

### **13. CONVENTION ON JURISDICTION, APPLICABLE LAW AND RECOGNITION OF DECREES RELATING TO ADOPTIONS<sup>1</sup>**

*(Concluded 15 November 1965)*

The States signatory to the present Convention,  
Desiring to establish common provisions on jurisdiction, applicable law and recognition of decrees relating to adoption,  
Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

#### Article 1

The present Convention applies to an adoption between:  
on the one hand, a person who, possessing the nationality of one of the Contracting States, has his habitual residence within one of these States, or spouses each of whom, possessing the nationality of one of the Contracting States, has his or her habitual residence within one of these States, and  
on the other hand, a child who has not attained the age of eighteen years at the time when the application for adoption is made and has not been married and who, possessing the nationality of one of the Contracting States, has his habitual residence within one of these States.

#### Article 2

The present Convention shall not apply where –

- a) the adopters neither possess the same nationality nor have their habitual residence in the same Contracting State;
- b) the adopter or adopters and the child, all possessing the same nationality, habitually reside in the State of which they are nationals;
- c) an adoption is not granted by an authority having jurisdiction under Article 3.

#### Article 3

Jurisdiction to grant an adoption is vested in –

- a) the authorities of the State where the adopter habitually resides or, in the case of an adoption by spouses, the authorities of the State in which both habitually reside;
- b) the authorities of the State of which the adopter is a national or, in the case of an adoption by spouses, the authorities of the State of which both are nationals.

The conditions relating to habitual residence and nationality must be fulfilled both at the time when the application for adoption is made and at the time when the adoption is granted.

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<sup>1</sup> This Convention, including related materials, is accessible on the website of the Hague Conference on Private International Law ([www.hcch.net](http://www.hcch.net)), under “Conventions”. For the full history of the Convention, see Hague Conference on Private International Law, *Actes et documents de la Dixième session (1964)*, Tome II, *Adoption* (439 pp.).

#### Article 4

The authorities who have jurisdiction under the first paragraph of Article 3 shall, subject to the provisions of the first paragraph of Article 5, apply their internal law to the conditions governing an adoption. Nevertheless, an authority having jurisdiction by virtue of habitual residence shall respect any provision prohibiting adoption contained in the national law of the adopter or, in the case of an adoption by spouses, any such provision of their common national law, if such a prohibition has been referred to in a declaration of the kind contemplated in Article 13.

#### Article 5

The authorities who have jurisdiction under the first paragraph of Article 3 shall apply the national law of the child relating to consents and consultations, other than those with respect to an adopter, his family or his or her spouse.

If according to the said law the child or a member of his family must appear in person before the authority granting the adoption, the authority shall, if the person concerned is not habitually resident in the State of that authority, proceed, where appropriate, by means of a *commission rogatoire*.

#### Article 6

The authorities referred to in the first paragraph of Article 3 shall not grant an adoption unless it will be in the interest of the child. Before granting an adoption they shall carry out, through the agency of the appropriate local authorities, a thorough inquiry relating to the adopter or adopters, the child and his family. As far as possible, this inquiry shall be carried out in co-operation with public or private organisations qualified in the field of inter-country adoptions and the help of social workers having special training or having particular experience concerning the problems of adoption.

The authorities of all Contracting States shall promptly give all the assistance requested for the purposes of an adoption governed by the present Convention; for this purpose the authorities may communicate directly with each other.

Each Contracting State may designate one or more authorities empowered to communicate in accordance with the preceding paragraph.

#### Article 7

Jurisdiction to annul or to revoke an adoption governed by the present Convention shall be vested in –

- a) the authorities of the Contracting State in which the person adopted habitually resides at the time when the application to annul or to revoke the adoption is made;
- b) the authorities of the State in which at that time the adopter habitually resides or, in the case of an adoption by spouses, both of them habitually reside;
- c) the authorities of the State which granted the adoption.

An adoption may be annulled –

- a) on any ground permitted by the internal law of the State which granted the adoption; or
- b) in accordance with the national law of the adopter or adopters at the time when that adoption was granted in cases where the application to annul is based on failure to comply with a prohibition to which the second paragraph of Article 4 applies; or
- c) in accordance with the national law of the person adopted at the time when the adoption was granted in cases where the application to annul is based on failure to obtain a consent required by that law.

An adoption may be revoked in accordance with the internal law of the authority exercising jurisdiction.

#### Article 8

Every adoption governed by the present Convention and granted by an authority having jurisdiction under the first paragraph of Article 3 shall be recognised without further formality in all Contracting States. Every decision annulling or revoking an adoption granted by an authority having jurisdiction under Article 7 shall be recognised without further formality in all Contracting States.

If any question arises in a Contracting State with respect to the recognition of such an adoption or decision, the authorities of that State, in considering the jurisdiction of the authority which granted the adoption or which gave the decision, shall be bound by the findings of fact on which that authority based its jurisdiction.

#### Article 9

When an authority having jurisdiction under the first paragraph of Article 3 has granted an adoption, it shall notify this fact to the other State, if any, the authorities of which would have been empowered to grant an adoption under that Article, to the State of which the child is a national and to the Contracting State where the child was born.

When an authority having jurisdiction under the first paragraph of Article 7 has annulled or revoked an adoption, it shall notify this fact to the State the authority of which had granted the adoption, to the State of which the child is a national and to the Contracting State where the child was born.

#### Article 10

For the purposes of the present Convention, an adopter or a child who is stateless or whose nationality is unknown, is deemed to have the nationality of the State of his habitual residence.

#### Article 11

For the purposes of the present Convention if in the State of which either an adopter or a child is a national, there is more than one legal system in force, references to the internal law or to the authorities of the State of which a person is a national shall be construed as references to the law or to the authorities determined by the rules in force in that State or, if there are no such rules, to the law or to authorities of that system with which the person concerned is most closely connected.

#### Article 12

The present Convention does not affect provisions of other Conventions relating to adoption binding Contracting States at the moment of its entry into force.

#### Article 13

Any State may, at the time of signature, ratification or accession, with a view to the application of the second paragraph of Article 4, make a declaration specifying the provisions of its internal law prohibiting adoptions founded upon –

- a) the existence of descendants of the adopter or adopters;
- b) the fact that a single person is applying to adopt;
- c) the existence of a blood relationship between an adopter and the child;
- d) the existence of a previous adoption of the child by other persons;
- e) the requirement of a difference in age between adopter or adopters and the child;
- f) the age of the adopter or adopters and that of the child;
- g) the fact that the child does not reside with the adopter or adopters.

Such declarations may be revoked at any time. The revocation shall be notified to the Ministry of Foreign Affairs of the Netherlands.

Any declaration which has been revoked shall cease to have effect on the sixtieth day after the notification referred to in the preceding paragraph.

#### Article 14

Any Contracting State may make a declaration specifying the persons deemed to possess its nationality for the purposes of the present Convention.

Such declarations and any modification or revocation thereof shall be notified to the Ministry of Foreign Affairs of the Netherlands.

Any such declaration, modification or revocation shall have effect on the sixtieth day after the notification referred to in the preceding paragraph.

#### Article 15

The provisions of the present Convention may be disregarded in Contracting States only when their observance would be manifestly contrary to public policy.

#### Article 16

Each Contracting State shall designate the authorities having power –

- a) to grant an adoption within the meaning of the first paragraph of Article 3;
- b) to exchange the communications envisaged by the second paragraph of Article 6 if it is intended to make use of the power conferred by the third paragraph of Article 6;
- c) to annul or revoke an adoption under Article 7;
- d) to receive information in pursuance of Article 9.

Each Contracting State shall supply the Ministry of Foreign Affairs of the Netherlands with a list of the foregoing authorities and of any subsequent amendments to that list.

#### Article 17

With a view to the application of Article 5, each Contracting State shall inform the Ministry of Foreign Affairs of the Netherlands of the provisions of its internal law relating to consents and consultations.

Any State making a declaration under Article 13 shall inform the said Ministry of the provisions of its internal law relating to the prohibitions specified in that declaration.

A Contracting State shall inform the said Ministry of any modification of the provisions mentioned in the first and second paragraphs above.

#### Article 18

The present Convention shall be open for signature by the States represented at the Tenth 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.

#### Article 19

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 18.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

#### Article 20

Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 19. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.

In the absence of any such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.

#### Article 21

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

#### Article 22

Any State may, not later than the moment of its ratification or accession, reserve the right not to recognise an adoption granted by an authority exercising jurisdiction under sub-paragraph *b)* of the first paragraph of Article 3, when at the time of the application to adopt the child had his habitual residence within its own territory and did not possess the nationality of the State in which the adoption was granted. No other reservation shall be permitted.

Each Contracting State may also, when notifying an extension of the Convention in accordance with Article 21, make the said reservation, with its effect limited to all or some of the territories mentioned in the extension.

Each Contracting State may at any time withdraw a reservation it has made. Such a withdrawal shall be notified to the Ministry of Foreign Affairs of the Netherlands.

Such a reservation shall cease to have effect on the sixtieth day after the notification referred to in the preceding paragraph.

#### Article 23

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 19, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

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

#### Article 24

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 18, and to the States which have acceded in accordance with Article 20, of the following –

- a)* the declarations and revocations referred to in Article 13;
- b)* the declarations, modifications and revocations referred to in Article 14;
- c)* the designation of authorities referred to in Article 16;
- d)* the legal provisions and modifications thereof referred to in Article 17;
- e)* the signatures and ratifications referred to in Article 18;
- f)* the date on which the present Convention enters into force in accordance with the first paragraph of Article 19;
- g)* the accessions referred to in Article 20 and the dates on which they take effect;
- h)* the extensions referred to in Article 21 and the dates on which they take effect;
- i)* the reservations and withdrawals referred to in Article 22;
- j)* the denunciations referred to in the third paragraph of Article 23.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government

of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.