

No. 17868

MULTILATERAL

European Convention on the legal status of children born out of wedlock. Concluded at Strasbourg on 15 October 1975

Authentic texts: English and French.

Registered by the Secretary General of the Council of Europe, acting on behalf of the Parties, on 27 June 1979.

MULTILATÉRAL

Convention européenne sur le statut juridique des enfants nés hors mariage. Conclue à Strasbourg le 15 octobre 1975

Textes authentiques : anglais et français.

Enregistrée par le Secrétaire général du Conseil de l'Europe, agissant au nom des Parties, le 27 juin 1979.

EUROPEAN CONVENTION¹ ON THE LEGAL STATUS OF CHILDREN BORN OUT OF WEDLOCK

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members, in particular by the adoption of common rules in the field of law;

Noting that in a great number of member States efforts have been, or are being, made to improve the legal status of children born out of wedlock by reducing the differences between their legal status and that of children born in wedlock which are to the legal or social disadvantage of the former;

Recognising that wide disparities in the laws of member States in this field still exist;

Believing that the situation of children born out of wedlock should be improved and that the formulation of certain common rules concerning their legal status would assist this objective and at the same time would contribute to a harmonisation of the laws of the member States in this field;

Considering however that it is necessary to allow progressive stages for those States which consider themselves unable to adopt immediately certain rules of this Convention,

Have agreed as follows:

Article 1. Each Contracting Party undertakes to ensure the conformity of its law with the provisions of this Convention and to notify the Secretary General of the Council of Europe of the measures taken for that purpose.

Article 2. Maternal affiliation of every child born out of wedlock shall be based solely on the fact of the birth of the child.

Article 3. Paternal affiliation of every child born out of wedlock may be evidenced or established by voluntary recognition or by judicial decision.

Article 4. The voluntary recognition of paternity may not be opposed or contested in so far as the internal law provides for these procedures unless the

¹ Came into force on 11 August 1978, i.e., three months after the date of deposit with the Secretary General of the Council of Europe of the third instrument of ratification, acceptance or approval, in accordance with article 11(2):

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Sweden	8 June 1976
Norway	19 August 1976
Switzerland	10 May 1978

Subsequently, the Convention entered into force in respect of the following State as indicated hereafter, i.e., three months after the date of the deposit with the Secretary General of the Council of Europe of its instrument of ratification, acceptance or approval, in accordance with article 11(3):

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>	<i>Date of entry into force</i>
Denmark	18 January 1979	19 April 1979
(With a declaration of non-application to the Faroe Islands and Greenland.)		

person seeking to recognise or having recognised the child is not the biological father.

Article 5. In actions relating to paternal affiliation, scientific evidence which may help to establish or disprove paternity shall be admissible.

Article 6. 1. The father and mother of a child born out of wedlock shall have the same obligation to maintain the child as if it were born in wedlock.

2. Where a legal obligation to maintain a child born in wedlock falls on certain members of the family of the father or mother, this obligation shall also apply for the benefit of a child born out of wedlock.

Article 7. 1. Where the affiliation of a child born out of wedlock has been established as regards both parents, parental authority may not be attributed automatically to the father alone.

2. There shall be power to transfer parental authority; cases of transfer shall be governed by the internal law.

Article 8. Where the father or mother of a child born out of wedlock does not have parental authority over or the custody of the child, that parent may obtain a right of access to the child in appropriate cases.

Article 9. A child born out of wedlock shall have the same right of succession in the estate of its father and its mother and of a member of its father's or mother's family, as if it had been born in wedlock.

Article 10. The marriage between the father and mother of a child born out of wedlock shall confer on the child the legal status of a child born in wedlock.

Article 11. 1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or approval.

3. In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 12. 1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede to this Convention.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

Article 13. 1. Any State may, at the time of signature, or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose interna-

tional relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in article 15 of this Convention.

Article 14. 1. Any State may, at the time of signature, or when depositing its instrument of ratification, acceptance, approval or accession or when making a declaration in accordance with paragraph 2 of article 13 of this Convention, make not more than three reservations in respect of the provisions of articles 2 to 10 of the Convention.

Reservations of a general nature shall not be permitted; each reservation may not affect more than one provision.

2. A reservation shall be valid for five years from the entry into force of this Convention for the Contracting Party concerned. It may be renewed for successive periods of five years by means of a declaration addressed to the Secretary General of the Council of Europe before the expiration of each period.

3. Any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraphs by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

Article 15. 1. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 16. The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:

- (a) Any signature;
- (b) Any deposit of an instrument of ratification, acceptance, approval or accession;
- (c) Any date of entry into force of this Convention in accordance with article 11 thereof;
- (d) Any notification received in pursuance of the provisions of article 1;
- (e) Any declaration received in pursuance of the provisions of paragraphs 2 and 3 of article 13;
- (f) Any reservation made in pursuance of the provisions of paragraph 1 of article 14;
- (g) The renewal of any reservation carried out in pursuance of the provisions of paragraph 2 of article 14;
- (h) The withdrawal of any reservation carried out in pursuance of the provisions of paragraph 3 of article 14;
- (i) Any notification received in pursuance of the provisions of article 15 and the date on which denunciation takes effect.

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

DONE at Strasbourg, this 15th day of October 1975, 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 of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet, ont signé la présente Convention.

FAIT à Strasbourg, le 15 octobre 1975, en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire Général du Conseil de l'Europe en communiquera copie certifiée conforme à chacun des Etats signataires et adhérents.

For the Government
of the Republic of Austria:

Pour le Gouvernement
de la République d'Autriche :

Strasbourg, le 19 août 1976

OTTO M. MASCHKE¹

For the Government
of the Kingdom of Belgium:

Pour le Gouvernement
du Royaume de Belgique :

For the Government
of the Republic of Cyprus:

Pour le Gouvernement
de la République de Chypre :

Strasbourg, 1 December 1978

C. N. PILAVACHI

For the Government
of the Kingdom of Denmark:

Pour le Gouvernement
du Royaume de Danemark :

JORGEN BÜTZOW

For the Government
of the French Republic:

Pour le Gouvernement
de la République française :

Strasbourg, le 2 septembre 1977

A. FEQUANT

For the Government
of the Federal Republic of Germany:

Pour le Gouvernement
de la République Fédérale d'Allemagne :

For the Government
of the Hellenic Republic:

Pour le Gouvernement
de la République hellénique :

¹ See p. 313 of this volume for the text of the declaration made upon signature — Voir p. 313 du présent volume pour le texte de la déclaration faite lors de la signature.

For the Government
of the Icelandic Republic:

Pour le Gouvernement
de la République islandaise :

Strasbourg, 27 January 1977

EINAR AGÚSTSSON

For the Government of Ireland:

Pour le Gouvernement d'Irlande :

For the Government
of the Italian Republic:

Pour le Gouvernement
de la République italienne :

For the Government
of the Grand Duchy of Luxembourg:

Pour le Gouvernement
du Grand-Duché de Luxembourg :

« En application de l'article 14, paragraphe 1, le Gouvernement luxembourgeois se réserve d'appliquer l'article 2 de la Convention de façon à ne faire découler la filiation maternelle automatiquement que du fait de l'indication du nom de la mère dans l'acte de naissance, étant toutefois entendu que la filiation maternelle pourra néanmoins encore être établie judiciairement par voie d'action en recherche de filiation maternelle s'il est prouvé par toutes voies de droit que l'enfant est celui dont la mère prétendue a accouché ».¹

P. MERTZ

For the Government of Malta:

Pour le Gouvernement de Malte :

For the Government
of the Kingdom of the Netherlands:

Pour le Gouvernement
du Royaume des Pays-Bas :

For the Government
of the Kingdom of Norway:

Pour le Gouvernement
du Royaume de Norvège :

KIRSTEN OHM

For the Government
of the Kingdom of Sweden:

Pour le Gouvernement
du Royaume de Suède :

ARNE FÄLTHEIM

¹ In pursuance of article 14, paragraph 1, the Luxembourg Government reserves the right to apply article 2 of the Convention in such a way that maternal affiliation follows automatically only from indication of the mother's name on the child's birth certificate, provided however that maternal affiliation may nevertheless be established judicially by means of a maternal affiliation suit if it [is] proved by due legal process that the child concerned is the one to whom the alleged mother gave birth. (Translation supplied by the Council of Europe — Traduction fournie par le Conseil de l'Europe.)

For the Government
of the Swiss Confederation:

Pour le Gouvernement
de la Confédération suisse :

Strasbourg, le 27 janvier 1977

PIERRE GRABER

For the Government
of the Turkish Republic:

Pour le Gouvernement
de la République turque :

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 :

PETER M. FOSTER

DECLARATION MADE
UPON SIGNATURE*AUSTRIA*

[GERMAN TEXT — TEXTE ALLEMAND]

Die Republik Österreich behält sich gemäss Artikel 14 Absatz 1 des Übereinkommens das Recht vor, dem unehelichen Kind nicht nach Artikel 9 des Übereinkommens ein dem Erbrecht des ehelichen Kindes gleiches Erbrecht zum Nachlass seines Vaters und der Verwandten seines Vaters zuzuerkennen.

[TRANSLATION]

In pursuance of article 14.1 of the Convention, the Republic of Austria reserves the right not to accord to a child born out of wedlock, as provided for in article 9 of the Convention, the same right of succession in the estate of its father and of a member of its father's family, as if it had been born in wedlock.

DÉCLARATION FAITE
LORS DE LA SIGNATURE*AUTRICHE*

[TRADUCTION]

La République d'Autriche, conformément au paragraphe 1 de l'article 14 de la Convention, se réserve le droit de ne pas reconnaître à l'enfant né hors mariage, selon l'article 9 de la Convention, les mêmes droits dans la succession de son père et des membres de la famille de son père que s'il était né dans le mariage.