



European Treaty Series - No. 58

**EUROPEAN CONVENTION
ON THE ADOPTION OF CHILDREN**

Strasbourg, 24.IV.1967

Preamble

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 for the purpose, among others, of facilitating their social progress;

Considering that, although the institution of the adoption of children exists in all member countries of the Council of Europe, there are in those countries differing views as to the principles which should govern adoption and differences in the procedure for effecting, and the legal consequences of, adoption; and

Considering that the acceptance of common principles and practices with respect to the adoption of children would help to reduce the difficulties caused by those differences and at the same time promote the welfare of children who are adopted,

Have agreed as follows:

Part I – Undertakings and field of application**Article 1**

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

Article 2

Each Contracting Party undertakes to give consideration to the provisions set out in Part III of this Convention, and if it gives effect, or if, having given effect, it ceases to give effect to any of these provisions, it shall notify the Secretary General of the Council of Europe.

Article 3

This Convention applies only to legal adoption of a child who, at the time when the adopter applies to adopt him, has not attained the age of 18, is not and has not been married, and is not deemed in law to have come of age.

Part II – Essential provisions**Article 4**

An adoption shall be valid only if it is granted by a judicial or administrative authority (hereinafter referred to as the “competent authority”).

Article 5

- 1 Subject to paragraphs 2 to 4 of this article, an adoption shall not be granted unless at least the following consents to the adoption have been given and not withdrawn:
 - a the consent of the mother and, where the child is legitimate, the father; or if there is neither father nor mother to consent, the consent of any person or body who may be entitled in their place to exercise their parental rights in that respect;
 - b the consent of the spouse of the adopter.
- 2 The competent authority shall not:
 - a dispense with the consent of any person mentioned in paragraph 1 of this article, or
 - b overrule the refusal to consent of any person or body mentioned in the said paragraph 1,save on exceptional grounds determined by law.
- 3 If the father or mother is deprived of his or her parental rights in respect of the child, or at least of the right to consent to an adoption, the law may provide that it shall not be necessary to obtain his or her consent.
- 4 A mother's consent to the adoption of her child shall not be accepted unless it is given at such time after the birth of the child, not being less than six weeks, as may be prescribed by law, or, if no such time has been prescribed, at such time as, in the opinion of the competent authority, will have enabled her to recover sufficiently from the effects of giving birth to the child.
- 5 For the purposes of this article “father” and “mother” mean the persons who are according to law the parents of the child.

Article 6

- 1 The law shall not permit a child to be adopted except by either two persons married to each other, whether they adopt simultaneously or successively, or by one person.
- 2 The law shall not permit a child to be again adopted save in one or more of the following circumstances:
 - a where the child is adopted by the spouse of the adopter;
 - b where the former adopter has died;

- c where the former adoption has been annulled;
- d where the former adoption has come to an end.

Article 7

- 1 A child may be adopted only if the adopter has attained the minimum age prescribed for the purpose, this age being neither less than 21 nor more than 35 years.
- 2 The law may, however, permit the requirement as to the minimum age to be waived:
 - a when the adopter is the child's father or mother, or
 - b by reason of exceptional circumstances.

Article 8

- 1 The competent authority shall not grant an adoption unless it is satisfied that the adoption will be in the interest of the child.
- 2 In each case the competent authority shall pay particular attention to the importance of the adoption providing the child with a stable and harmonious home.
- 3 As a general rule, the competent authority shall not be satisfied as aforesaid if the difference in age between the adopter and the child is less than the normal difference in age between parents and their children.

Article 9

- 1 The competent authority shall not grant an adoption until appropriate enquiries have been made concerning the adopter, the child and his family.
- 2 The enquiries, to the extent appropriate in each case, shall concern, *inter alia*, the following matters:
 - a the personality, health and means of the adopter, particulars of his home and household and his ability to bring up the child;
 - b why the adopter wishes to adopt the child;
 - c where only one of two spouses of the same marriage applies to adopt a child, why the other spouse does not join in the application;
 - d the mutual suitability of the child and the adopter, and the length of time that the child has been in his care and possession;
 - e the personality and health of the child, and subject to any limitations imposed by law, his antecedents;
 - f the views of the child with respect to the proposed adoption;
 - g the religious persuasion, if any, of the adopter and of the child.

- 3 These enquiries shall be entrusted to a person or body recognised for that purpose by law or by a judicial or administrative body. They shall, as far as practicable, be made by social workers who are qualified in this field as a result of either their training or their experience.
- 4 The provisions of this article shall not affect the power or duty of the competent authority to obtain any information or evidence, whether or not within the scope of these enquiries, which it considers likely to be of assistance.

Article 10

- 1 Adoption confers on the adopter in respect of the adopted person the rights and obligations of every kind that a father or mother has in respect of a child born in lawful wedlock.

Adoption confers on the adopted person in respect of the adopter the rights and obligations of every kind that a child born in lawful wedlock has in respect of his father or mother.

- 2 When the rights and obligations referred to in paragraph 1 of this article are created, any rights and obligations of the same kind existing between the adopted person and his father or mother or any other person or body shall cease to exist. Nevertheless, the law may provide that the spouse of the adopter retains his rights and obligations in respect of the adopted person if the latter is his legitimate, illegitimate or adopted child.

In addition the law may preserve the obligation of the parents to maintain (in the sense of *l'obligation d'entretenir* and *l'obligation alimentaire*) or set up in life or provide a dowry for the adopted person if the adopter does not discharge any such obligation.

- 3 As a general rule, means shall be provided to enable the adopted person to acquire the surname of the adopter either in substitution for, or in addition to, his own.
- 4 If the parent of a child born in lawful wedlock has a right to the enjoyment of that child's property, the adopter's right to the enjoyment of the adopted person's property may, notwithstanding paragraph 1 of this article, be restricted by law.
- 5 In matters of succession, in so far as the law of succession gives a child born in lawful wedlock a right to share in the estate of his father or mother, an adopted child shall, for the like purposes, be treated as if he were a child of the adopter born in lawful wedlock.

Article 11

- 1 Where the adopted child does not have, in the case of an adoption by one person, the same nationality as the adopter, or in the case of an adoption by a married couple, their common nationality, the Contracting Party of which the adopter or adopters are nationals shall facilitate acquisition of its nationality by the child.
- 2 A loss of nationality which could result from an adoption shall be conditional upon possession or acquisition of another nationality.

Article 12

- 1 The number of children who may be adopted by an adopter shall not be restricted by law.

- 2 A person who has, or is able to have, a child born in lawful wedlock, shall not on that account be prohibited by law from adopting a child.
- 3 If adoption improves the legal position of a child, a person shall not be prohibited by law from adopting his own child not born in lawful wedlock.

Article 13

- 1 Before an adopted person comes of age the adoption may be revoked only by a decision of a judicial or administrative authority on serious grounds, and only if revocation on that ground is permitted by law.
- 2 The preceding paragraph shall not affect the case of:
 - a an adoption which is null and void;
 - b an adoption coming to an end where the adopted person becomes the legitimated child of the adopter.

Article 14

When the enquiries made pursuant to Articles 8 and 9 of this Convention relate to a person who lives or has lived in the territory of another Contracting Party, that Contracting Party shall, if a request for information is made, promptly endeavour to secure that the information requested is provided. The authorities may communicate directly with each other for this purpose.

Article 15

Provision shall be made to prohibit any improper financial advantage arising from a child being given up for adoption.

Article 16

Each Contracting Party shall retain the option of adopting provisions more favourable to the adopted child.

Part III – Supplementary provisions

Article 17

An adoption shall not be granted until the child has been in the care of the adopters for a period long enough to enable a reasonable estimate to be made by the competent authority as to their future relations if the adoption were granted.

Article 18

The public authorities shall ensure the promotion and proper functioning of public or private agencies to which those who wish to adopt a child or to cause a child to be adopted may go for help and advice.

Article 19

The social and legal aspects of adoption shall be included in the curriculum for the training of social workers.

Article 20

- 1 Provision shall be made to enable an adoption to be completed without disclosing to the child's family the identity of the adopter.
- 2 Provision shall be made to require or permit adoption proceedings to take place *in camera*.
- 3 The adopter and the adopted person shall be able to obtain a document which contains extracts from the public records attesting the fact, date and place of birth of the adopted person, but not expressly revealing the fact of adoption or the identity of his former parents.
- 4 Public records shall be kept and, in any event, their contents reproduced in such a way as to prevent persons who do not have a legitimate interest from learning the fact that a person has been adopted or, if that is disclosed, the identity of his former parents.

Part IV – Final clauses**Article 21**

- 1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance 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 or acceptance.
- 3 In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

Article 22

- 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 thereto.
- 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 23

- 1 Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.

- 2 Any Contracting Party may, when depositing its instrument of ratification, acceptance 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 international 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 27 of this Convention.

Article 24

- 1 Any Contracting Party whose law provides more than one form of adoption shall have the right to apply the provisions of Article 10, paragraphs 1, 2, 3 and 4, and Article 12, paragraphs 2 and 3, of this Convention to one only of such forms.
- 2 The Contracting Party exercising this right, shall, at the time of signature or when depositing its instrument of ratification, acceptance or accession, or when making a declaration in accordance with paragraph 2 of Article 23 of this Convention, notify the Secretary General of the Council of Europe thereof and indicate the way in which it has been exercised.
- 3 Such Contracting Party may terminate the exercise of this right and shall give notice thereof to the Secretary General of the Council of Europe.

Article 25

- 1 Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, or when making a declaration in accordance with paragraph 2 of Article 23 of this Convention, make not more than two reservations in respect of the provisions of Part II of the Convention.

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

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.

- 2 Any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph 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 26

Each Contracting Party shall notify the Secretary General of the Council of Europe of the names and addresses of the authorities to which requests under Article 14 may be addressed.

Article 27

- 1 This Convention shall remain in force indefinitely.
- 2 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.
- 3 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 28

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 or accession;
- c any date of entry into force of this Convention in accordance with Article 21 thereof;
- d any notification received in pursuance of the provisions of Article 1;
- e any notification received in pursuance of the provisions of Article 2;
- f any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 23;
- g any information received in pursuance of the provisions of paragraphs 2 and 3 of Article 24;
- h any reservation made in pursuance of the provisions of paragraph 1 of Article 25;
- i the renewal of any reservation carried out in pursuance of the provisions of paragraph 1 of Article 25;
- j the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 25;
- k any notification received in pursuance of the provisions of Article 26;
- l any notification received in pursuance of the provisions of Article 27 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 24th day of April 1967, 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.