

No. 26283

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**FEDERAL REPUBLIC OF GERMANY  
and  
SWITZERLAND**

**Agreement concerning the waiver of legalization, the exchange  
of civil status certificates and the acquisition of certifi-  
cates of matrimonial capacity (with protocol and annex).  
Signed at Berne on 4 November 1985**

*Authentic text of the Agreement and protocol: German.*

*Authentic texts of the annex: German, French and Italian.*

*Registered by the Federal Republic of Germany on 8 November 1988.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
SUISSE**

**Accord concernant la dispense de légalisation, l'échange  
d'actes de l'état civil et l'obtention de certificats de capa-  
cité matrimoniale (avec protocole et annexe). Signé à  
Berne le 4 novembre 1985**

*Texte authentique de l'Accord et du protocole : allemand.*

*Textes authentiques de l'annexe : allemand, français et italien.*

*Enregistré par la République fédérale d'Allemagne le 8 novembre 1988.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE SWISS CONFEDERATION CONCERNING THE WAIVER OF LEGALIZATION, THE EXCHANGE OF CIVIL STATUS CERTIFICATES AND THE ACQUISITION OF CERTIFICATES OF MATRIMONIAL CAPACITY

The Federal Republic of Germany and the Swiss Confederation,  
Desiring to facilitate cooperation in civil status registration,  
Have agreed as follows:

SECTION I. WAIVER OF LEGALIZATION

*Article 1*

Certificates drawn up, issued or legalized by the civil registry official of either Contracting Party and bearing the official seal or stamp shall require no legalization for use in the other Contracting State. In addition, certificates of matrimonial capacity shall not require any consular endorsement.

SECTION II. EXCHANGE OF CIVIL STATUS CERTIFICATES

*Article 2*

(1) If the birth of a national of either Contracting State is registered in the territory of the other Contracting State,

- The German civil registry official shall transmit a birth certificate indicating the date and place of the marriage of the child's parents or, in the case of children born out of wedlock, the date and place of the mother's birth and her place of origin;
- The Swiss civil registry official shall transmit a birth certificate indicating the date and place of the marriage of the child's parents or, if the child's parents are not married to each other, the date and place of the mother's birth.

(2) If a marginal note has been entered on the birth certificate,

- The German civil registry official shall transmit a legalized copy of the extract from the register of births containing the marginal note;
- The Swiss civil registry official shall transmit a birth certificate, together with notification of the marginal note.

The information referred to in paragraph 1 of this article shall also be forwarded.

<sup>1</sup> Came into force on 1 July 1988, i.e., the first day of the third month following the exchange of the instruments of ratification, which took place at Bonn on 14 April 1988, in accordance with article 14 (2).

### Article 3

(1) If the marriage of a national of either Contracting State is registered in the territory of the other Contracting State,

- The German civil registry official shall transmit an extract from the family register or a marriage certificate indicating the parents of both spouses and the place of origin of the Swiss spouse;
- The Swiss civil registry official shall transmit a marriage certificate indicating the parents of both spouses and the date and place of birth of the German spouse.

(2) If the German civil registry official has made a note concerning the married couple in the family register or a marginal note on the marriage certificate, or if the Swiss civil registry official has made a marginal note on the marriage certificate,

- The German civil registry official shall transmit a legalized copy of the family register or marriage register containing the note (marginal note);
- The Swiss civil registry official shall transmit a marriage certificate with the marginal note attached.

The information referred to in paragraph 1 shall also be attached. Notwithstanding the first sentence of this article, a marriage certificate need not be transmitted by the German civil registry official if a legalized copy or a certificate has to be transmitted under article 4.

### Article 4

(1) If the death of a national of either Contracting State has been registered in the territory of the other Contracting State,

- The German civil registry official shall transmit a death certificate indicating the place of origin of the deceased;
- The Swiss civil registry official shall transmit a death certificate indicating the date and place of birth of the deceased and his last place of residence in the Federal Republic of Germany; 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 certificate,

- The German civil registry official shall transmit a legalized copy of the entry in the register of deaths containing the marginal note;
- The Swiss civil registry official shall transmit a death certificate with the marginal note attached.

The information referred to in paragraph 1 of this article shall be attached.

### Article 5

If the couple in respect of whom an extract from the family register or a marriage certificate was transmitted in accordance with article 3, paragraph 1, have a child in common, the full name and date and place of birth of the child shall be recorded

- By the German civil registry official, on a sheet attached to the extract from the family register or on the reverse side of the marriage certificate;
- By the Swiss civil registry official, on the marriage certificate.

### *Article 6*

Civil status certificates shall also be exchanged when a person being a national of one Contracting State also has the nationality of the other Contracting State or of a third State.

### *Article 7*

(1) Documents to be transmitted pursuant to the provisions of this section shall be sent each month to the consular authority of the other Contracting State.

(2) Plurilingual forms shall be used whenever possible for the documents to be transmitted pursuant to article 2, paragraph 1, article 3, paragraph 1, and article 4, paragraph 1.

(3) The additional information provided for in articles 2 and 4 shall be transmitted only to the extent to which it is known to the parties concerned or to the civil registry official.

(4) The exchange of civil status certificates shall be free of charge.

## SECTION III. ACQUISITION OF CERTIFICATES OF MATRIMONIAL CAPACITY

### *Article 8*

(1) If a national of one of the Contracting States intends to marry in the other Contracting State, he may also file an application for a certificate of matrimonial capacity with the civil registry official of the State in which the marriage is to be contracted. The said official shall transmit the application to the competent civil registry official of the national's home State; the documents required for issuing the certificate of matrimonial capacity shall be attached to the application in respect of each engaged person.

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

1. The regulations governing the local competence of the civil registry official in respect of issuing the certificate of matrimonial capacity;

2. The documents for the engaged couple to be attached to the application for the certificate of matrimonial capacity; and

3. Any change concerning the regulations and documents referred to in subparagraphs 1 and 2.

(3) If a required document cannot be furnished, an authenticated certificate can be substituted. The decision as to whether such a certificate is sufficient shall be subject to the discretionary opinion of the competent authorities of the Contracting State in which the certificate of matrimonial capacity was issued.

### *Article 9*

(1) The civil registry official of the national's home State shall transmit the certificate of matrimonial capacity to the civil registry official of the State in which the marriage is to be contracted. Certificates transmitted shall be returned simultaneously; the civil registry official shall retain the application.

(2) Should there be impediments to the issue of the certificate of matrimonial capacity, the civil registry official of the State in which the marriage is to be contracted shall be notified.

#### Article 10

(1) A printed trilingual form of the type annexed to this Agreement as a model shall be used when applying for a certificate of matrimonial capacity.

(2) Should it be necessary to adapt the form owing to a change in the laws of either Contracting State, such amendments shall be made by mutual agreement between the Contracting States through an exchange of notes.

#### Article 11

Documents drafted in French or Italian shall be accompanied by a German translation certified as authentic by the civil registry official or a supervisory authority. Where possible, civil status certificates shall be issued on multilingual forms rather than translated.

#### Article 12

(1) Certificates of matrimonial capacity shall be issued free of charge.

(2) A civil registry official who receives and transmits an application pursuant to article 8, paragraph 1, shall be paid a fee identical to that charged for issuing a certificate of matrimonial capacity in the State in which the marriage is to be contracted.

### SECTION IV. FINAL PROVISIONS

#### Article 13

This Agreement shall also apply to *Land Berlin*, unless the Government of the Federal Republic of Germany makes a declaration to the contrary to the Swiss Federal Council within three months following the entry into force of the Agreement.

#### Article 14

(1) This Agreement is subject to ratification; the instruments of ratification shall be exchanged as soon as possible at Bonn.

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

(3) With the entry into force of this Agreement, the Agreement concluded on 6 June 1956 between the Federal Republic of Germany and the Swiss Confederation concerning the waiver of legalization, the exchange of civil status certificates and the acquisition of certificates of matrimonial capacity, including the amendments introduced by the exchanges of notes of 13 and 22 March 1957 and 21 February, 8 August and 17 December 1958, shall be rescinded.

#### Article 15

This Agreement has been concluded for five years from the date of its entry into force. If it is not denounced six months before the expiry of the period of validity, it shall remain in force a further year.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States have signed this Agreement.

DONE at Bern on 4 November 1985, in duplicate.

For the Federal Republic of Germany:

GERHARD FISCHER

For the Swiss Confederation:

PIERRE AUBERT

## PROTOCOL

At the time of signature of the Agreement between the Federal Republic of Germany and the Swiss Confederation, concerning the waiver of legalization, the exchange of civil status certificates and the acquisition of certificates of matrimonial capacity, the Plenipotentiaries of the two Contracting States agreed to the following provision, which shall be considered an integral part of the Agreement:

1. The laws of a Contracting State shall determine who is a national of that Contracting State. For the purposes of this Agreement, proof of nationality shall, normally, be determined

(a) In the case of the Federal Republic of Germany: by a passport of the Federal Republic of Germany, by an identity card of the Federal Republic of Germany or by a temporary identity card of Berlin (*Berliner behelfsmäßiger Personalausweis*);

(b) In the case of the Swiss Confederation: by a passport or an identity card of the Swiss Confederation.

2. The German civil registry officials shall enter in a family record book or international family record book issued by a Swiss civil registry official, at the request of the record book holder,

(a) The birth of children born in wedlock of the spouses;

(b) The birth of any children legitimated by subsequent marriage of the spouses, once such legitimation has been recorded in the margin of the entry recording the child's birth;

(c) The death of the spouses and their children.

The fee payable shall be that laid down in paragraph 68, first subparagraph, No. 15, of the regulation implementing the law on civil status (*Verordnung zur Ausführung des Personenstandgesetzes*).

ANNEX

Application for a certificate of matrimonial capacity

The engaged persons whose names appear below wish to marry in the Federal Republic of Germany/Switzerland<sup>(1)</sup>

To this end .....  
(Applicant's name)

hereby applies for a certificate of matrimonial capacity.

For this purpose the engaged persons submit the following information:

	Man	Woman
1. Surname		
2. Given names		
3. Occupation		
4. Nationality		
5. Date and place of birth		
6. (a) Domicile or residence (city, street, house number)		
(b) Last usual residence in the Federal Republic of Germany (city, street, house number)		
(c) Place of origin in Switzerland		
7. Civil status (single, widowed, divorced)		
8. Previous marriages and reasons for their dissolution		

Declaration by the engaged couple:

We are not related by kinship or marriage/we are related by kinship or marriage/as follows:<sup>(1)</sup>

.....

— We are/are not/under guardianship<sup>(1)</sup>

— We have no children in common/we have the following children in common:<sup>(1)</sup>

(Surname, given names, date and place of birth, date and place of recognition by the man, or, in the case of a declaration of paternity, details of the court which delivered the decision and the date on which it came into effect)

.....  
.....

Declaration by the German engaged person:<sup>(2)</sup>

I have no children/I have the following children, in respect of whom I attach/will submit a settlement certificate in conformity with section 9 of the German Marriage Act<sup>(1)</sup>

(Surname, given names, date and place of birth)

.....  
.....

<sup>(1)</sup> Delete where not applicable.

<sup>(2)</sup> Information to be provided only in applications for German certificates of matrimonial capacity.

The following documents are attached:<sup>(1)</sup>

for the man:

for the woman:

.....  
.....  
.....

.....  
.....  
.....

.....  
(place)

.....  
(date)

Signatures

.....  
.....

The signatures are hereby certified as authentic

(Official seal)

Civil Registry Official

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<sup>(1)</sup> These documents are to be returned with the certificate of matrimonial capacity.