

No. 21988

**FEDERAL REPUBLIC OF GERMANY
and
AUSTRIA**

Treaty concerning the waiver of legalization, the exchange of civil registration certificates and the acquisition of nubility certificates (with annex). Signed at Vienna on 18 November 1980

Authentic text: German.

Registered by the Federal Republic of Germany on 28 June 1983.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
AUTRICHE**

Traité relatif à la dispense de légalisation, à l'échange d'extraits d'actes d'état civil et à l'émission d'attestations de nubilité (avec annexe). Signé à Vienne le 18 novembre 1980

Texte authentique : allemand.

Enregistré par la République fédérale d'Allemagne le 28 juin 1983.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE REPUBLIC OF AUSTRIA CONCERNING THE
WAIVER OF LEGALIZATION, THE EXCHANGE OF CIVIL
REGISTRATION CERTIFICATES AND THE ACQUISITION
OF NUBILITY CERTIFICATES

The Federal Republic of Germany and the Republic of Austria,
Desiring to facilitate co-operation on civil registration,
Have agreed as follows:

SECTION I. WAIVER OF LEGALIZATION

Article 1. Certificates drawn up, issued or legalized by the registrar of one of the Contracting Parties and bearing the official seal or stamp shall require no legalization for use in the other Contracting State. In addition, nubility certificates shall not require any consular endorsement.

SECTION II. EXCHANGE OF CIVIL REGISTRATION CERTIFICATES

Article 2. (1) If the birth of the child of a national of one of the Contracting States is registered in the territory of the other Contracting State, the registrar shall transmit to the consular authority of the other Contracting State a birth certificate indicating the date and place of the marriage of the child's parents, unless under paragraph 2 a certified copy is to be transmitted; in the case of births out of wedlock, the date and place of the mother's birth shall be indicated.

(2) If a marginal note has been entered on the birth certificate, the registrar shall transmit to the consular authority of the other Contracting Party a legalized copy of the extract from the register of births in which the marginal note was made; the information referred to in paragraph 1 shall also be provided.

(3) If a marginal note in the birth certificate indicates that the child has become a national of the other Contracting State, the registrar of the consular authority of the other Contracting State shall transmit a legalized copy of the extract from the register of births in which the marginal note was made; the information referred to in paragraph 1 shall be forwarded. Paragraph 2 shall apply in respect of further marginal notes.

Article 3. (1) If the marriage of a national of one of the Contracting States is registered in the territory of the other Contracting State, the registrar of the consular authority of the other Contracting State shall transmit a marriage certificate, unless this is not required under article 6, paragraph 1.

(2) If the German registrar has made a note concerning the married couple in the family register or a marginal note on the marriage entry, or if the Austrian registrar has made a marginal note on the marriage entry,

¹ Came into force on 1 May 1982, i.e., the first day of the third month following the exchange of the instruments of ratification, which took place at Bonn on 8 February 1982, in accordance with article 17 (2).

- The German registrar of the consular authority in the Republic of Austria shall transmit a legalized copy from the family register or marriage register in which the note (marginal note) was made;
- The Austrian registrar of the consular authority in the Federal Republic of Germany shall transmit a legalized copy from the family register in which the marginal note was made.

A legalized copy shall not be transmitted in accordance with the first sentence of this article if a legalized copy or a certificate has to be transmitted under article 4 or 5.

Article 4. If the German registrar makes a note concerning a divorce in the family register or a marginal note in the marriage entry, or if the Austrian registrar makes a marginal note in the marriage entry, and if at least one of the spouses is a national of the other Contracting State or if the marriage was contracted in the territory of the other Contracting State,

- The German registrar of the consular authority in the Republic of Austria shall transmit a legalized copy from the family register or marriage register in which the note (marginal note) was made;
- The Austrian registrar of the consular authority in the Federal Republic of Germany shall transmit a legalized copy from the family register in which the marginal note was made.

This shall apply *mutatis mutandis* if the marriage has been declared void or annulled or if the existence or non-existence of the marriage has been established.

Article 5. (1) If the death of a national of one of the Contracting States has been registered in the territory of the other Contracting State, the registrar of the consular authority of the other Contracting State shall transmit a death certificate indicating the last place of residence of the deceased in that State; if the deceased was married, the place and date of marriage shall also be given.

(2) If a marginal note has been made on the death entry, the registrar of the consular authority in the other Contracting State shall transmit a legalized copy from the register of deaths in which the marginal note was made. The information referred to in paragraph 1 shall be transmitted.

Article 6. (1) If a marriage has been registered in one of the Contracting States and if the married couple has a common premarital child, the registrar shall transmit a marriage certificate to the consular authority of the other Contracting State, if the birth of the child is registered in the other Contracting State. The registrar shall note on the reverse side of the marriage certificate that the married couple have a common premarital child; at the same time the full names and the place and date of the birth of the child and the nationality of the parents and of the child at the time when the marriage was contracted shall be given. The registrar shall sign the note and affix the official seal or stamp. The foregoing three sentences shall also apply if the child was born outside of the Contracting States and if he/she or his/her father or mother was a national of the other Contracting State at the time the marriage was contracted.

(2) If a decision has affected the legal validity of legitimation by subsequent marriage, in respect of which a marriage certificate has been transmitted under paragraph 1,

—The German registrar in charge of the family register in which the legitimized child is entered

—The Austrian registrar who registered the marriage

shall transmit a legalized or official copy of the decision together with a certificate/confirmation of legal validity and shall indicate what entries he has made in the civil registers affected by this decision and kept in the territory of his own Contracting State. This shall also apply if the marriage was registered before the entry into force of this Treaty and no marriage certificate was therefore transmitted.

Article 7. If the obligation to transmit arises out of the fact that a national of the other Contracting State is affected, this obligation shall also exist if that person is also a national of the first Contracting State or of a third State; stateless persons normally resident in the other Contracting State shall be treated in the same manner as nationals of that State.

Article 8. (1) Certificates which, under the provisions of this section, are to be transmitted to the consular authority of the other Contracting State shall be sent to the consular authority having local jurisdiction for the registrar who transmits them. Transmittal shall be carried out immediately in the cases covered in article 5, paragraph 1, and in all other cases by the end of the current calendar month.

(2) The additional information provided for in articles 2 and 5 shall be transmitted only to the extent to which they are known to the parties concerned or to the civil registrar.

Article 9. The exchange of civil registration certificates, as provided for in this section, shall be free of duties and charges.

SECTION III. ACQUISITION OF NUBILITY CERTIFICATES

Article 10. (1) If a national of one of the Contracting States wishes to marry in the other Contracting State he may also file an application for a nubility certificate with the registrar of the State in which the marriage is to be contracted. This registrar shall transmit the application to the competent registrar of the national's home State; the documents required for issuing the nubility certificate shall be attached to the application in respect of each engaged person.

(2) The Contracting States shall notify each other of:

1. The regulations governing the local jurisdiction of the registrar in respect of issuing the nubility certificate,
2. The documents to be attached for the engaged couple to the application for the nubility certificate, and
3. Any change concerning the regulations and documents referred to in subparagraphs 1 and 2.

(3) If a required document cannot be furnished, a certificate providing conclusive evidence, or if this is also impossible, a declaration sworn to in the presence of the registrar may be attached. The decision as to whether such a certificate or declaration is sufficient shall be subject to the evaluation of the evidence by the registrar of the national's home State.

Article 11. (1) The registrar of the national's home State shall transmit the nubility certificate to the registrar of the State in which the marriage is to be

contracted. Certificates transmitted shall be returned simultaneously; the registrar shall retain the application.

(2) If there are doubts with regard to issuing the nubility certificate, the registrar of the national's home State shall notify the registrar of the State in which the marriage is to be contracted so that the engaged person who has filed the application may be so informed.

Article 12. The printed model attached to this Treaty shall be used as the form when applying for a nubility certificate.

Article 13. (1) Nubility certificates issued on the basis of applications filed under article 10, paragraph 1, shall be exempt from fees and dues.

(2) Nevertheless, for the official use in the Republic of Austria of a nubility certificate issued in the Federal Republic of Germany, the dues which would be levied for issuing the nubility certificate in the Republic of Austria shall be paid.

(3) Applicants shall not be required to defray the costs arising from the correspondence between the registrars under articles 10 and 11.

SECTION IV. FINAL PROVISIONS

Article 14. For the purposes of this Treaty the authorities and the organs of the legally recognized churches and religious denominations, which, in the territory of the Republic of Austria prior to 1 January 1939, were authorized to keep the civil registers and, under Austrian civil registry regulations, continue to be so authorized to a limited extent, shall be deemed to be registrars in respect of entries made in the civil registers, notations made in these registers, and the issuing of certificates from them. The Government of the Republic of Austria shall transmit to the Government of the Federal Republic of Germany a list of these authorities, churches and religious denominations within three months of the date on which this Treaty enters into force.

Article 15. For the purposes of this Treaty nationals of a Contracting State shall be governed by the law of that Contracting State.

Article 16. This Treaty shall also apply to *Land Berlin*, unless the Government of the Federal Republic of Germany makes a declaration to the contrary to the Government of the Republic of Austria within three months from its entry into force.

Article 17. (1) This Treaty shall be ratified: the instruments of ratification shall be exchanged as soon as possible at Bonn.

(2) This Treaty shall enter into force on the first day of the third month after the exchange of the instruments of ratification.

Article 18. This Treaty shall remain in force for five years from the date of its entry into force. If it is not denounced six months before the expiry of its period of validity, it shall remain in force for another year.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed this Treaty and have thereto affixed their seals.

DONE at Vienna on 18 November 1980 in two copies.

For the Federal Republic of Germany:
MAX V. PODEWILS

For the Republic of Austria:
WILLIBALD PAHR

