

No. 7660

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

**European Convention on Establishment (with Protocol).
Signed at Paris, on 13 December 1955**

Official texts: English and French.

Registered on 30 March 1965 by the Council of Europe, acting on behalf of the Contracting Parties, in accordance with Resolution 54 (6) of the Committee of Ministers of the Council of Europe, adopted on 3 April 1954.

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

**Convention européenne d'établissement (avec Protocole).
Signée à Paris, le 13 décembre 1955**

Textes officiels anglais et français.

Enregistrée le 30 mars 1965 par le Conseil de l'Europe agissant au nom des Parties contractantes, conformément à la résolution 54 (6) du Comité des ministres du Conseil de l'Europe, adoptée le 3 avril 1954.

No. 7660. EUROPEAN CONVENTION ON ESTABLISHMENT.¹ SIGNED AT PARIS, ON 13 DECEMBER 1955²

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the aim of the Council of Europe is to safeguard and to realise the ideals and principles which are the common heritage of its Members and to facilitate their economic and social progress ;

Recognising the special character of the links between the member countries of the Council of Europe as affirmed in conventions and agreements already concluded within the framework of the Council such as the Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4th November, 1950,³ the Protocol to this Convention signed on 20th March, 1952,⁴ the European Convention on Social and Medical Assistance⁵ and the two European Interim Agreements on Social Security signed on 11th December, 1953 ;⁶

Being convinced that, by the conclusion of a regional convention, the establishment of common rules for the treatment accorded to nationals of each Member State in the territory of the others may further the achievement of greater unity ;

Affirming that the rights and privileges which they grant to each others' nationals are conceded solely by virtue of the close association uniting the member countries of the Council of Europe by means of its Statute ;

¹ In accordance with article 34 (2), the Convention came into force on 23 February 1965, the date of deposit of the fifth instrument of ratification, in respect of the following States, on behalf of which the instruments of ratification were deposited with the Secretary-General of the Council of Europe on the dates indicated :

Norway	20 November 1957
Denmark	9 March 1961
Belgium	12 January 1962
Italy	31 October 1963
Federal Republic of Germany	23 February 1965

The Convention came into force for Greece on 2 March 1965, the date of deposit of its instrument of ratification.

For the text of the declarations and/or reservations made by certain States, see p. 176 of this volume.

² The texts adopted by the Committee of Ministers at its 17th Session, in the course of which this Convention was approved and opened for signature, and which texts contain a recommendation, as well as an interpretation of the scope of the Convention, are published on p. 184 of this volume for the purpose of information.

³ See footnote 2, p. 90 of this volume.

⁴ See footnote 3, p. 90 of this volume.

⁵ See footnote 1, p. 106 of this volume.

⁶ United Nations, *Treaty Series*, Vol. 218, pp. 153 and 211; for subsequent actions relating to this Agreement, see references in Cumulative Indexes Nos. 3 and 4, as well as Annex A in volumes 404, 407, 410, 417, 420 and 528.

Noting that the general plan of the Convention, fits into the framework of the organisation of the Council of Europe,

Have agreed as follows :

CHAPTER I

ENTRY, RESIDENCE AND EXPULSION

Article 1

Each Contracting Party shall facilitate the entry into its territory by nationals of the other Parties for the purpose of temporary visits and shall permit them to travel freely within its territory except when this would be contrary to *ordre public*, national security, public health or morality.

Article 2

Subject to the conditions set out in Article 1 of this Convention, each Contracting Party shall, to the extent permitted by its economic and social conditions, facilitate the prolonged or permanent residence in its territory of nationals of the other Parties.

Article 3

1. Nationals of any Contracting Party lawfully residing in the territory of another Party may be expelled only if they endanger national security or offend against *ordre public* or morality.
2. Except where imperative considerations of national security otherwise require, a national of any Contracting Party who has been so lawfully residing for more than two years in the territory of any other Party shall not be expelled without first being allowed to submit reasons against his expulsion and to appeal to, and be represented for the purpose before, a competent authority or a person or persons specially designated by the competent authority.
3. Nationals of any Contracting Party who have been lawfully residing for more than ten years in the territory of any other Party may only be expelled for reasons of national security or if the other reasons mentioned in paragraph 1 of this Article are of a particularly serious nature.

CHAPTER II

EXERCISE OF PRIVATE RIGHTS

Article 4

Nationals of any Contracting Party shall enjoy in the territory of any other Party treatment equal to that enjoyed by nationals of the latter Party in respect of the possession and exercise of private rights, whether personal rights or rights relating to property.

Article 5

Notwithstanding Article 4 of this Convention, any Contracting Party may, for reasons of national security or defence, reserve the acquisition, possession or use of any categories of property for its own nationals or subject nationals of other Parties to special conditions applicable to aliens in respect of such property.

Article 6

1. Apart from cases relating to national security or defence,
 - (a) Any Contracting Party which has reserved for its nationals or, in the case of aliens including those who are nationals of other Parties, made subject to regulations the acquisition, possession or use of certain categories of property, or has made the acquisition, possession or use of such property conditional upon reciprocity, shall, at the time of the signature of this Convention, transmit a list of these restrictions to the Secretary-General of the Council of Europe indicating which provisions of its municipal law are the basis of such restrictions. The Secretary-General shall forward these lists to the other Signatories ;
 - (b) After this Convention has entered into force in respect of any Contracting Party, that Contracting Party shall not introduce any further restrictions as to the acquisition, possession or use of any categories of property by nationals of the other Parties, unless it finds itself compelled to do so for imperative reasons of an economic or social character or in order to prevent monopolisation of the vital resources of the country. It shall in this event keep the Secretary-General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary-General shall communicate this information to the other Parties.
2. Each Contracting Party shall endeavour to reduce its list of restrictions for the benefit of nationals of the other Parties. It shall notify the Secretary-General of any such changes and he shall communicate them to the other Parties.

Each Party shall also endeavour to grant to nationals of other Parties such exemptions from the general regulations concerning aliens as are provided for in its own legislation.

CHAPTER III

JUDICIAL AND ADMINISTRATIVE GUARANTEES

Article 7

Nationals of any Contracting Party shall enjoy in the territory of any other Party, under the same conditions as nationals of the latter Party, full legal and judicial protection of their persons and property and of their rights and interests. In particular, they shall have, in the same manner as the nationals of the latter Party, the right of access to the competent judicial and administrative authorities and the right to obtain the assistance of any person of their choice who is qualified by the laws of the country.

Article 8

1. Nationals of any Contracting Party shall be entitled in the territory of any other Party to obtain free legal assistance under the same conditions as nationals of the latter Party.
2. Indigent nationals of a Contracting Party shall be entitled to have copies of *actes de l'état civil* issued to them free of charge in the territory of another Contracting Party in so far as these are so issued to indigent nationals of the latter Contracting Party.

Article 9

1. No security or deposit of any kind may be required, by reason of their status as aliens or of lack of domicile or residence in the country, from nationals of any Contracting Party, having their domicile or normal residence in the territory of a Party, who may be plaintiffs or third parties before the Courts of any other Party.
2. The same rule shall apply to the payment which may be required of plaintiffs or third parties to guarantee legal costs.
3. Orders to pay the costs and expenses of a trial imposed upon a plaintiff or third party who is exempted from such security, deposit or payment in pursuance either of the preceding paragraphs of this Article or of the law of the country in which the proceedings are taken, shall without charge, upon a request made through the diplomatic channel, be rendered enforceable by the competent authority in the territory of any other Contracting Party.

CHAPTER IV

GAINFUL OCCUPATIONS

Article 10

Each Contracting Party shall authorise nationals of the other Parties to engage in its territory in any gainful occupation on an equal footing with its own nationals, unless the said Contracting Party has cogent economic or social reasons for withholding the authorisation. This provision shall apply, but not be limited, to industrial, commercial, financial and agricultural occupations, skilled crafts and the professions, whether the person concerned is self-employed or is in the service of an employer.

Article 11

Nationals of any Contracting Party who have been allowed by another Party to engage in a gainful occupation for a certain period may not, during that period, be subjected to restrictions not provided for at the time the authorisation was granted to them unless such restrictions are equally applicable to nationals of the latter Party in similar circumstances.

Article 12

1. Nationals of any Contracting Party lawfully residing in the territory of any other Party shall be authorised, without being made subject to the restrictions referred to in Article 10 of this Convention, to engage in any gainful occupation on an equal footing with nationals of the latter Party, provided they comply with one of the following conditions :

- (a) they have been lawfully engaged in a gainful occupation in that territory for an uninterrupted period of five years ;
- (b) they have lawfully resided in that territory for an uninterrupted period of ten years ;
- (c) they have been admitted to permanent residence.

Any Contracting Party may, at the time of signature or of deposit of its instrument of ratification of this Convention, declare that it does not accept one or two of the conditions mentioned above.

2. Such Party may also, in accordance with the same procedure, increase the period laid down in paragraph 1 (a) of this Article to a maximum of ten years, provided that after the first period of five years renewal of an authorisation may in no case be refused in respect of the occupation pursued up to that time nor may such renewal be conditional upon any change in that occupation. It may also declare that it will not in all cases automatically grant the right to change from a wage-earning occupation to an independent occupation.

Article 13

Any Contracting Party may reserve for its own nationals the exercise of public functions or of occupations connected with national security or defence, or make the exercise of these occupations by aliens subject to special conditions.

Article 14

1. Apart from the functions or occupations mentioned in Article 13 of this Convention,

- (a) any Contracting Party which has reserved certain occupations for its own nationals or made the exercise of them by aliens, including nationals of the other Parties, subject to regulations or reciprocity, shall at the time of signature of this Convention transmit a list of these restrictions to the Secretary-General of the Council of Europe, indicating which provisions of its municipal law are the basis of such restrictions. The Secretary-General shall forward these lists to the other Signatories ;
- (b) after this Convention has entered into force in respect of any Contracting Party, that Party shall not introduce any further restrictions as to the exercise of gainful occupations by the nationals of other Parties unless it finds itself compelled to do so for imperative reasons of an economic or social character. It shall in this event keep the Secretary-General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary-General shall communicate this information to the other Parties.

2. Each Contracting Party shall endeavour for the benefit of nationals of the other Parties :

- to reduce the list of occupations which are reserved for its own nationals or the exercise of which by aliens is subject to regulations or reciprocity ; it shall notify the Secretary-General of any such changes, and he shall communicate them to the other Parties ;
- in so far as its laws permit, to allow individual exemptions from the provisions in force.

Article 15

The exercise by nationals of one Contracting Party in the territory of another Party of an occupation in respect of which nationals of the latter Party are required to possess professional or technical qualifications or to furnish guarantees shall be made subject to the production of the same guarantees or to the possession of the same qualifications or of others recognised as their equivalent by the competent national authority ;

Provided that nationals of the Contracting Parties engaged in the lawful pursuit of their profession in the territory of any Party may be called into the territory of any other Party by one of their colleagues for the purpose of lending assistance in a particular case.

Article 16

Commercial travellers who are nationals of a Contracting Party and are employed by an undertaking whose principal place of business is situated in the territory of a Contracting Party shall not need any authorisation in order to exercise their occupation in the territory of any other Party, provided that they do not reside therein for more than two months during any half-year.

Article 17

1. Nationals of any Contracting Party shall, in the territory of another Party, enjoy treatment no less favourable than nationals of the latter Party in respect of any statutory regulation by a public authority concerning wages and working conditions in general.
2. The provisions of this Chapter shall not be understood as requiring a Contracting Party to accord in its territory more favourable treatment as regards the exercise of a gainful occupation to the nationals of any other Party than that accorded to its own nationals.

CHAPTER V

INDIVIDUAL RIGHTS

Article 18

No Contracting Party may forbid nationals of another Party who have been lawfully engaged for at least five years in an appropriate occupation in the territory of the former Party from taking part on an equal footing with its own nationals as electors in elections held by bodies or organisations of an economic or professional nature such as Chambers of Commerce or of Agricultural or Trade Associations, subject to the decisions which such bodies or organisations may take in this respect within the limits of their competence.

Article 19

Nationals of any Contracting Party in the territory of any other Party shall be permitted, without any restrictions other than those applicable to nationals of the latter Party, to act as arbitrators in arbitral proceedings in which the choice of arbitrators is left entirely to the parties concerned.

Article 20

In so far as access to education is under State control, nationals of school age of any Contracting Party lawfully residing in the territory of any other Party shall be admitted, on an equal footing with the nationals of the latter Party, to institutions for primary and secondary education and technical and vocational training. The application of this provision to the grant of scholarships shall be left to the discretion of individual Parties. School attendance shall be compulsory for nationals of school age residing in the territory of another Contracting Party if it is compulsory for the nationals of the latter Party.

CHAPTER VI

TAXATION, COMPULSORY CIVILIAN SERVICES, EXPROPRIATION, NATIONALISATION

Article 21

1. Subject to the provisions concerning double taxation contained in agreements already concluded or to be concluded, nationals of any Contracting Party shall not be liable in the territory of any other Party to duties, charges, taxes or contributions, of any description whatsoever, other, higher or more burdensome than those imposed on nationals of the latter Party in similar circumstances ; in particular, they shall be entitled to deductions or exemptions from taxes or charges and to all allowances, including allowances for dependents.

2. A Contracting Party shall not impose on nationals of any other Party any residence charge not required of its own nationals. This provision shall not prevent the imposition in appropriate cases of charges connected with administrative formalities such as the issue of permits and authorisations which aliens are required to have, provided that the amount levied is not more than the expenditure incurred by such formalities.

Article 22

Nationals of a Contracting Party may in no case be obliged to perform in the territory of another Party any civilian services, whether of a personal nature or relating to property, other or more burdensome than those required of nationals of the latter Party.

Article 23

Without prejudice to the provisions of Article 1 of the Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms, nationals of any Contracting Party shall be entitled, in the event of expropriation or nationalisation

of their property by any other Party, to be treated at least as favourably as nationals of the latter Party.

CHAPTER VII STANDING COMMITTEE

Article 24

1. A Standing Committee shall be set up within a year of the entry into force of this Convention. This Committee may formulate proposals designed to improve the practical implementation of the Convention and, if necessary, to amend or supplement its provisions.
2. In the event of differences of opinion arising between the Parties over the interpretation or application of the provisions of Article 6, paragraph 1 (*b*), and Article 14, paragraph 1 (*b*), of this Convention, the Committee shall at the request of any Party concerned endeavour to settle such differences.
3. The Committee shall arrange for the publication of a periodical report containing all information regarding the laws and regulations in force in the territory of the Parties in respect of matters provided for in this Convention.
4. Each Member of the Council of Europe which has ratified this Convention shall appoint a representative to this Committee. Any other Member of the Council may be represented by an observer with the right to speak.
5. The Committee shall be convened by the Secretary-General of the Council of Europe.

Its first session shall take place within three months of the date of its establishment. Subsequent sessions shall be held at least once every two years. The Committee may also be convened whenever the Committee of Ministers of the Council considers it necessary. The period of two years shall run from the date of the end of the last session.
6. Opinions or recommendations of the Standing Committee shall be submitted to the Committee of Ministers.
7. The Standing Committee shall draw up its own Rules of Procedure.

CHAPTER VIII GENERAL PROVISIONS

Article 25

The provisions of this Convention shall not prejudice the provisions of municipal law, bilateral or multilateral treaties, conventions or agreements which are already

in force or may come into force under which more favourable treatment would be accorded to nationals of one or more of the other Contracting Parties.

Article 26

1. Any Member of the Council of Europe may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the said provision. Reservations of a general nature shall not be permitted under this Article.
2. Any reservation made under this Article shall contain a brief statement of the law concerned.
3. Any Member of the Council which makes a reservation under this Article shall withdraw the said reservation as soon as circumstances permit. Such withdrawal shall be made by notification addressed to the Secretary-General of the Council and shall take effect from the date of the receipt of such notification. The Secretary-General shall transmit the text of this notification to all the Signatories of the Convention.

Article 27

A Contracting Party which has made a reservation in respect of a particular provision of the Convention in accordance with Article 26 of this Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

Article 28

1. In time of war or other public emergency threatening the life of the nation, any Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation and provided that such measures are not inconsistent with its other obligations under international law.
2. Any Contracting Party availing itself of this right of derogation shall keep the Secretary-General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary-General of the Council when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

CHAPTER IX

FIELD OF APPLICATION OF THE CONVENTION

Article 29

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.
2. Any Member of the Council may, at the time of the signature or ratification of this Convention or at any later date, declare by notice addressed to the Secretary-General of the Council of Europe that this Convention shall apply to the territory or territories mentioned in the said declaration and for whose international relations it is responsible.
3. Any declaration made in accordance with the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 33 of this Convention.
4. The Secretary-General shall communicate to the other Members of the Council any declaration transmitted to him in accordance with paragraph 2 or paragraph 3 of this Article.

Article 30

1. For the purpose of this Convention, "nationals" means physical persons possessing the nationality of one of the Contracting Parties.
2. No Contracting Party shall be obliged to grant the benefits of this Convention to nationals of another Contracting Party ordinarily resident in a non-metropolitan territory of the latter Party to which the Convention does not apply.

CHARTER X

SETTLEMENT OF DISPUTES

Article 31

1. Any disputes which may arise between the Contracting Parties concerning the interpretation or the application of this Convention shall be submitted to the International Court of Justice by special agreement or by application by one of the parties to the dispute, unless the parties agree on a different method of peaceful settlement.
2. After the entry into force of the European Convention for the Peaceful Settlement of Disputes,¹ the Parties to that Convention shall apply those of its provisions which

¹ United Nations *Treaty Series*, Vol. 320, p. 243 ; Vol. 351, p. 448 ; Vol. 383, p. 324 ; Vol. 394, p. 294 ; Vol. 400, p. 404, and Vol. 404, p. 371.

are binding upon them to all disputes which may arise between them concerning the present Convention.

3. Any dispute subjected to a procedure referred to in the preceding paragraphs shall be immediately reported by the parties concerned to the Secretary-General of the Council of Europe, who shall inform the other Contracting Parties without delay.

4. If one of the parties to a dispute fails to carry out its obligations laid down in a decision of the International Court of Justice or the award of an arbitral tribunal, the other party may appeal to the Committee of Ministers of the Council of Europe. The latter may, if it deems necessary, make recommendations by a majority of two-thirds of the representatives entitled to sit on the Committee with a view to ensuring the execution of the said decision or award.

CHAPTER XI

FINAL PROVISIONS

Article 32

The Protocol¹ attached to this Convention shall form an integral part of it.

Article 33

1. A Contracting Party may denounce this Convention only at the end of five years from the date on which it became a Party to it, having previously given six months' notice by notification addressed to the Secretary-General of the Council of Europe, who shall inform the other Parties. A Party which does not so exercise the right of denunciation will remain bound for further successive periods of two years and may denounce this Convention only at the end any such period, having given notice six months previously.

2. Denunciation shall not have the effect of releasing the Contracting Party concerned from its obligations under this Convention in respect of any act which may have been performed by it before the date upon which the denunciation became effective.

3. Any Contracting Party which ceases to be a Member of the Council of Europe shall under the same conditions cease to be a Party to this Convention.

Article 34

1. This Convention shall be open for signature by the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

¹ See p. 170 of this volume.

2. This Convention shall come into force on the date of deposit of the fifth instrument of ratification.
3. As regards any Signatory ratifying subsequently, the Convention shall come into force on the date of deposit of its instrument of ratification.
4. The Secretary-General shall notify all the Members of the Council of the entry into force of the Convention, the names of the Contracting Parties which have ratified it, any reservations made and the subsequent deposit of any instruments of ratification.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Convention,

DONE at Paris, this 13th day of December, 1955, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified true copies to each of the Signatories.

For the Government
of the Kingdom of Belgium :

Pour le Gouvernement
du Royaume de Belgique :

P. H. SPAAK

For the Government
of the Kingdom of Denmark :

Pour le Gouvernement
du Royaume de Danemark :

Ernst CHRISTIANSEN

For the Government
of the French Republic :

Pour le Gouvernement
de la République française :

Antoine PINAY

For the Government
of the Federal Republic of Germany :

Pour le Gouvernement
de la République Fédérale d'Allemagne :

v. BRENTANO

For the Government
of the Kingdom of Greece :

Pour le Gouvernement
du Royaume de Grèce :

Spiro THEOTOKY

For the Government
of the Icelandic Republic :

Pour le Gouvernement
de la République islandaise :

Kristinn GUDMUNDSSON

For the Government
of Ireland :

Pour le Gouvernement
d'Irlande :

For the Government
of the Italian Republic :

Pour le Gouvernement
de la République italienne :

Vittorio BADINI

For the Government
of the Grand Duchy of Luxembourg :

Pour le Gouvernement
du Grand Duché de Luxembourg :

BECH

For the Government
of the Kingdom of the Netherlands :

Pour le Gouvernement
du Royaume des Pays-Bas :

J. W. BEYEN

For the Government
of the Kingdom of Norway :

Pour le Gouvernement
du Royaume de Norvège :

Halvard LANGE

For the Government
of the Saar :

Pour le Gouvernement
de la Sarre :

*(in application of Resolution (55) 31
of the Committee of Ministers)*

*(par application de la Résolution (55) 31
du Comité des Ministres)*

Liam COSGRAVE

For the Government
of the Kingdom of Sweden :

Pour le Gouvernement
du Royaume de Suède :

*Sous réserve de ratification
avec l'assentiment du Parlement suédois¹*

K. I. WESTMAN

For the Government
of the Turkish Republic :

Pour le Gouvernement
de la République turque :

N. MENEMENCIÖGLÜ

For the Government of the United
Kingdom of Great Britain and Northern
Ireland :

Pour le Gouvernement du Royaume-Uni
de Grande-Bretagne et d'Irlande du
Nord :

Signed at Strasbourg,
this 24th day of February, 1956

Signé à Strasbourg,
le 24 février 1956

Gerald MEADE

For the Government
of the Republic of Austria :

Pour le Gouvernement
de la République d'Autriche :

Signed at Paris,
this 13th day of December, 1957

Signé à Paris,
le 13 décembre 1957

Leopold FIGL

¹ Subject to ratification with the consent of the Swedish Parliament.

P R O T O C O L

Section I

ARTICLES 1, 2, 3, 5, 6, PARAGRAPH 1 (b), 10, 13 AND 14, PARAGRAPH 1 (b)

(a) Each Contracting Party shall have the right to judge by national criteria :

- (1) the reasons of "*ordre public*, national security, public health or morality" which may provide grounds for the exclusion from its territory of nationals of other Parties ;
- (2) "the economic and social conditions "which may prevent the admission of nationals of other Parties to prolonged or permanent residence or the exercise of gainful occupations in its territory ;
- (3) the circumstances which constitute a threat to national security or an offence against *ordre public* or morality ;
- (4) the reasons specified in the Convention for which a Contracting Party may reserve for its own nationals the acquisition, possession or use of any categories of property or the exercise of certain rights and occupations or may make the exercise thereof by nationals of the other Parties subject to special conditions.

(b) Each Contracting Party shall determine whether the reasons for expulsion are of a "particularly serious nature". In this connection account shall be taken of the behaviour of the individual concerned during his whole period of residence.

(c) A Contracting Party may only restrict the rights of nationals of other Parties for the reasons set forth in this Convention and to the extent compatible with the obligations assumed by the Parties.

Section II

ARTICLES 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 17 AND 20

(a) Regulations governing the admission, residence and movement of aliens and also their right to engage in gainful occupations shall be unaffected by this Convention in so far as they are not inconsistent with it.

(b) Nationals of a Contracting Party shall be considered as lawfully residing in the territory of another Party if they have conformed to the said regulations.

Section III

ARTICLES 1, 2 AND 3

(a) The concept of "*ordre public*" is to be understood in the wide sense generally accepted in continental countries. A Contracting Party may, for instance, exclude a national of another Party for political reasons, or if there are grounds for believing that he is unable to pay the expenses of his stay or that he intends to engage in a gainful occupation without the necessary permits.

(b) The Contracting Parties undertake, in the exercise of their established rights, to pay due regard to family ties.

(c) The right of expulsion may be exercised only in individual cases.

The Contracting Parties shall, in exercising their right of expulsion, act with consideration, having regard to the particular relations which exist between the Members of the Council of Europe. They shall in particular take due account of family ties and the period of residence in their territory of the person concerned.

Section IV

ARTICLES 8 AND 9

Articles 8 and 9 of this Convention in no way affect obligations contracted under The Hague Convention on Civil Procedure.¹

Section V

ARTICLES 10, 11, 12, 13, 14, 15, 16 AND 17

(a) The provisions of Articles 10, 11, 12, 13, 14, 15, 16 and 17 of this Convention shall be subject to the conditions governing entry and residence laid down in Articles 1 and 2.

(b) The husband or wife and dependent children of nationals of any Contracting Party lawfully residing in the territory of another Party who have been authorised to accompany or rejoin them shall as far as possible be allowed to take up employment in that territory in accordance with the conditions laid down in this Convention.

(c) The provisions of Article 12 of this Convention shall not apply to nationals of a Contracting Party residing in the territory of another Party in pursuance of special regulations or engaged in a gainful occupation therein in pursuance of special rules or agreements, including such persons as members, or staff not locally recruited, of diplomatic or consular missions; members of the staff of international organisations; student employees, apprentices, students and persons employed for the purpose of completing their vocational training; crews of ships and aircraft.

(d) For the purposes of Article 16 of this Convention, the Contracting Parties shall not, in their municipal legislation or regulations, treat the occupation of commercial traveller as an itinerant trade or form of hawking.

(e) It is understood that Article 16 applies only to commercial travellers acting under the orders of an undertaking situated outside the receiving country and remunerated solely by such undertaking.

¹ (1) Convention relating to civil procedure, signed at The Hague on 17 July 1905; see De Martens, *Nouveau Recueil général de Traité*s, troisième série, tome II, p. 243; League of Nations, *Treaty Series*, Vol. L, p. 180; Vol. LIV, p. 434; Vol. XCII, p. 420, and Vol. C, p. 265; and United Nations *Treaty Series*, Vol. 216, p. 432; Vol. 293, p. 388, and Vol. 511, p. 326. (2) Convention relating to civil procedure, done at The Hague on 1 March 1954; see United Nations, *Treaty Series*, Vol. 286, p. 265, and Vol. 510, p. 326.

(f) Article 17, paragraph 1, of this Convention shall not apply to the special case of student employees in respect of their remuneration.

Section VI

ARTICLES 2, 11, 12, 13, 14, 15, 16, 17 AND 25

(a) It is understood that this Convention shall not apply to industrial, literary and artistic property and new vegetable products, as these subjects are reserved for international conventions or other international agreements relating thereto which are already in force or will come into force.

(b) Those Contracting Parties to this Convention which are now or will be bound by the decisions of the Organisation for European Economic Co-operation governing the employment of nationals of its member countries shall, in their mutual relations and in respect of the exercise of wage-earning occupations, apply the provisions of this Convention or of the said decisions, whichever grant the more favourable treatment to wage-earners. In applying the provisions of Articles 2, 10, 11, 12, 13, 14, 15, 16 and 17 of this Convention and judging the economic or social reasons mentioned in Articles 10 and 14, they shall conform to the spirit and the letter of the said decisions in so far as the latter are more favourable to wage-earners than the provisions of this Convention.

Section VII

ARTICLE 26, PARAGRAPH 1

The Contracting Parties shall exercise their right to make reservations only in so far as they consider that essential provisions of their municipal law so require.

Section VIII

ARTICLE 29, PARAGRAPH 1

(a) This Convention shall, in respect of France, also apply to Algeria and the overseas Departments.

(b) The Federal Republic of Germany may extend the application of this Convention to the *Land* Berlin by a declaration¹ addressed to the Secretary-General of the Council of Europe who shall notify the other Contracting Parties thereof.

ARTICLE 29, PARAGRAPH 2

Any Member of the Council of Europe which makes a declaration in accordance with Article 29, paragraph 2 of this Convention shall, at the same time and in respect of any territory mentioned in such declaration, transmit to the Secretary-General of the Council the lists of restrictions specified in Article 6, paragraph 1, and Article 14, paragraph 1, any declaration made in accordance with Article 12 and any reservation made in accordance with Article 26 of this Convention.

¹ See p. 176 of this volume.

ARTICLE 30

The term "ordinarily resident" shall be defined according to the regulations applicable in the country of which the person concerned is a national.

Section IX

ARTICLE 31, PARAGRAPH 1

Contracting Parties not party to the Statute of the International Court of Justice shall take the necessary steps to obtain access to the Court.

DECLARATION AND RESERVATIONS

BELGIUM

Declaration made upon ratification

... I have the honour to declare, in accordance with Article 12, that my Government does not agree to the terms of paragraph 1 (b) and (c) and that it extends the period laid down in (a) to ten years ; furthermore, it will not automatically grant the right to change from a wage-earning occupation to an independent occupation.

FEDERAL REPUBLIC OF GERMANY

Declaration made by the Minister for Foreign Affairs of the Federal Republic of Germany at the 17th Session of the Committee of Ministers, Paris, 13 December 1955

"As far as the Federal Republic of Germany is concerned, "nationals" are all Germans within the meaning of the Basic Law of the Federal Republic of Germany."

Reservation and declaration made upon ratification

"1. In conformity with Article 26 of the Convention the Federal Republic of Germany makes the following reservation : Article 4 of the Convention shall not affect the provision of Article 7 of the *Reichsgesetz* of 22nd May 1910 (*Reichsgesetzblatt*, p. 798) nor the corresponding *Laender* legislations. According to those provisions, the prerequisite to the liability of the State and the public authorities in relation to aliens in conformity with Article 34 of the Basic Law for the Federal Republic of Germany and Section 839 of the German Civil Code, is that the same rights are accorded to German nationals by the country of the alien concerned.

"2. The European Convention on Establishment of 13th December 1955 shall also apply to *Land* Berlin from the day on which it enters into force for the Federal Republic of Germany."

GREECE

Declaration made upon ratification

"The Greek Government declare that they do not accept the condition laid down in Sub-paragraph (b) of Article 12. They further declare that they extend to ten years the time-limit prescribed in sub-paragraph (a) of the same Article."

ITALY

Reservation made upon ratification

"Availing itself of the option provided in Article 26, paragraph 1, of the European Convention on Establishment, the Italian Government declares that the provision on arbitration in Article 19 of the said Convention will not be applied, as in Italy Article 812 of the Code of Civil Procedure at present in force stipulates that the "arbitrators must be of Italian nationality."

NORWAY

Declaration and reservation contained in the instrument of ratification

"... We approve, ratify and confirm the said Convention with the exception of paragraphs 1 (a) and (c) of Article 12 and, with regard to paragraph 1 of Article 3, subject to the right of expulsion provided for in Article 13, paragraph 1 (d), of the Norwegian Act of 27th July 1956 on the admission of aliens to the Kingdom of Norway."

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Reservations made at the time of signature

ARTICLE 9

Reservation

The Government of the United Kingdom reserves the right to apply paragraphs 1 and 2 as if the words "or lack of domicile or residence in the country" were omitted from paragraph 1.

*Legislation**England and Wales*

Under Order 65, Rule 6A, of the Rules of the Supreme Court a plaintiff ordinarily resident out of the jurisdiction may be ordered to give security but in practice these orders are not made where the plaintiff is ordinarily resident in Scotland or Northern Ireland; if however, he is ordinarily resident elsewhere out of the jurisdiction and is not possessed of substantial property within it, the order will be made on the application of the defendant as a matter of course.

Under Order 3, Rule 1 (1) of the County Court Rules security for costs is required to be given by a plaintiff in a County Court who is resident outside England and Wales.

*Reservation**Legislation**Scotland*

It is a general rule of the law of Scotland that no one is bound to litigate in Scotland with a person who is not subject to the jurisdiction of the Scottish Courts. Persons residing outside the United Kingdom and having no heritable (real) property in Scotland are therefore normally to appear by a mandatory. In effect this is the equivalent of the requirement of security for costs.

Northern Ireland

Order 29, Rules 2, 3 and 4 of the Rules of the Supreme Court of Northern Ireland provide—

2. A defendant shall not be entitled to an order compelling the plaintiff to give security for costs solely on the ground that the plaintiff resides in England or Scotland.

3. No defendant shall be entitled to an order for security for costs by reason of any plaintiff being resident out of the jurisdiction of the Court, unless upon a satisfactory affidavit that such defendant has a defence upon the merits.

4. A plaintiff ordinarily resident out of the jurisdiction may be ordered to give security for costs though he may be temporarily resident within the jurisdiction.

Under Order 16, Rule 3 of the County Court Rules, where a plaintiff resides out of Northern Ireland the defendant may require security for costs.

It will be observed that the foregoing rules in the United Kingdom turn solely on residence and involve no discrimination against aliens as such.

The Government of the United Kingdom does not accept the obligation contained in paragraph 3.

A foreign judgment is not automatically enforceable; an action must first be brought on it in the appropriate court in the United Kingdom. This general rule has been modified by the Foreign Judgments (Reciprocal Enforcement) Act, 1933 (23 & 24 Geo. 5. C. 13) which, however, has only

Reservation

ARTICLE 15

The Government of the United Kingdom reserves the right to apply the proviso as if it did not extend to the professions of medicine and dentistry.

ARTICLE 21

The Government of the United Kingdom will apply paragraph 1 as if there were a saving in the following terms :

“Nothing in this paragraph shall however be construed in relation to any territory of any of the Contracting Parties as obliging that Party to grant to nationals of any other Contracting Party who are not resident in that territory the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.”

Legislation

been extended by Order in Council to the case of judgments by the superior courts of Belgium and France.

Under the Dentists Act, 1921 (11 & 12 Geo. 5. C. 21) no unregistered person may practise dentistry.

Under rules laid down by the British Medical Council, which is empowered by the Medical Acts (of which the latest is the Medical Act, 1950) (14 Geo. 6. Ch. 29) to regulate the medical profession, a registered practitioner would be liable to disciplinary action if he called in an unregistered person.

Section 227 of the Decree Tax Act, 1952 (15 & 16 Geo. 6 & 1 Eliz. 2. Ch. 10) does not in general entitle non-resident aliens to the relief given to non-resident British subjects. Non-resident aliens only enjoy such relief in pursuance of double taxation agreements.

TEXTS ADOPTED BY THE COMMITTEE OF MINISTERS

1. RESOLUTION (55) 33 ADOPTED AT THE 17TH SESSION OF THE COMMITTEE OF MINISTERS, PARIS, 13 DECEMBER 1955¹

"European Convention on Establishment"

"The Committee of Ministers,

"Having approved the text of the draft European Convention on Establishment and having decided to submit this Convention for signature by the Governments of the Members of the Council ;

"Considering that the question has arisen whether a Signatory Party may, during the interval between the signature and the entry into force of the Convention for that Party, introduce new restrictions in respect of the matters provided for in Articles 6 and 14 ;

"In view of the spirit and fundamental character of this Convention,

"Recommends the Members of the Council, after the signature of the Convention, to take note of the provisions of paragraph 1 (b) of Articles 6 and 14."

2. TEXT ADOPTED AT THE 17TH SESSION OF THE COMMITTEE OF MINISTERS²

"The Committee of Ministers expressed the view that the European Convention on Establishment should not be applicable to foreign currency and exchange regulations."

¹ See Documents of the Committee of Ministers, Vol. II, 1955, Official Report of the 17th Session of the Committee of Ministers, pp. 177 and 206.

² See Documents of the Committee of Ministers, Vol. II, 1955, Minutes of the 17th Session, p. 174.