

No. 9636

FRANCE
and
POLAND

Convention concerning the applicable law, jurisdiction and reciprocal enforcement of judicial decisions in matters of personal status and family law. Signed at Warsaw on 5 April 1967

Authentic texts: French and Polish.

Registered by France on 18 June 1969.

FRANCE
et
POLOGNE

Convention relative à la loi applicable, la compétence et l'exécution dans le droit des personnes et de la famille. Signée à Varsovie le 5 avril 1967

Textes authentiques: français et polonais.

Enregistrée par la France le 18 juin 1969.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE FRENCH REPUBLIC AND
THE PEOPLE'S REPUBLIC OF POLAND CONCERNING
THE APPLICABLE LAW, JURISDICTION AND RECI-
PROCAL ENFORCEMENT OF JUDICIAL DECISIONS IN
MATTERS OF PERSONAL STATUS AND FAMILY LAW

The President of the French Republic and the Council of State of the People's Republic of Poland, desiring to establish common provisions in respect of personal status and family law and to develop their relations in the legal sphere, have resolved to conclude this Convention and for that purpose have appointed as their plenipotentiaries:

The President of the French Republic:

Mr. Arnauld Wapler, Ambassador Extraordinary and Plenipotentiary of the French Republic;

The Council of State of the Polish People's Republic:

Mr. Stanislaw Walczak, Minister of Justice of the Polish People's Republic,

who, having exchanged their full powers, found in good and due form, have agreed as follows:

PART I

THE APPLICABLE LAW AND JURISDICTION IN MATTERS
OF PERSONAL STATUS AND FAMILY LAW

Chapter I

GENERAL PROVISIONS

Article 1

A person whose habitual residence is situated in the territory of one of the High Contracting Parties shall be considered to be domiciled in that territory.

¹ Came into force on 1 March 1969, i.e., the first day of the third month following the exchange of the instruments of ratification, which took place at Paris on 4 December 1968, in accordance with article 30 (1).

Article 2

The legal capacity of an individual as regards the enjoyment and exercise of rights shall be determined by the law of the High Contracting Party of which that person is a national.

Article 3

The form of a legal instrument shall depend on the law of the High Contracting Party in whose territory the instrument is drawn up.

Chapter II

MARRIAGE

Article 4

1. The form of marriage shall be that prescribed by the law of the High Contracting Party before whose authority the marriage is solemnized.

2. Conditions governing capacity to marry shall be those prescribed by the law of the High Contracting Party of which the spouses are nationals.

3. If one of the spouses is a national of one of the High Contracting Parties and the other is a national of the other High Contracting Party, the conditions referred to in paragraph 2 shall in each case depend on the law of the State of which the person concerned is a national.

Article 5

1. Personal and property relations of spouses shall be governed by the law of the High Contracting Party in whose territory the spouses are domiciled.

2. If one of the spouses resides in the territory of one High Contracting Party and the other in the territory of the other High Contracting Party, both spouses having the same nationality, their personal and property relations shall be governed by the law of the High Contracting Party of which they are nationals.

3. If one of the spouses is a national of one High Contracting Party and the other a national of the other High Contracting Party and if one resides in the territory of one High Contracting Party and the other in the territory of the other High Contracting Party, their personal and property relations shall be governed by the law of the High Contracting Party in whose territory they had their last joint domicile.

Article 6

1. The validity and effect of a marriage contract shall be determined by the law of the High Contracting Party under whose jurisdiction the spouses have chosen to place themselves.
2. The validity and effect of a marriage contract which does not explicitly state under which law the spouses have placed themselves shall be determined by the law of the High Contracting Party in whose territory the contract was concluded.
3. Legal capacity to enter into a marriage contract shall be determined by the law referred to in article 2.
4. The form of a marriage contract shall be determined by the law of the High Contracting Party in whose territory it was concluded.

Article 7

1. Annulment of marriage on grounds of failure to satisfy the conditions governing capacity to marry shall be subject to the law referred to in article 4, paragraph 2.
2. Annulment of marriage on grounds of informality shall be subject to the law referred to in article 4, paragraph 1.

Article 8

1. Divorce shall be granted in accordance with the law of the High Contracting Party of which the spouses are nationals on the date of the petition for divorce.
2. If one of the spouses is a national of one High Contracting Party and the other a national of the other High Contracting Party on the date on which the petition is filed, the divorce shall be granted in accordance with the law of the High Contracting Party in whose territory the spouses have or had their last domicile.
3. The provisions of paragraphs 1 and 2 concerning divorce shall apply to separation in so far as provision for separation is made in the law of either High Contracting Party.

Article 9

In proceedings involving legal relations between spouses and in proceedings seeking annulment, divorce or separation, the courts of the High Contracting Party in whose territory the spouses have or had their last domicile shall have jurisdiction.

Chapter III

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 10

1. The legal relations between parents and children shall be governed by the laws of the High Contracting Party in whose territory they have their domicile.

2. If the parents or one of the parents are/is domiciled in the territory of one High Contracting Party and the child in the territory of the other High Contracting Party, their legal relations shall be governed by the law of the High Contracting Party of which the child is a national.

3. The legal relations between a natural child and its parents shall be governed by the law of the High Contracting Party of which the child is a national.

Article 11

1. The courts of the High Contracting Party in whose territory the parents and children are domiciled shall be competent to hear cases involving the legal relations referred to in article 10.

2. If the parents or one of the parents are/is domiciled in the territory of one High Contracting Party and the child in the territory of the other High Contracting Party, the courts of the High Contracting Party in whose territory the child is domiciled shall have jurisdiction.

Chapter IV

ADOPTION

Article 12

1. The conditions and effects of adoption shall be determined by the law of the High Contracting Party in whose territory the adopted child and the adopter or adopting spouses are domiciled.

2. If the adopter or adopting spouses is/are domiciled in the territory of one High Contracting Party and the adopted child is domiciled in the territory of the other High Contracting Party, the conditions and effects of adoption shall be determined by the law of the High Contracting Party of which the adopted child is a national.

3. The form of adoption shall be subject to the law of the High Contracting Party in whose territory the adoption takes place.

Article 13

The authority of the High Contracting Party in whose territory the adopted child is domiciled shall be competent to deal with matters connected with the adoption.

Article 14

The provisions of articles 12 and 13 shall apply to cases of termination of adoption.

Chapter V

GUARDIANSHIP

Article 15

1. The conditions in which guardianship shall be established, modified or terminated shall be those prescribed by the laws of the High Contracting Party in whose territory the minor is domiciled.

2. The effects of guardianship as regards the relations between the minor and those responsible for his care and relations involving a third party shall also be governed by the law referred to in the preceding paragraph.

Article 16

Without prejudice to the provisions of article 17, the authorities of the High Contracting Party in whose territory the minor is domiciled shall be competent to take measures to protect his person or property.

Article 17

1. The authorities of the High Contracting Party of which the minor is a national may also, if the interests of the minor require, take the measures referred to in article 16.

2. Authorities competent under paragraph 1 shall take the measures prescribed by their domestic law.

Article 18

If the domicile of a minor is transferred from the territory of one of the High Contracting Parties to the territory of the other High Contracting Party, measures taken by the authorities of his first place of domicile shall remain in force so long as they have not been superseded by measures taken by the authorities of his new place of domicile.

PART II

AUTHORITY AND ENFORCEMENT OF JUDICIAL DECISIONS
AND NOTARIAL ACTS*Article 19*

With respect to the matters referred in part I of this Convention, decisions rendered by the courts of one of the High Contracting Parties in litigation or voluntary proceedings shall, *pleno jure*, be final in the territory of the other High Contracting Party if such decisions satisfy the following conditions:

- (a) The decision was rendered by a competent court in application of the law which under the provisions of part I, is applicable to the case;
- (b) The decision has acquired the force of *res judicata* and is enforceable under the laws of the High Contracting Party in whose territory it was rendered;
- (c) The parties have been duly summoned to appear and have either been represented or declared in default;
- (d) The decision contains nothing which is contrary to the public policy of the High Contracting Party in whose territory it is invoked and is not contrary to any judicial decision which has been rendered and has the force of *res judicata*.

Article 20

Decisions rendered by the courts of one of the High Contracting Parties and satisfying the conditions set forth in the preceding article, may not be enforced by the courts of the other High Contracting Party or give rise to formal acts, such as registration or rectification in the public records, until they have been declared enforceable.

Article 21

Authorization of enforcement shall be granted by the competent court of the High Contracting Party in whose territory the decision is to be enforced.

Article 22

1. The court shall confine itself to determining whether the decision for which an application for enforcement has been made has *pleno jure* the force of *res judicata* under the terms of article 19. It shall automatically proceed to this examination, and shall state its findings in its decision.

2. Where appropriate, the court shall order such measures as may be necessary to ensure that the decision subject to enforcement receives the same publicity as it would if it had been rendered in the territory of the High Contracting Party where it is declared enforceable.

3. The authorization of enforcement may be granted on a partial basis for only one or another item in the decision invoked.

Article 23

The procedure for applying for authorization of enforcement shall be governed by the law of the High Contracting Party in whose territory enforcement is requested.

Article 24

1. A decision to grant authorization of enforcement shall have effect between all parties applying for enforcement and throughout the territory in which this Convention is applicable.

2. From the date on which authorization of enforcement is granted, the decision shall, with respect to measures of enforcement, have the same effect as it would if it had been rendered by the court which granted the authorization of enforcement.

Article 25

The party to the proceedings who invokes the authority of a judicial decision or requests its enforcement must produce:

- (a) A copy of the decision duly certified;
- (b) The original notification of the decision or any other instrument serving as notification;
- (c) Documentary proof that the decision has become final and is enforceable;

- (d) Where appropriate, an authenticated copy of the summons served on the defaulting party and any documentary evidence that the summons reached him in good time;
- (e) A certified translation of the documents listed above, except where a waiver is granted by the competent court.

Article 26

If, under the law of a High Contracting Party, a petition is required to make a judicial decision enforceable, the petition may be attached to the application for enforcement.

Article 27

For the purposes of this Convention, settlements arrived at in court shall be deemed to be judicial decision.

Article 28

1. Notarial acts dealing with the matters referred to in part I of this Convention which are enforceable in the territory of one of the High Contracting Parties shall be declared enforceable in the territory of the other High Contracting Party by the court which is competent under the law of the High Contracting Party in whose territory application for enforcement has been made.

2. The court shall merely ascertain whether the act in question has been duly authenticated in the territory of the High Contracting Party where it was drawn up and whether the enforcement of the provisions in question is in any way contrary to the public policy of the High Contracting Party in whose territory enforcement is sought.

Article 29

Decisions rendered by the courts of a High Contracting Party in favour of a party entitled to free legal aid shall be declared enforceable without charge in the territory of the other High Contracting Party, and it shall not be necessary for the party seeking enforcement of such a decision to re-apply for free legal aid for that purpose.

FINAL PROVISIONS

Article 30

1. This Convention shall be subject to ratification. It shall enter into force on the first day of the third month following the exchange of the instruments of ratification, which shall take place in Paris.

2. This Convention is concluded for a term of five years from the date of its entry into force.

3. It shall be automatically extended for successive terms of five years unless terminated, notice of its termination to be given at least six months prior to the expiration of a five-year term.

IN WITNESS WHEREOF, the aforementioned Plenipotentiaries have signed this Convention and have affixed their seals thereto.

DONE at Warsaw, on 5 April 1967 in duplicate in the French and Polish languages, both texts being equally authentic.

For the President
of the French Republic:

Arnauld WAPLER

For the Council of State
of the Polish People's Republic:

Stanislaw WALCZAK