

No. 24637

MULTILATERAL

**Inter-American Convention on General Rules of Private
International Law. Concluded at Montevideo on 8 May
1979**

Authentic texts: Spanish, English, Portuguese and French.

Registered by the Organization of American States on 1 March 1987.

MULTILATÉRAL

**Convention interaméricaine sur les normes générales du
droit international privé. Conclue à Montevideo le 8 mai
1979**

Textes authentiques : espagnol, anglais, portugais et français.

Enregistrée par l'Organisation des États américains le 1^{er} mars 1987.

INTER-AMERICAN CONVENTION¹ ON GENERAL RULES OF PRIVATE INTERNATIONAL LAW

The Governments of the Member States of the Organization of American States, desirous of concluding a convention on general rules of private international law, have agreed as follows:

Article 1

Choice of the applicable rule of law governing facts connected with foreign law shall be subject to the provisions of this Convention and other bilateral or multilateral conventions that have been signed or may be signed in the future by the States Parties.

In the absence of an international rule, the States Parties shall apply the conflict rules of their domestic law.

Article 2

Judges and authorities of the States Parties shall enforce the foreign law in the same way as it would be enforced by the judges of the State whose law is applicable, without prejudice to the parties' being able to plead and prove the existence and content of the foreign law invoked.

Article 3

Whenever the law of a State Party has institutions or procedures essential for its proper application that are not provided for in the law of another State Party, this State Party may refuse to apply such a law if it does not have any like institutions or procedures.

¹ Came into force on 10 July 1981, i.e., the thirtieth day following the date of deposit with the General Secretariat of the Organization of American States of the second instrument of ratification, in accordance with article 14:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Peru	15 May 1980
Uruguay*, **	10 June 1981

Furthermore, the Convention came into force for the following States on the thirtieth day after the date of deposit of their instruments of ratification or accession in accordance with article 14:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Colombia	10 September 1981
(With effect from 10 October 1981.)	
Ecuador	18 May 1982
(With effect from 17 June 1982.)	
Argentina	1 December 1983
(With effect from 31 December 1983.)	
Mexico*, **	19 April 1984
(With effect from 19 May 1984.)	
Paraguay	16 August 1985
(With effect from 15 September 1985.)	

* See p. 23 of this volume for the texts of the declarations and reservations made upon ratification.

** In the absence of objection to the reservation within a twelve-month period from the date of its circulation by the General Secretariat of the Organization of the American States, the deposit of the instrument of ratification was thereafter accepted.

Article 4

All the appeals provided for in the procedural law of the place where the proceedings are held shall also be admissible for cases in which the law of any of the other States Parties is applicable.

Article 5

The law declared applicable by a convention on private international law may be refused application in the territory of a State Party that considers it manifestly contrary to the principles of its public policy (*ordre public*).

Article 6

The law of a State Party shall not be applied as foreign law when the basic principles of the law of another State Party have been fraudulently evaded.

The competent authorities of the receiving State shall determine the fraudulent intent of the interested parties.

Article 7

Juridical relationships validly established in a State Party in accordance with all the laws with which they have a connection at the time of their establishment shall be recognized in the other States Parties, provided that they are not contrary to the principles of their public policy (*ordre public*).

Article 8

Previous, preliminary or incidental issues that may arise from a principal issue need not necessarily be resolved in accordance with the law that governs the principal issue.

Article 9

The different laws that may be applicable to various aspects of one and the same juridical relationship shall be applied harmoniously in order to attain the purposes pursued by each of such laws. Any difficulties that may be caused by their simultaneous application shall be resolved in the light of the requirements of justice in each specific case.

Article 10

This Convention shall be open for signature by the Member States of the Organization of American States.

Article 11

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 12

This Convention shall remain open for accession by any other State. The instrument of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 13

Each State may, at the time of signature, ratification, or accession, make reservations to this Convention provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purpose of the Convention.

Article 14

This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 15

If a State Party has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them.

Such declaration may be modified by subsequent declarations, which shall expressly indicate the territorial unit or units to which the Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

Article 16

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

Article 17

The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which will forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of its Charter. The General Secretariat of the Organization of American States shall notify the Member States of that Organization and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession and denunciation as well as of reservations, if any. It shall also transmit the declarations referred to in Article 15 of this Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Montevideo, Republic of Uruguay, this eighth day of May, one thousand nine hundred and seventy-nine.

[For the signatures, see p. 16 of this volume.]

Por Grenada:
For Grenada:
Por Grenada:
Pour la Grenade :

Por Suriname:
For Suriname:
Pelo Suriname:
Pour le Suriname :

Por Ecuador:
For Ecuador:
Pelo Ecuador:
Pour l'Equateur :

WILSON VELA HERVAS

Por la República Argentina:
For the Argentine Republic:
Pela República Argentina:
Pour la République Argentine :

RAÚL A. QUIJANO
1-12-1983¹

Por Uruguay:
For Uruguay:
Pelo Uruguai:
Pour l'Uruguay :

MANUEL A. VIEIRA²

Por Colombia:
For Colombia:
Pela Colombia:
Pour la Colombie :

ALVARO LEAL MORALES
FABIO TORRIJOS QUINTERO

¹ 1 December 1983 — 1^{er} décembre 1983.

² See p. 21 of this volume for the text of the declarations made upon signature — Voir p. 21 du présent volume pour le texte des déclarations faites lors de la signature.

Por Haiti:
For Haiti:
Pelo Haiti:
Pour Haïti :

YVES FRANÇOIS
RODRIGUE CASIMIR
VICTOR PIERRE-LOUIS

Por México:
For Mexico:
Pelo México:
Pour le Mexique :

RAFAEL DE LA COLINA
3 de agosto de 1982^{1, 2}
(*Ad referendum*)

Por Brasil:
For Brazil:
Pelo Brasil:
Pour le Brésil :

HAROLDO TEIXEIRA VALLADAO

Por Panamá:
For Panama:
Pelo Panamá:
Pour le Panama :

JUAN MATERNO VASQUEZ

Por Perú:
For Peru:
Pelo Peru:
Pour le Pérou :

LUIS ALVARADO GARRIDO

¹ 3 August 1982 — 3 août 1982.

² See p. 21 of this volume for the text of the reservations made upon signature — Voir p. 21 du présent volume pour le texte des réserves faites lors de la signature.

Por Nicaragua:
For Nicaragua:
Por Nicaragua:
Pour le Nicaragua :

Por El Salvador:
For El Salvador:
Por El Salvador:
Pour El Salvador :

ERNESTO ARRIETA PERALTA
11 agosto 1980¹

Por Bolivia:
For Bolivia:
Pela Bolívia:
Pour la Bolivie :

FERNANDO SALAZAR PAREDES
2 de agosto de 1983²

Por Venezuela:
For Venezuela:
Pela Venezuela:
Pour le Venezuela :

GONZALO PARRA ARANGUREN

Por Paraguay:
For Paraguay:
Pelo Paraguai:
Pour le Paraguay :

RAMÓN SILVA ALONSO

¹ 11 August 1980 — 11 août 1980.

² 2 August 1983 — 2 août 1983.

Por Guatemala:
For Guatemala:
Pela Guatemala:
Pour le Guatemala :

JUAN JOSÉ RODAS MARTINEZ
FRANCISCO VILLAGRÁN KRAMER

Por Barbados:
For Barbados:
Por Barbados:
Pour la Barbade :

Por Trinidad y Tobago:
For Trinidad and Tobago:
Por Trinidad e Tobago:
Pour le Trinité et Tobago :

Por Costa Rica:
For Costa Rica:
Por Costa Rica:
Pour le Costa Rica :

GONZALO ORTÍZ MARTÍN

Por los Estados Unidos de América:
For the United States of America:
Pelos Estados Unidos da América:
Pour les Etats-Unis d'Amérique :

Por la República Dominicana:
For the Dominican Republic:
Pela República Dominicana:
Pour la République dominicaine :

MARIA ELENA MUÑOZ DE RICART

Por Honduras:
For Honduras:
Por Honduras:
Pour le Honduras :

ADOLFO LEÓN GÓMEZ

Por Chile:
For Chile:
Pelo Chile:
Pour le Chili :

CARLOS FERREIRA CANNOBBIO

Por Jamaica:
For Jamaica:
Pela Jamaica:
Pour la Jamaïque :

DECLARATIONS AND RESERVA-
TIONS MADE UPON SIGNATUREDÉCLARATIONS ET RÉSERVES
FAITES LORS DE LA SIGNATURE*MEXICO**MEXIQUE*

[SPANISH TEXT — TEXTE ESPAGNOL]

“México interpreta que el Artículo 2 crea una obligación únicamente cuando ante el juez o autoridad se ha comprobado la existencia del derecho extranjero o sus términos son conocidos para ellos de alguna otra manera.”

[TRANSLATION]¹[TRADUCTION]¹

Mexico interprets article 2 to mean that it creates an obligation only when the existence of the foreign law has been proved before the judge or authority or its provisions are made known to them in some other way.

Selon l'interprétation que donne le Mexique de l'article 2, celui-ci ne crée une obligation que lorsque l'existence du droit étranger a été dûment prouvée devant le juge ou les autorités, ou que les dispositions de ce droit ont été portées à leur connaissance de toute autre manière.

*URUGUAY**URUGUAY*

[SPANISH TEXT — TEXTE ESPAGNOL]

“Alcance que le otorga al Orden Público:

La República Oriental del Uruguay manifiesta que ratifica de modo expreso la línea de pensamiento sostenida en Panamá — CIDIP-I — reafirmando su acendrado espíritu panamericanista y su decisión clara y positiva de contribuir con sus ideas y su voto, al efectivo desenvolvimiento de la comunidad jurídica.

Esta línea de pensamiento y conducta ha quedado patentizada en forma indubitable con la ratificación sin reservas por parte del Uruguay de todas las Convenciones de Panamá aprobadas por Ley N° 14.534 del año 1976.

En concordancia con lo que antecede, la República Oriental del Uruguay da su voto afirmativo a la fórmula del orden público, sin perjuicio de dejar expresa y claramente señalado, de conformidad con la posición sustentada en Panamá, que, según su interpretación acerca de la prealudida excepción, ésta se refiere al orden público internacional, como un instituto jurídico singular, no identificable necesariamente con el orden público interno de cada Estado.

Por consecuencia, a juicio de la República Oriental del Uruguay, la fórmula aprobada comporta una autorización excepcional a los distintos Estados Partes para que en forma no discrecional y fundada, declaren no aplicables los preceptos de la ley extranjera cuando éstos ofendan en forma concreta, grave y manifiesta, normas y principios esenciales de orden público internacional en los que cada Estado asiente su individualidad jurídica.”

¹ Translation supplied by the Organization of American States.

¹ Traduction fournie par l'Organisation des Etats américains.

[TRANSLATION]¹

The scope of public order:

Uruguay wishes to state that it expressly ratifies the line of thought enunciated in Panama at CIDIP-I, reaffirming its genuine Pan American spirit and its clear and positive decision to contribute with its ideas and endorsement to the successful development of the legal community.

This line of thinking and conduct has been evidenced in undoubtable form by the unreserved ratification by Uruguay of all the Conventions of Panama, approved by law number 14,534 in 1976.

In line with the foregoing, Uruguay gives its affirmative vote to the formula regarding public order. Nevertheless, Uruguay wishes to state expressly and clearly that, in accordance with the position it maintained in Panama, its interpretation of the aforementioned exception refers to international public order as an individual juridical institution, not necessarily identifiable with the internal public order of each State.

Therefore, in the opinion of Uruguay, the approved formula conveys an exceptional authorization to the various States Parties to declare in a nondiscretionary and well-founded manner that the precepts of foreign law are inapplicable whenever these concretely and in a serious and open manner offend the standards and principles essential to the international public order on which each individual State bases its legal individuality.

[TRADUCTION]¹

Sens et portée du concept d'ordre public :

La République orientale de l'Uruguay déclare qu'elle s'en tient à la ligne qu'elle a suivie à Panama, lors de la CIDIP-I. Elle réaffirme sa foi vive en le Panaméricanisme ainsi que sa décision nette et ferme de contribuer par ses idées et son vote au développement harmonieux de l'ordre juridique.

Cette position a été mise en évidence de façon manifeste avec la ratification sans réserves de la part de l'Uruguay de toutes les conventions conclues à Panama et approuvées par la loi No. 14.534 de 1976.

Dans ce contexte, la République orientale de l'Uruguay, émet un vote positif pour ce qui a trait à la définition de l'ordre public. Cependant, toujours dans la ligne de la position qu'elle a adoptée à Panama, elle spécifie clairement que selon son interprétation de l'exception précitée : celle-ci ne vise que l'ordre public international, en tant qu'institution juridique particulière, qui ne s'identifie pas nécessairement à l'ordre public interne de chaque Etat.

En conséquence, la République orientale de l'Uruguay estime que la définition adoptée autorise les Etats parties, à titre exceptionnel, pour des raisons justifiées et de manière non discriminatoire, à déclarer que les préceptes de la loi étrangère ne sont pas applicables dès lors qu'ils constituent une violation concrète, grave et manifeste des principes essentiels de l'ordre public international, qui sont à la base de l'individualité juridique de chaque Etat.

¹ Translation supplied by the Organization of American States.

¹ Traduction fournie par l'Organisation des Etats américains.

DECLARATIONS AND RESERVA-
TIONS MADE UPON RATIFICA-
TIONDÉCLARATIONS ET RÉSERVES
FAITES LORS DE LA RATIFICATION

MEXICO

MEXIQUE

[Same reservation as the one made upon signature. For the text, see p. 21 of this volume.]

[Même réserve que celle formulée lors de la signature. Pour le texte, voir p. 21 du présent volume.]

URUGUAY

URUGUAY

[Same declaration as the one made upon signature. For the text, see p. 21 of this volume.]

[Même déclaration que celle formulée lors de la signature. Pour le texte, voir p. 21 du présent volume.]

[SPANISH TEXT — TEXTE ESPAGNOL]

“Con la declaración formulada al firmarla.¹

El Gobierno de la República Oriental del Uruguay hace reserva del Artículo seis de la Convención Interamericana sobre Normas Generales de Derecho Internacional Privado por entender:

Primero: Que su admisibilidad significaría introducir una nueva excepción a la normal aplicación del derecho extranjero regularmente competente según la regla de conflicto,

Segundo: Que la excepción sólo podría funcionar cuando se haya afectado la aplicación de la ley propia,

Tercero: Se introduce un elemento de subjetividad difícilmente discernible, dándose seguramente entrada a presunciones de dudosa validez ante el texto claro de la norma de conflicto,

Cuarto: Se iría en muchas circunstancias contra la autonomía de la voluntad de las partes y dado el carácter claramente objetivo de muchos puntos de conexión, como el domicilio, se estaría eliminando los textos aprobados en la Conferencia acerca de tal punto de conexión como el Artículo dos de la Convención sobre el Domicilio de las Personas Físicas,

Quinto: El Uruguay admitirá el fraude a la ley en los casos en que se pueda perjudicar los intereses del país y no frente a relaciones meramente privadas,

Sexto: En el caso del establecimiento fraudulento del punto de conexión no existiría fraude a la ley sino fraude y en consecuencia no se habría establecido el punto de conexión.”

¹ See p. 21 of this volume — Voir p. 21 du présent volume.

[TRANSLATION]¹

With the declaration made at the time of signature.²

The Government of the Oriental Republic of Uruguay makes a reservation with respect to Article six of the Inter-American Convention on General Rules of Private International Law by understanding:

First: That its admissibility would signify introducing a new exception to the normal application of the regularly competent foreign law according to the rule of conflict,

Second: That the exception would function only when the application of the law itself has been affected,

Third: That it introduces an element of subjectivity that is difficult to perceive, by opening the door to presumptions of doubtful validity in the face of the clear text of the rule in conflict,

Fourth: In many cases it would go against the principle of the choice of law of the parties and considering the clearly objective nature of many points of contact, such as the domicile, it would be eliminating the texts approved in the Conference on that point of contact such as Article two of the Convention on Domicile of Natural Persons,

Fifth: Uruguay will acknowledge that fraud has been committed in the law in cases [that] can be prejudicial to the interests of the country but not in those concerning merely private relations,

Sixth: If the point of contact is established fraudulently in order not to comply with the law, the point of contact does not exist.

[TRADUCTION]¹

Avec la déclaration faite lors de la signature².

Le Gouvernement de la République orientale de l'Uruguay formule une réserve portant sur l'article 6 de la Convention interaméricaine sur les normes générales du droit international privé, étant entendu que :

Premièrement : L'admission officielle du principe visé équivaldrait à l'introduction d'une nouvelle exception à l'application normale du droit étranger dont la compétence est généralement reconvenue par les règles des conflits de lois;

Deuxièmement : L'exception ne serait effective que lorsque l'application de la loi elle-même est en jeu;

Troisièmement : Le texte de l'article en question introduit un élément de subjectivité qu'il est difficile d'apprécier et ouvre la voie à des présomptions aléatoires en présence du texte clair de la règle régissant les conflits de lois;

Quatrièmement : Dans beaucoup de cas, le texte de l'article irait à l'encontre du principe de l'autonomie de la volonté des parties, et étant donné le caractère nettement objectif de nombreux points de rattachement, comme celui du domicile, il rendrait caduques les dispositions adoptées lors de la Conférence sur ces questions, et notamment celles de l'Article 2 de la Convention sur le Domicile des Personnes physiques;

Cinquièmement : L'Uruguay admettra la fraude à la loi dans les cas où l'infraction est susceptible de porter préjudice aux intérêts du pays, mais non pas dans les cas concernant des rapports purement privés;

Sixièmement : Si le point de rattachement est établi frauduleusement pour violer la loi, le point de rattachement est inexistant.

¹ Translation supplied by the Organization of American States.

² See p. 22 of this volume.

¹ Traduction fournie par l'Organisation des Etats américains.

² Voir p. 22 du présent volume.