

No. 16547

MULTILATERAL

Convention on the recognition of decisions concerning the marriage bond (with annexes). Concluded at Luxembourg on 8 September 1967

Authentic text: French.

Registered by Switzerland, acting on behalf of the Parties, on 25 April 1978.

MULTILATÉRAL

Convention sur la reconnaissance des décisions relatives au lien conjugal (avec annexes). Conclue à Luxembourg le 8 septembre 1967

Texte authentique : français.

Enregistrée par la Suisse, agissant au nom des Parties, le 25 avril 1978.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON THE RECOGNITION OF DECISIONS CONCERNING THE MARRIAGE BOND

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 Republic of Turkey, members of the International Commission on Civil Status,

Desiring to facilitate the recognition, in the territory of all the Contracting States, of the decisions rendered in any one of these States, concerning the marriage bond,

Have agreed as follows:

Article 1. Any decision concerning the dissolution, relaxation, existence or non-existence, validity or nullity of the marriage bond rendered in one of the Contracting States shall, without prejudice to respect for the provisions of articles 2, 3 and 4, be recognized in the other Contracting States with the same authority as in the one in which it was rendered, where the following conditions are met:

- 1) The decision is not incompatible, in the State in which it is invoked, with a decision which has become a *res judicata*, rendered or recognized in that State;
- 2) The parties have been in a position to state their grounds;
- 3) The decision is not manifestly contrary to the public order of the State in which it is invoked.

Article 2. Recognition of a foreign decision may not be refused on the sole grounds that the authority which rendered it was not competent under the private international law of the State in which that decision is invoked, except where the two spouses are nationals of that State.

Article 3. Recognition of a foreign decision which has applied a law other than that indicated by the private international law of the State in which that decision is invoked may not be refused on those sole grounds except the twofold condition:

- 1) That the two spouses were nationals of that State, or only one of them if it is a question of a decision rejecting his or her application;
- 2) That the decision led to a result contrary to that which would have resulted from the application of the law indicated by the private international law of the State in which that decision is invoked.

¹ Came into force on 10 December 1977 in respect of the following States, i.e., the thirtieth day after the date of deposit with the Government of Switzerland of the second instrument of ratification, in accordance with article 15:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Turkey*	16 February 1976
Austria*	10 November 1977

* See p. 245 of this volume for the texts of the declarations and reservations made upon ratification.

Article 4. When two incompatible foreign decisions are invoked, the decision which became a *res judicata* first shall be the only one recognized.

Article 5. Decisions rendered in the matters referred to in article 1 by the authorities of one of the Contracting States and invoked in another Contracting State shall not be subjected to any investigation except insofar as concerns the conditions stated above.

Article 6. The legislation of each Contracting State shall determine the competent authority with respect to recognition and the procedure to be followed.

That authority, for each Contracting State, shall be specified in an annex to this Convention.

Article 7. The recognition provided for in this Convention shall apply only to the provisions of the foreign decision concerning the dissolution, relaxation, existence or non-existence, validity or nullity of the marriage bond, and to its provisions ruling on the offences of the parties or of one of them or, in the case of annulment, on their good faith.

That recognition may not be called into question even on the occasion of the examination of a provision regulating questions relating to patrimony or child care, or any other accessory or temporary provision.

Article 8. The decisions recognized in a Contracting State in application of this Convention shall, without formalities, be entered on the records of civil status and on the other public records of that State, where the law of that State provides for public announcement of decisions of the same nature rendered in its territory.

Article 9. Where a decision to dissolve or annul a marriage has been recognized in a Contracting State in application of this Convention, the celebration of a new marriage may not be refused in that State on the sole grounds that the law of another State does not allow or does not recognize that dissolution or that annulment.

Article 10. If an application has previously been brought before an authority of one of the Contracting States concerning the dissolution, relaxation, existence or non-existence, validity or nullity of the marriage bond, the authorities of the other Contracting States shall abstain from ruling, even *ex officio*, on the merits of any application brought before them for the same purpose and involving the same parties acting in the same capacity.

However, the authority last seized shall have the option of establishing a waiting period of at least one year, upon the expiry of which it may render a decision if the application made previously has not yet been judged on its merits.

Article 11. For the purposes of this Convention, the terms “nationals of a State” include persons possessing the nationality of that State, as well as those whose personal status is governed by the laws of that State.

Article 12. This Convention shall apply, between the State in which the decision was rendered and that in which it is invoked, only to decisions subsequent to its entry into force between those two States.

Article 13. This Convention shall not preclude the application of international conventions or rules of municipal 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 Constitution to render this Convention applicable in their territory.

The Swiss Federal Council shall advise the Contracting States and the Secretary-General of the International Commission on Civil Status of any notification under the preceding paragraph.

Article 15. This Convention shall enter into force on the thirtieth day following the date of deposit of the second notification and shall take effect thereafter between the two States having completed this formality.

In the case of each signatory State, subsequently completing the formality provided for in the preceding article, this Convention shall take effect on the thirtieth day following the date of deposit of its notification.

Article 16. Each Contracting State may declare, at the time of signature, the notification provided for in Article 14 or accession that it extends to the exequatur of the accessory or temporary provisions referred to in article 7, second paragraph, the régime provided for by this Convention.

This declaration may also be made at a later date and at any time by notification addressed to the Swiss Federal Council.

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

The declaration provided for in paragraph 2 of this article shall take effect on the thirtieth day following the date upon which the Swiss Federal Council receives such notification.

Article 17. Any Contracting State may declare, at the time of signature, the notification provided for in article 14 or accession, that as far as it is concerned this Convention shall apply to only one or several of the subjects mentioned in article 1.

Any State which has made a declaration in accordance with the provisions of the first paragraph of this article may subsequently declare at any time, by notification addressed to the Swiss Federal Council, that it extends the application of the Convention to other matters mentioned in article 1.

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

The declaration referred to in the second paragraph of this article shall take effect on the thirtieth day following the date on which the Swiss Federal Council receives such notification.

Article 18. Each Contracting State may declare, at the time of signature, the notification provided for in article 14 or accession, that it reserves the right:

- 1) Not to recognize decisions concerning the dissolution of marriage rendered in a Contracting State between two spouses who are nationals only of States whose law does not allow such dissolution;
- 2) To apply article 9 only to the annulment of marriage.

Article 19. This Convention shall apply *ipso jure* throughout the metropolitan territory of each Contracting State.

Any Contracting State may declare, at the time of signature, the notification provided for in article 14 or accession, or subsequently by notification addressed to the Swiss Federal Council, that the provisions of this Convention shall be applicable to one or more of its extra-metropolitan territories, States or territories for which it assumes international responsibility. The Swiss Federal Council shall advise each of the Contracting States and the Secretary-General of the International Commission on Civil Status of this last-mentioned notification. The provisions of this Convention shall become applicable in the one or more territories designated in the notification on the sixtieth day following the date on which the Swiss Federal Council receives such notification.

Any State which has made a declaration, under the provisions of the second paragraph of this article, may subsequently declare at any time, by notification addressed to the Swiss Federal Council, that this Convention will cease to be applicable to one or more of the States or territories designated in the declaration.

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

The Convention shall cease to be applicable in the designated territory on the sixtieth day following the date on which the Swiss Federal Council receives such notification.

Article 20. Any State member of the Council of Europe or the International Commission on Civil Status may accede to this Convention. A State desiring to accede shall give notice of its intention by an instrument which shall be deposited with the Swiss Federal Council. The latter shall advise each of the Contracting States and the Secretary-General of the International Commission on Civil Status of any deposit of an instrument of accession. The Convention shall enter into force, in respect of the acceding State, on the thirtieth day following the date of deposit of the instrument of accession.

The deposit of the instrument of accession may take place only after the entry into force of this Convention.

Article 21. This Convention shall remain in force indefinitely. Each of the Contracting States shall, however, have the right to denounce it at any time by means of a notification in writing addressed to the Swiss Federal Council, which shall inform the other Contracting States and the Secretary-General of the International Commission on Civil Status thereof.

This right of denunciation may not be exercised before the expiry of a period of one year from the notification provided for in article 14 or from accession.

The denunciation shall take effect six months after the date on which the Swiss Federal Council receives the notification provided for in the first paragraph of this article.

IN WITNESS WHEREOF the undersigned representatives, being duly authorized thereto, 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 certified copies of which shall be sent through the diplomatic channel to each of the Contracting States and to the Secretary-General of the International Commission on Civil Status.

For the Federal Republic of Germany:

[CARL-HEINZ LÜDERS]

[HANS G. FICKER]

For the Republic of Austria:

[FRITZ SCHWIND]

Subject to the annexed declaration¹

For the Kingdom of Belgium:

[J. VANDEN BLOOCK]

For the Government of the French Republic:

[GUY DELTEL]

Subject to the annexed declaration of extension¹

For the Kingdom of Greece:

[E. KRISPI-NICOLETOPOULOU]

Subject to the annexed declaration¹

For the Italian Republic:

For the Grand Duchy of Luxembourg:

For the Kingdom of the Netherlands:

For the Swiss Confederation:

¹ See p. 244 of this volume for the text of the declaration.

For the Republic of Turkey:

[FARUK BERKOL]

A N N E X I

DECLARATION OF EXTENSION

In application of article 16 of this Convention, the Government of the French Republic declares that it extends to the exequatur of the accessory or temporary provisions referred to in article 7, second paragraph, the régime provided for by this Convention.

[GUY DELTEL]

DECLARATION OF RESERVATION

In application of article 18 of this Convention, the Government of the Republic of Austria declares that it reserves the right:

- 1) Not to recognize decisions concerning the dissolution of marriages rendered in a Contracting State between two spouses who are nationals only of States whose law does not allow such dissolution;
- 2) To apply article 9 only to the annulment of marriage.

[FRITZ SCHWIND]

DECLARATION OF RESERVATION

In application of article 18 of this Convention, the Government of the Kingdom of Greece declares that it reserves the right to apply this Convention only to foreign decisions concerning the dissolution of the marriage bond.

[E. KRISPI-NICOLETOPOULOU]

A N N E X I I

The competent authority referred to in article 6 of this Convention shall be:

For the Federal Republic of Germany:

The Ministers (Senators) of the *Bundesländer* in accordance with article 7, paragraph 1, subparagraph 2, of the law of 11 August 1961 on the modification of the rules of family law (*Familienrechtsänderungsgesetz, Bundesgesetzblatt I, S.1221*).

[CARL-HEINZ LÜDERS]

[HANS G. FICKER]

For Austria:

The Federal Ministry of Justice
[FRITZ SCHWIND]

For Belgium:

The judicial authority
[J. VANDEN BLOECK]

For France:

The President of the *Tribunal de Grande Instance* ruling in
summary proceedings
[GUY DELTEL]

For Greece:

The judicial authority
[E. KRISPI-NICOLETOPOULOU]

For Turkey:

The Ministry of Justice at Ankara
[FARUK BERKOL]

DECLARATIONS AND RESERVATIONS MADE UPON RATIFICATION

AUSTRIA

[*Confirming the declaration in respect of article 18 made upon signature. For the text, see page 244 of this volume.*]

TURKEY

[TRANSLATION — TRADUCTION]

In accordance with article 6 of the Convention, the legislation of each Contracting State shall determine the competent authority with respect to recognition and the procedure to be followed. In annex II of the Convention, Turkey had named as competent authority “The Ministry of Justice at Ankara”. The Turkish Government declares that this mention in annex II is to be replaced by “The judicial authority at Ankara”.