

No. 7822

---

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

**Convention concerning the recognition and enforcement  
of decisions relating to maintenance obligations to-  
wards children. Opened for signature at The Hague,  
on 15 April 1958**

*Official text: French.*

*Registered by the Netherlands on 16 June 1965.*

---

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

**Convention concernant la reconnaissance et l'exécution des  
décisions en matière d'obligations alimentaires envers  
les enfants. Ouverte à la signature à La Haye, le  
15 avril 1958**

*Texte officiel français.*

*Enregistrée par les Pays-Bas le 16 juin 1965.*

## [TRANSLATION — TRADUCTION]

No. 7822. CONVENTION<sup>1</sup> CONCERNING THE RECOGNITION AND ENFORCEMENT OF DECISIONS RELATING TO MAINTENANCE OBLIGATIONS TOWARDS CHILDREN. OPENED FOR SIGNATURE AT THE HAGUE, ON 15 APRIL 1958

The States signatories of this Convention;

Desiring to establish common provisions to govern the recognition and enforcement of decisions relating to maintenance obligations towards children;

<sup>1</sup>In accordance with article 16, paragraph 1, the Convention came into force on 1 January 1962, the sixtieth day following the date of deposit of the fourth instrument of ratification. The instruments of ratification of the following States were deposited with the Netherlands Government on the dates indicated :

<i>State</i>	<i>Date of deposit</i>	<i>Date of entry into force</i>	
Austria . . . . .	5 September 1960	1 January	1962
Italy . . . . .	22 February 1961	1 January	1962
Belgium . . . . .	15 September 1961	1 January	1962
Federal Republic of Germany (also for <i>Land Berlin</i> ) . . . . .	2 November 1961	1 January	1962
Netherlands (for the Kingdom in Europe; with reservation and declaration)* . . . . .	28 February 1964	28 April	1964
Switzerland . . . . .	18 November 1964	17 January	1965

In accordance with articles 14 and 16, paragraph 3, the Convention was put into effect on the dates given below with respect to relations between the Kingdom of the Netherlands, on the one hand, as regards the Netherlands Antilles and Surinam, and the following States, on the other, which have deposited with the Netherlands Government a declaration accepting the notification received from that Government on 28 February 1964 with regard to the Netherlands Antilles and on 27 May 1964 with regard to Surinam :

## I. NETHERLANDS ANTILLES

<i>State</i>	<i>Date of deposit of declaration of acceptance</i>		<i>Date of entry into force</i>	
Belgium . . . . .	16 April	1964	15 June	1964
Federal Republic of Germany . . . . .	1 September	1964	31 October	1964
Italy . . . . .	14 September	1964	13 November	1964

## II. SURINAM

Belgium . . . . .	3 July	1964	1 September	1964
Federal Republic of Germany . . . . .	1 September	1964	31 October	1964
Italy . . . . .	14 September	1964	13 November	1964

In addition, Hungary having deposited with the Netherlands Government on 20 October 1964 notice of its intention to accede to the Convention, the Convention entered into force on 19 December 1964 with respect to the relations between Hungary and the Federal Republic of Germany, and on 5 April 1965 with respect to the relations between Hungary and Italy. The Federal Republic of Germany and Italy deposited on 28 December 1964 and 5 April 1965 respectively a declaration accepting Hungary's accession.

\*The instrument of ratification of the Netherlands contains the following reservation : " In the Kingdom of the Netherlands, decisions rendered by an authority of another Contracting State which had jurisdiction by virtue of the residence of the party entitled to maintenance shall not be recognized or declared enforceable under the Convention. "

Upon the deposit of the Netherlands instrument of ratification, the Minister for Foreign Affairs of the Netherlands declared that " so far as the Kingdom of the Netherlands is concerned, the expression ' metropolitan territories ' employed in the text of the said Convention means ' European territory ' in view of the equality which exists in public law between the Netherlands, Surinam and the Netherlands Antilles. "

Have resolved to conclude a Convention for this purpose and have agreed on the following provisions :

### Article 1

The purpose of this Convention is to provide for the reciprocal recognition and enforcement, by the Contracting States, of decisions rendered on applications, whether international or domestic, relating to maintenance claimed by a legitimate, illegitimate or adopted child who is unmarried and under twenty-one years of age.

If the decision contains provisions on a matter other than the maintenance obligation, the effect of the Convention shall be limited to the said obligation.

The Convention shall not apply to decisions relating to maintenance as between collaterals.

### Article 2

Decisions relating to maintenance which are rendered in one of the Contracting States shall be recognized and declared enforceable, without a review of the merits, in the other Contracting States if :

1. The deciding authority had jurisdiction under this Convention;

2. The respondent party was served due notice of the proceedings or was duly represented in accordance with the law of the State of the deciding authority;

However, in the case of a decision by default, recognition and enforcement may be refused if, having regard to the circumstances of the case, the enforcement authority holds that the defaulting party was unaware of the proceedings, or unable to defend himself therein, through no fault of his own;

3. The decision has acquired the force of *res judicata* in the State where it was rendered;

However, provisionally enforceable decisions and interlocutory measures, although subject to appeal, shall be declared enforceable by the enforcement authority if similar decisions may be rendered and enforced in the State of that authority;

4. The decision does not conflict with a decision rendered on the same matter and between the same parties in the State where it is relied upon;

Recognition and enforcement may be refused if, before the decision was delivered, an action was pending in the State where it is relied upon;

5. The decision is not manifestly incompatible with the public policy of the State where it is relied upon.

*Article 3*

For the purposes of this Convention, the following authorities shall be competent to render decisions relating to maintenance :

1. The authorities of the State in whose territory the party liable for maintenance had his habitual residence at the time when the action was instituted;
2. The authorities of the State in whose territory the party entitled to maintenance had his habitual residence at the time when the action was instituted;
3. The authority to whose jurisdiction the party liable for maintenance has submitted, either expressly or by presenting his case on the merits without reservations as to jurisdiction.

*Article 4*

The party who relies upon a decision or who applies for enforcement thereof must produce :

1. A transcript of the decision satisfying the conditions required for its authenticity;
2. Documentary evidence that the decision is enforceable;
3. In the case of a decision by default, an authentic copy of the writ instituting the action and documentary evidence that such writ was duly served.

*Article 5*

Examination by the enforcement authority shall be confined to the conditions laid down in article 2 and the documents enumerated in article 4.

*Article 6*

The exequatur proceedings shall be governed, save where this Convention provides otherwise, by the law of the State of the enforcement authority.

Any decision declared enforceable shall have the same force and produce the same effects as if it had been issued by a competent authority of the State where enforcement is applied for.

*Article 7*

If the decision, the enforcement of which is applied for, ordered the payment of maintenance in instalments, enforcement shall be granted both in respect of instalments already due and in respect of future instalments.

*Article 8*

The conditions laid down by the preceding articles for the recognition and enforcement of the decisions to which this Convention refers shall also

apply to decisions issued by one of the authorities referred to in article 3, varying an order relating to a maintenance obligation.

#### Article 9

A party who has been granted free legal aid in the State where the decision was rendered shall have the benefit thereof in the proceedings for enforcement of the decision.

In the proceedings to which this Convention refers, the deposit of security for costs and penalties (*cautio judicatum solvi*) shall not be required.

Documents produced shall be exempt, in proceedings governed by this Convention, from visa and legalization.

#### Article 10

The Contracting States undertake to facilitate the transfer of sums awarded in satisfaction of maintenance obligations towards children.

#### Article 11

Nothing in this Convention shall affect the right of the party entitled to maintenance to avail himself of any other provision applicable to the enforcement of decisions relating to maintenance, whether under the municipal law of the country where the enforcement authority sits or under the terms of another Convention in force between the Contracting States.

#### Article 12

This Convention shall not apply to decisions rendered before its entry into force.

#### Article 13

Each Contracting State shall indicate to the Government of the Netherlands the authorities competent to render decisions relating to maintenance and to render foreign decisions enforceable.

The Government of the Netherlands shall bring such communications to the notice of the other Contracting States.

#### Article 14

This Convention shall apply *ipso jure* to the metropolitan territories of the Contracting States.

If a Contracting State wishes to bring the Convention into force in all or some of the other territories for whose international relations it is responsible, it shall give notice of its intention in this regard by an instrument which shall

be deposited with the Ministry of Foreign Affairs of the Netherlands. The said Ministry shall transmit a certified true copy thereof through the diplomatic channel to each of the Contracting States.

Such a declaration shall have effect for non-metropolitan territories only in relations between the State which made it and those States which have declared that they accept it. The latter declaration shall be deposited with the Ministry of Foreign Affairs of the Netherlands; the said Ministry shall transmit a certified true copy thereof through the diplomatic channel to each of the Contracting States.

#### *Article 15*

This Convention shall be open for signature by the States represented at the eighth 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.

A record shall be made of the deposit of every instrument of ratification, and a certified true copy of the said record shall be transmitted through the diplomatic channel to each of the signatory States.

#### *Article 16*

This Convention shall enter into force on the sixtieth day following the deposit of the fourth instrument of ratification in accordance with article 15.

For each signatory State subsequently ratifying the Convention, it shall enter into force on the sixtieth day following the date of deposit of the instrument of ratification of that State.

In the case provided for by article 14, second paragraph, of this Convention, the Convention shall be applicable on the sixtieth day following the date of deposit of the declaration of acceptance.

#### *Article 17*

Any State not represented at the eighth session of The Hague Conference on Private International Law 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 Ministry of Foreign Affairs of the Netherlands. The said Ministry shall transmit a certified true copy thereof through the diplomatic channel to each of the Contracting States.

The Convention shall enter into force, between the acceding State and the State declaring acceptance of such accession on the sixtieth day following the date of deposit of the instrument of accession.

The accession shall have effect only in relations between the acceding State and those Contracting States which have declared that they accept such accession. Such declaration shall be deposited with the Ministry of Foreign Affairs of

the Netherlands; the said Ministry shall transmit a certified true copy thereof through the diplomatic channel to each of the Contracting States.

It is understood that the deposit of the instrument of accession shall not take place until after the entry into force of this Convention pursuant to article 16.

#### *Article 18*

Any Contracting State may, on signing or ratifying this Convention or on acceding thereto, make a reservation concerning the recognition and enforcement of decisions rendered by an authority of another Contracting State which had jurisdiction by virtue of the residence of the party entitled to maintenance.

A State which makes such a reservation shall have no claim to application of the Convention to decisions rendered by its authorities where the said authorities had jurisdiction by virtue of the residence of the party entitled to maintenance.

#### *Article 19*

This Convention shall have a term of five years from the date specified in article 16, first paragraph, thereof. This term shall begin from that date, even for States which ratify or accede to the Convention subsequently.

The Convention shall be renewed by tacit agreement for successive terms of five years unless it is denounced.

Notice of denunciation must be given, at least six months before the expiry of the current term, to the Ministry of Foreign Affairs of the Netherlands, which shall inform all the other Contracting States thereof.

Denunciation may be limited to the territories or to some territories specified in a notice given in accordance with article 14, second paragraph.

The denunciation shall have effect only as regards the State which has given notice thereof. The Convention shall remain in force for the other Contracting States.

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

DONE at The Hague, on 15 April 1958, in a single copy, which shall be deposited in the archives of the Government of the Netherlands and of which a certified true copy shall be transmitted through the diplomatic channel to each of the States represented at the eighth session of The Hague Conference on Private International Law and to the States subsequently acceding.

For the Federal Republic of Germany :

Dr. Josef LÖNS  
8 October 1958

For Austria :

Dr. Georg AFUHS

For Belgium :

VAN DER STRATEN  
11 July 1958

For Denmark :

For Spain :

For Finland :

For France :

Étienne DE CROUY-CHANEL  
6 January 1965

For Greece :

A. TZIRAS

For Italy :

GIUSTINIANI  
8 October 1958

For Japan :

For Luxembourg :

P. SCHULTÉ  
14 March 1962  
with the reservation provided for in article 18<sup>1</sup>

For Norway :

Lars J. JORSTAD  
19 May 1958  
subject to ratification

<sup>1</sup> In a note of 14 March 1962 from the Luxembourg Embassy at The Hague addressed to the Ministry of Foreign Affairs of the Netherlands, the above-mentioned Luxembourg reservation was stated as follows : " Decisions rendered in other Contracting States by an authority which had jurisdiction solely by virtue of the residence of the party entitled to maintenance shall not be recognized or enforced in the Grand Duchy of Luxembourg. "



For the Netherlands :

J. LUNS  
25 May 1959

For Portugal :

For the United Kingdom of Great Britain and Northern Ireland :

For Sweden :

For Switzerland :

Jean MERMINOD  
4 July 1963

For Turkey :

---