

No. 7413

**AUSTRIA, DENMARK, FINLAND, FRANCE,
FEDERAL REPUBLIC OF GERMANY, etc.**

**Convention on the conflicts of laws relating to the form
of testamentary dispositions. Done at The Hague, on
5 October 1961**

Official texts: French and English.

Registered by the Netherlands on 15 September 1964.

**AUTRICHE, DANEMARK, FINLANDE, FRANCE,
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE, etc.**

**Convention sur les conflits de lois en matière de forme des
dispositions testamentaires. Faite à La Haye, le 5 oc-
tobre 1961**

Textes officiels français et anglais.

Enregistrée par les Pays-Bas le 15 septembre 1964.

No. 7413. CONVENTION¹ ON THE CONFLICTS OF LAWS RELATING TO THE FORM OF TESTAMENTARY DISPOSITIONS. DONE AT THE HAGUE, ON 5 OCTOBER 1961

The States signatory to the present Convention,

Desiring to establish common provisions on the conflicts of laws relating to the form of testamentary dispositions,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions :

Article 1

A testamentary disposition shall be valid as regards form if its form complies with the internal law :

- a) of the place where the testator made it, or
- b) of a nationality possessed by the testator, either at the time when he made the disposition, or the time of his death, or
- c) of a place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or
- d) of the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or
- e) so far as immovables are concerned, of the place where they are situated.

For the purposes of the present Convention, if a national law consists of a non-unified system, the law to be applied shall be determined by the rules in force in that system and, failing any such rules, by the most real connexion which the testator had with any one of the various laws within that system.

¹ In accordance with article 15, the Convention came into force on 5 January 1964, the sixtieth day after the date of deposit of the third instrument of ratification. The following States deposited an instrument of ratification with the Government of the Netherlands on the dates indicated :

State	Date of deposit	Date of entry into force
Yugoslavia	25 September 1962	5 January 1964
Austria*	28 October 1963	5 January 1964
United Kingdom of Great Britain and Northern Ireland**	6 November 1963	5 January 1964
Japan	3 June 1964	2 August 1964

* With the reservation provided for in article 12 of the Convention.

** Maintaining the reservation formulated in the note addressed to the Government of the Netherlands upon signature of the Convention on 13 February 1962, which reads as follows :

“ In accordance with the provisions of Article 9 of the present Convention, the United Kingdom of Great Britain and Northern Ireland hereby reserves its right, in derogation of the third paragraph of Article 1, to determine in accordance with the *lex fori* the place where the testator had his domicile. ”

The determination of whether or not the testator had his domicile in a particular place shall be governed by the law of that place.

Article 2

Article 1 shall apply to testamentary dispositions revoking an earlier testamentary disposition.

The revocation shall also be valid as regards form if it complies with any one of the laws according to the terms of which, under Article 1, the testamentary disposition that has been revoked was valid.

Article 3

The present Convention shall not affect any existing or future rules of law in contracting States which recognize testamentary dispositions made in compliance with the formal requirements of a law other than a law referred to in the preceding Articles.

Article 4

The present Convention shall also apply to the form of testamentary dispositions made by two or more persons in one document.

Article 5

For the purposes of the present Convention, any provision of law which limits the permitted forms of testamentary dispositions by reference to the age, nationality or other personal conditions of the testator, shall be deemed to pertain to matters of form. The same rule shall apply to the qualifications that must be possessed by witnesses required for the validity of a testamentary disposition.

Article 6

The application of the rules of conflicts laid down in the present Convention shall be independent of any requirement of reciprocity. The Convention shall be applied even if the nationality of the persons involved or the law to be applied by virtue of the foregoing Articles is not that of a contracting State.

Article 7

The application of any of the laws declared applicable by the present Convention may be refused only when it is manifestly contrary to "ordre public".

Article 8

The present Convention shall be applied in all cases where the testator dies after its entry into force.

Article 9

Each contracting State may reserve the right, in derogation of the third paragraph of Article 1, to determine in accordance with the *lex fori* the place where the testator had his domicile.

Article 10

Each contracting State may reserve the right not to recognize testamentary dispositions made orally, save in exceptional circumstances, by one of its nationals possessing no other nationality.

Article 11

Each contracting State may reserve the right not to recognize, by virtue of provisions of its own law relating thereto, forms of testamentary dispositions made abroad when the following conditions are fulfilled :

- a) the testamentary disposition is valid as to form by reason only of a law solely applicable because of the place where the testator made his disposition,
- b) the testator possessed the nationality of the State making the reservation,
- c) the testator was domiciled in the said State or had his habitual residence there, and
- d) the testator died in a State other than that in which he had made his disposition.

This reservation shall be effective only as to the property situated in the State making the reservation.

Article 12

Each contracting State may reserve the right to exclude from the application of the present Convention any testamentary clauses which, under its law, do not relate to matters of succession.

Article 13

Each contracting State may reserve the right, in derogation of Article 8, to apply the present Convention only to testamentary dispositions made after its entry into force.

Article 14

The present Convention shall be open for signature by the States represented at the Ninth session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 15

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 14.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 16

Any State not represented at the Ninth session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 15. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for a State acceding to it on the sixtieth day after the deposit of its instrument of accession.

Article 17

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

Article 18

Any State may, not later than the moment of its ratification or accession, make one or more of the reservations mentioned in Articles 9, 10, 11, 12 and 13 of the present Convention. No other reservation shall be permitted.

Each contracting State may also, when notifying an extension of the Convention in accordance with Article 17, make one or more of the said reservations, with its effect limited to all or some of the territories mentioned in the extension.

Each contracting State may at any time withdraw a reservation it has made. Such a withdrawal shall be notified to the Ministry of Foreign Affairs of the Netherlands.

Such a reservation shall cease to have effect on the sixtieth day after the notification referred to in the preceding paragraph.

Article 19

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 15, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation will only have effect as regards the State which has notified it. The Convention shall remain in force for the other contracting States.

Article 20

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 14, and to the States which have acceded in accordance with Article 16, of the following :

- a) the signatures and ratifications referred to in Article 14;
- b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 15;
- c) the accessions referred to in Article 16 and the date on which they take effect;
- d) the extensions referred to in Article 17 and the date on which they take effect;
- e) the reservations and withdrawals referred to in Article 18;
- f) the denunciation referred to in the third paragraph of Article 19.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Convention.

DONE at The Hague the 5th October 1961, in French and in English, the French text prevailing in case of divergence between the two texts, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Ninth session of the Hague Conference on Private International Law.

Pour la République Fédérale d'Allemagne :
For the Federal Republic of Germany :

Dr. J. LÖNS

Pour l'Autriche :
For Austria :

Dr. Georg AFUHS

Pour la Belgique :
For Belgium :

Pour le Danemark :
For Denmark :

Wilhelm EICKHOFF

Pour l'Espagne :
For Spain :

Pour la Finlande :
For Finland :

H. VON KNORRING
le 13 mars 1962

Pour la France :
For France :

le 9 octobre 1961
Etienne COÏDAN
(sous la réserve prévue à l'article 10)¹

Pour la Grèce :
For Greece :

P. A. VERYKIOS

¹ With the reservation provided for in article 10

Pour l'Italie :
For Italy :

R. GIUSTINIANI
15.12.1961

Pour le Japon :
For Japan :

Yujiro ISEKI
30 Jan. 1964

Pour le Luxembourg :
For Luxemburg :

Pour la Norvège :
For Norway :

Otto KILDAL

Pour les Pays-Bas :
For the Netherlands :

Pour le Portugal :
For Portugal :

Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :
For the United Kingdom of Great Britain and Northern Ireland :

A. N. NOBLE

Subject to the reservation¹ made by the Government of the United Kingdom in a Note addressed to the Government of the Netherlands on February 13, 1962.²

¹ For the text of this reservation, see footnote 1, p. 177 of this volume.

² Avec la réserve faite par le Gouvernement du Royaume-Uni dans une note adressée au Gouvernement des Pays-Bas le 13 février 1962 (pour le texte de cette réserve, voir note 1, p. 176 de ce volume).

Pour la Suède :
For Sweden :

Brynolf ENG

Pour la Suisse :
For Switzerland :

Pour la Yougoslavie :
For Yugoslavia :

Rade LUKIĆ
(sous réserve de la ratification)¹

¹ Subject to ratification.