to another Contracting State (the receiving State), either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin. The essential aim of the Hague Convention of 1993 is to establish guarantees so that international adoptions take place in the best interests of the child and with respect for the fundamental rights which he or she is recognised to have under international law. It also puts into place a system of co-operation between the Contracting States to ensure that those guarantees are respected, implying an obligation to set up central authorities which must

then take all appropriate measures “to provide information as to the laws of their States concerning adoption and other general information”. The Hague Conference on Private International Law convenes on average every five years a special Commission on the practical functioning of the Convention and its Permanent Bureau has shown an interest in the work done by the ICCS, in particular by attending several meetings of the working group.

6. As for the Council of Europe, two Conventions have been prepared concerning adoption, which deal essentially with the substantive law of adoption: the European Convention on the Adoption of Children, of 24 April 1967, and the European Convention on the Adoption of Children (revised), of 27 November 2008, which replaces the first Convention. Since the object of these European Conventions is not the recognition of adoption decisions as such but the introduction of common principles and practices as regards the adoption of children, the ICCS considered that these international instruments on adoption had no direct link with the work done in the context of the present Recommendation. Unlike the Hague Convention of 1993, it was therefore not thought necessary to refer to them in the preamble.
7. To have a more precise picture of the co-operation that could be contemplated, the ICCS, to begin with, prepared a questionnaire designed to collect information on the practices of the States, distinguishing between adoptions pronounced in the ICCS member States and those pronounced in third States. For adoptions pronounced in third States, most of the questions bore on recognition, its conditions, its availability and its effects. For adoptions pronounced in the member States, the questions concerned mainly the civil status of the person adopted and accreditation for the purposes of adoption.
8. The replies to the questionnaire revealed a rather differing situation. There is no uniform treatment in the ICCS member States as regards the procedures for recognising foreign adoptions, be they in member States or in third States. Non-Convention foreign adoptions are thus subject to varying procedures depending on the ICCS member State involved. As regards the formal aspect of recognition, all the States have a regulated procedure: a procedure for the general recognition of foreign decisions, or a control when the adoption is inscribed in the civil-status registers; a special procedure for recognising foreign adoption decisions enabling them to produce all their effects or an *ad hoc* recognition procedure producing limited effects. Once the foreign adoption has been recognised under domestic law, it will be inscribed in the civil-status registers in some States. In all the States, recognition of the adoption is declaratory. Once the adoption has been recognised by the competent authority, its effects will be retroactive to the date when the adoption took effect (attribution of nationality, name of the adopted person, inheritance rights, etc.).
9. The replies received also revealed that an adoption decision given in a first State may not be recognised by a second State, notably because it is contrary to public order. This will apply, for example, to a full adoption pronounced in Spain in favour of a couple of persons of the same sex resident in Spain and holding the nationality of other States, but which will subsequently not be recognised in those States for reasons of public order, with the consequence that the adoptive parent-child relationship created in Spain will produce no effects in those countries. Likewise, some States know only the adoption of minors and courts there have even considered that adoption of an adult was contrary to international public order. On the other hand, other States allow the adoption of adults, but sometimes take precautions or fix limits on the effects of such an adoption (for example, an adopted adult does not benefit from automatic acquisition of the nationality of the adopter or a residence permit).
10. The replies showed that Conventional adoptions were automatically recognised if they were certified to be in conformity with the Hague Convention of 1993, but it also transpired in the practice of the ICCS member States that, despite the binding nature of the Convention, adoptions pronounced in States party to that Convention were in some cases realised at the margin thereof or contained procedural irregularities.
11. In the light of the information collected, the working group then examined various possibilities that would make it possible to go further than the mere collection of information and tried to identify points on which an international co-operation between the ICCS member States could be envisaged; in doing so, it paid particular attention to the civil-status questions that were likely to give rise to the most concrete problems. The aim was to harmonise the administrative practices of the ICCS member States relating to adoptions pronounced abroad, in other ICCS member States or in third States, by endeavouring to introduce uniform treatment for the recognition of international adoptions in ICCS member States. Specially concerned were, on the one hand, foreign adoptions pronounced in the ICCS member States, involving persons of different nationalities, be they Community nationals or nationals of third States, where it was desired that their effects be recognised in other ICCS member States and, on the other hand,

foreign adoptions made in third States by nationals or residents of ICCS member States, where it was desired that their effects be recognised in the ICCS member States concerned.

12. The solution involving the introduction of a common procedure for the recognition of foreign adoption decisions had been cited, but fairly rapidly abandoned on account of its numerous difficulties. On the other hand, a consensus had fairly rapidly been attained concerning the advantage that would attach to a normalised international document making it possible to collect useful information so that each of the ICCS member States not be obliged once again to proceed to all the necessary verifications, but might benefit from the work already carried out in another member State. If necessary, the receiving authorities could always ask for supplementary documents (notably, the adoption decision and a full copy of or extract from the birth record). In the ICCS member States, the utility of such a document, for the persons concerned and the authorities, appeared evident since a large number of adoptions are not the object of a fresh decision but of a verification of various items; thus, an attestation listing the indispensable items already verified would avoid all or part of the verification work in the second State. It was emphasised that such a document would be capable of lightening the workload of the national authorities in a relatively important number of recognitions of the same adoption in two or several ICCS member States. The uniform presentation of the verified information would also present a sizeable advantage.
13. The question of the normative instrument to be used as the legal basis for these attestations was more difficult to answer on account of the large number of obstacles to be overcome, relating to their probative value, the most appropriate legal basis for enabling them to be issued and accepted, the choice of the recipient and, lastly, the choice of the entries having to appear therein. After having initially drawn up a draft Convention, the ICCS finally opted for a less binding instrument, the Recommendation making it possible to arrive with greater flexibility and rapidity at the desired co-operation.

## II. The present Recommendation

14. The main object of the Recommendation is to facilitate, within the International Commission on Civil Status, recognition of adoption decisions not covered by the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, when several ICCS member States have to deal in turn with the same adoption situation. The Recommendation covers decisions that have been taken or recognised in a first member State, whether the adopters be a married couple or a single person, as provided for by the 1993 Convention, or also registered partners or cohabitants. For example, within the meaning of Belgian law on adoption, the expression “cohabitants” means two persons who have made a declaration of legal cohabitation or two persons who have been living together permanently and affectively for at least three years at the time of introduction of the adoption application, provided that they are not related to a degree that would entail a prohibition on marriage that could not be waived by the King. The term “recognition” is to be broadly understood and may cover, according to the States, very different situations (notably judicial decisions, administrative decisions, transcription authorisations, etc.)

Current practice is for each member State to re-examine the totality of the adoption submitted to it, without taking advantage of the controls already carried out in the first member State. The aim of the Recommendation is to facilitate the recognition process by means of the issue of an attestation reproducing the main information about the adoption and, if appropriate, recognition procedure. The structured exchange of information between competent authorities should in this way lead to an improvement in legal certainty for the adopted person.

### III. Commentary on the Preamble and the Rules of the Recommendation

#### 15. Preamble and scope

The first recital indicates clearly that the Recommendation does not apply to decisions falling within the scope of the Hague Convention of 29 May 1993, which the Recommendation in no event duplicates. The scope of the Recommendation is to be strictly understood.

Since several member States had referred to fraud with respect to civil status in the context of international adoptions, it was decided to include a specific reference to Recommendation (No. 9) of 17 March 2005 on combating documentary fraud with respect to civil status, point 6 whereof provides explicitly for co-operation between member States.

The Recommendation also specifies that only adoptions creating a parent-child relationship are covered.

Each member State will adopt the measures necessary to implement the Recommendation. This will not necessarily require the adoption of texts of a legislative or regulatory character, but can also be done by modifying administrative practices.

#### 16. Rule 1

To simplify the controls to be carried out by a member State called upon to examine the question of recognition of an adoption decision rendered or recognised in another member State, Rule 1 provides that each member State shall issue to an interested party an attestation concerning, depending on the case, either its own adoption decision or its recognition of a foreign adoption decision.

These attestations will be issued only on request of an interested party and not automatically, given that only some adoption decisions are likely to be of interest to another member State, for example on account of the nationality or the habitual residence of the adopter or adopters, or the person adopted.

The Recommendation lays down what is meant by “interested party”. Thus, the adopter or adopters or the adopted person do not have to establish their interest in being issued with an attestation, whereas other persons or authorities (for example, agencies or institutions responsible for child protection) would, for their part, have to prove such an interest. In the latter case, it will be for the authority competent to issue the attestation to determine whether a legitimate interest exists.

Subject to the international agreements providing for exemption from fees, the attestations issued pursuant to the present Recommendation cannot give rise to the charging of a fee higher than that charged for attestations drawn up in accordance with the rules of domestic law of the issuing State.

#### 17. Rule 2

Two model attestations are appended to the Recommendation. The attestation drawn up following model A will be issued by the competent authority of the member State where the adoption decision was taken. The attestation drawn up following model B will be issued by the competent authority of the member State where the foreign adoption decision was recognised.

These attestations will reproduce the relevant items of information concerning the adoption decision, taken or recognised, so that they can be utilised by a member State that is subsequently called upon to determine whether that decision should be recognised. The aim, amongst other things, is to inform that State about the validity of the consents and the scope of the adoption (simple or full).

#### 18. Rule 3

An attestation can be issued only when the adoption decision or the decision recognising the foreign adoption has become final and cannot therefore be called into question in the issuing State. It will be for that State to determine whether the decision is final under its domestic law.

#### 19. Rule 4

Each State is free to decide whether the authority or authorities empowered to issue one of the attestations referred to in the Recommendation should be a central authority or the authority that rendered or recognised the adoption decision.

The notice given to the Secretary General will be followed by the drawing-up of a list of the competent authorities and the distribution of that list to the member States.

The interested parties must be in a position to identify the authority empowered to issue an attestation referred to in the Recommendation. Likewise, the authority to which an attestation is presented must be able to check the competence of the authority that issued that attestation.

#### 20. Rule 5

This rule specifies the purpose of the attestations. Their object is the sharing of the relevant information, concerning an adoption decision or a decision recognising a foreign adoption, with the competent authority of the State called upon to determine whether that decision should be recognised.

The interested party will be able to give the attestation issued by the first State to the competent authority of the second State, with a view to recognition of the adoption decision to which it refers. That attestation will tend to facilitate the verifications that the authority called upon to rule on the request for recognition will have to carry out and is not intended to take the place of the documents. The said authority may seek production of other documents, without being obliged to do so. This question is a matter for the domestic law of each State.

### IV. Commentary on the Appendices

#### Appendix 1 : Attestations A and B

21. The content of the attestations was the subject of lengthy discussions, originating in the observation, firstly, that the certificates issued pursuant to Article 23 of the Convention of 29 May 1993 were not always in conformity with the model drawn up by the Hague Conference on Private International Law and, secondly, that that model did not contain sufficient information that would make it possible to envisage closer co-operation between the ICCS member States.
22. Using a concrete approach, several models were prepared. After a certain number of draft certificates had been produced, it was decided to draw up two distinct attestations, one relating to an adoption decision [State A = State where the adoption decision was taken, which may be the State of origin or the receiving State] and the other relating to the recognition of a foreign adoption decision [State B = State that recognises the decision of State A]. These attestations are issued when the adoption decision taken or recognised in an ICCS member State is likely to interest another ICCS member State, for example on account of the nationality of one of the adopters or of the adopted person or on account of their habitual residence in an ICCS member State.
23. The model attestations and the standard entries appearing therein were discussed at length and modified many times, to ensure that the information was as complete and precise as possible.
24. There were also discussions as to which authorities would issue and receiving the attestations. Initially an automatic exchange of information between authorities was envisaged, but it finally seemed more appropriate in this case to issue the attestations on request of an interested party.
25. So that attestations may circulate internationally and be understood abroad, they are prepared on standardised models, the entries therein bearing code numbers taken from the ICCS coding glossary. The totality of the standard entries and code numbers appearing in the attestations is reproduced in the list in Appendix 2; since the ICCS has adopted the translation of these entries into the languages of the member States, it is then easy to attach to the attestation a translation of that list into the language of the receiving State.

#### Appendices 2 and 3 : List of the standard entries and their code numbers and Rules applicable to attestations A and B

26. Appendix 2 is confined to recording in a structured form the list of standard entries appearing in models A and B, together with the code numbers attributed to those entries in the official glossary of the coding developed by the ICCS.
  27. Appendix 3, like recent ICCS instruments, sets out the rules applicable to the drawing-up of the attestations. It is designed to further a uniform application of the Recommendation, by indicating to the authorities of the member States the manner in which the various items in the attestations should be filled in and the languages that should appear in the documents issued.
  28. The list in Appendix 2 must be translated into at least one of the official languages of the member States, and that translation, and also any subsequent modifications thereof, must be deposited with the ICCS Secretary General and adopted by the ICCS Bureau.
  29. The provisions contained in Appendices 2 and 3 contribute to the circulation of the models and their understanding abroad. Their implementation will, if appropriate, be facilitated by the use of the ICCS Platform and the computerised versions of models A and B created in this context.
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