

# COMMISSION INTERNATIONALE DE L'ETAT CIVIL

## INTERNATIONAL COMMISSION ON CIVIL STATUS (ICCS)

### INFORMATION NOTE

#### PREPARED BY THE SECRETARIAT GENERAL

The International Commission on Civil Status (ICCS), an international intergovernmental organisation, was founded in Amsterdam in September 1948 and recognised in December 1949 by an exchange of letters between Belgium, France, Luxembourg, the Netherlands and Switzerland.

The High Contracting Parties signed a Protocol at Bern on 25 September 1950 specifying arrangements for the exchange of documentation through the Commission.

Since then, in accordance with the terms of an additional Protocol signed at Luxembourg on 25 September 1952, the following States have acceded to the Commission: Turkey in 1953, the Federal Republic of Germany in 1956, Italy in 1958, Greece in 1959, Austria in 1961<sup>1</sup>, Portugal in 1973, Spain in 1974, the United Kingdom in 1996, Poland in 1998, Croatia and Hungary in 1999 and Mexico in 2010.

#### **I. AIMS OF THE ICCS**

According to Article 1 of its Rules (*Règlement*), the aim of the ICCS is "to facilitate international co-operation in civil-status matters and to further the exchange of information between civil registrars". To this end, the Commission :

- "carries out any studies and work, in particular by drawing up recommendations or draft conventions, aimed at harmonising the provisions in force in the member States on matters relating to the status and capacity of persons, to the family and to nationality and at improving the operation of civil-status departments in those States" ;
- "compiles and keeps up to date a documentation on legislation and case-law setting out the law of the member States on the aforesaid matters" ;
- "provides, on the basis of that documentation, information to the authorities referred to in Article II of the Bern Protocol of 25 September 1950" (i.e. government departments, diplomatic missions, consuls general, consuls, vice-consuls or consular agents of each of the High Contracting Parties) ;
- "co-ordinates its activities with those of other international bodies and furthers relations with bodies dealing with matters having an interest for civil-status purposes" ;
- "may, in areas within its competence, enter into collaboration with third States with a view to furthering co-operation between them and the member States".

#### **II. STRUCTURE AND ORGANISATION OF THE ICCS**

Any State party to the Convention for the Protection of Human Rights and Fundamental Freedoms or the International Covenant on Civil and Political Rights may become a member of the Commission (*Article 2 of the Rules*). It currently has sixteen member States: Belgium, Croatia, France, Germany, Greece, Hungary, Italy, Luxembourg, Mexico, the Netherlands, Poland, Portugal, Spain, Switzerland, Turkey and the United Kingdom. Each of them "sets up in its territory a National Section responsible in particular for representing the member State within the ICCS, promoting the aims of the ICCS in its territory, notably with the national authorities, proposing new activities and ensuring liaison with the other Sections through, if appropriate, the intermediary of the Secretary General" (*Article 6*).

Eight States have observer status: Cyprus (March 1999), the Holy See (September 1992), Lithuania (March 1994), Moldova (March 2006), Romania (September 2008), the Russian Federation (September 1993), Slovenia (March 1996) and Sweden (March 1993).

The ICCS also maintains regular contacts with other international organisations and third countries, and with the various national organisations of civil registrars and the European Federation of Civil Registrars.

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<sup>1</sup> In October 2007, Austria gave notice of its decision to withdraw from the ICCS; in accordance with the Rules, the withdrawal took effect on 8 April 2008; Austria remains a party to the Conventions it ratified.

The official language of the Commission is French (*Article 5*).

**a. The organs of the ICCS are (*Article 8*) :**

**The General Assembly**, which meets in principle twice a year (*Article 9*) and is made up of members of the National Sections and, if appropriate, experts, appointed for this purpose by each of the member States (*Article 10*).

**The Bureau**, which meets twice a year (*Article 14*) and is made up of the Presidents of the National Sections, who may be assisted by one or two members of their Section (*Article 15*).

The General Assembly or the Bureau may entrust the study of a question to a working party having a mandate determined by them (*Article 30*).

**The President**, who is appointed by the Bureau from among its members (*Article 19*), holds office for two years and may not be immediately re-elected (*Article 20*).

**The Secretary General**, who is appointed by the Bureau (*Article 23*), holds office for three years and may be immediately re-elected (*Article 24*).

**b. Organisation and National Sections**

**President** : [currently being designated]

**Vice-President** : Mr Duncan Macniven, Registrar General for Scotland.

**Secretary General** : Mrs Joanna Schmidt-Szalewski, emeritus Professor at the University of Strasbourg.

**Deputy Secretary General** : Mr Jonathan Sharpe, Solicitor.

**Administrative Director** : Mrs Chantal Nast.

**Presidents of the National Sections :**

**Germany** : Mr Volker Lipp, Professor at the University of Göttingen.

**Belgium** : Mrs Roseline Demoustier, Director General, Federal Ministry of Justice.

**Croatia** : Mr Danijel Benko, Avocat.

**Spain** : Mrs Mónica Guzmán Zapater, Professor of Private International Law at the Universidad Nacional de Educación a Distancia.

**France** : Mr Jean Mazars, Senior Judge at the Court of Cassation.

**Greece** : Mr Spyridon Vrellis, Professor at the University of Athens.

**Hungary** : Mrs Zsuzsanna Vègh, Director General of the Immigration and Nationality Office, Ministry of the Interior, Nationality Directorate.

**Italy** : Mrs Giovanna Menghini, Prefect, Director of Demographic Services, Ministry of the Interior.

**Luxembourg** : Mr Jean-Claude Wiwinius, President at the Court of Appeal.

**Netherlands** : Mr Sjaak Jansen, Co-ordinating Adviser, Directorate of Legislation, Ministry of Justice.

**Poland** : [currently being designated].

**Portugal** : Mr Miguel Teixeira de Sousa, Professor at the Faculty of Law of the University of Lisbon.

**United Kingdom** : Mr Rod Burns, Deputy Registrar General for Scotland.

**Switzerland** : Mr Mario Massa, Head of the Federal Civil Status Department, Bern.

**Turkey** : Mr Ahmet Sarican, Director General of the Population and Nationality Division at the Ministry of the Interior

**c. Address of the ICCS:**

Commission Internationale de l'Etat Civil - Secrétariat Général

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**III. INSTRUMENTS AND PUBLICATIONS**

Since 1948 the ICCS has drawn up 32 Conventions (A), 28 of which are currently in force, and 9 Recommendations (B). The Conventions are generally open to signature not only by ICCS member States but also by other States, notably those which are members of the Council of Europe and the European Union.

## **A. CONVENTIONS**

### **a. List of Conventions** *(for the state of signature and ratification of the Conventions : [click here](#))*

1. Convention on the issue of certain extracts from civil status records for use abroad (signed at Paris on 27 September 1956)
2. Convention on the issue free of charge and the exemption from legalisation of copies of official records of civil status (signed at Luxembourg on 26 September 1957)
3. Convention on the international exchange of information relating to civil status (signed at Istanbul on 4 September 1958)
4. Convention on changes of surnames and forenames (signed at Istanbul on 4 September 1958)
5. Convention extending the competence of authorities empowered to receive declarations acknowledging natural children (signed at Rome on 14 September 1961)
6. Convention on the establishment of maternal descent of natural children (signed at Brussels on 12 September 1962)
7. Convention to facilitate the celebration of marriages abroad (signed at Paris on 10 September 1964)
8. Convention on the exchange of information relating to acquisition of nationality (signed at Paris on 10 September 1964)
9. Convention on decisions concerning the rectification of civil status records (signed at Paris on 10 September 1964)
10. Convention relating to the establishment of death in certain cases (signed at Athens on 14 September 1966)
11. Convention on the recognition of decisions relating to the matrimonial bond (signed at Luxembourg on 8 September 1967)
12. Convention on legitimation by marriage (signed at Rome on 10 September 1970)
13. Convention to reduce the number of cases of statelessness (signed at Bern on 13 September 1973)
14. Convention on the recording of surnames and forenames in civil status registers (signed at Bern on 13 September 1973)
15. Convention introducing an international family record book (signed at Paris on 12 September 1974)
16. Convention on the issue of multilingual extracts from civil status records (signed at Vienna on 8 September 1976)
17. Convention on the exemption from legalisation of certain records and documents (signed at Athens on 15 September 1977)
18. Convention on the voluntary acknowledgment of children born out of wedlock (signed at Munich on 5 September 1980)
19. Convention on the law applicable to surnames and forenames (signed at Munich on 5 September 1980)
20. Convention on the issue of a certificate of legal capacity to marry (signed at Munich on 5 September 1980)
21. Convention on the issue of a certificate of differing surnames (signed at The Hague on 8 September 1982)
22. Convention on international co-operation in the matter of administrative assistance to refugees (signed at Basle on 3 September 1985)
23. Additional Protocol to the Convention on the international exchange of information relating to civil status signed at Istanbul on 4 September 1958 (signed at Patras on 6 September 1989)
24. Convention on the recognition and updating of civil status booklets (signed at Madrid on 5 September 1990)
25. Convention on the coding of entries appearing in civil status documents (signed at Brussels on 6 September 1995).
26. Convention on the international exchange of information relating to civil status (signed at Neuchâtel on 12 September 1997)
27. Convention on the issue of a life certificate (signed at Paris on 10 September 1998)
28. Convention on the issue of a certificate of nationality (signed at Lisbon on 14 September 1999)
29. Convention on the recognition of decisions recording a sex reassignment (signed at Vienna on 12 September 2000)
30. Convention on international communication by electronic means (signed at Athens on 17 September 2001)
31. Convention on the recognition of surnames (signed at Antalya on 16 September 2005)
32. Convention on the recognition of registered partnerships (opened for signature at Munich on 5 September 2007)

## b. Most recent Conventions

**(i) Convention (No. 27) on the issue of a life certificate**, signed at Paris on 10 September 1998 by five States (France, Germany, Italy, Spain and Turkey).

The purpose of this Convention is to make it easier for persons, whatever their nationality, to prove their existence, when so required by a country other than the one in which they are residing, by the use of a single form issued and accepted by all the Contracting States. Among those who would benefit from this Convention are numerous migrant workers who on retirement return to their country of origin but are obliged, periodically, to prove that they are still alive in order to obtain their pension from the pension or social security office of the country where they used to work. Under the Convention life certificates can be issued not only by the competent authorities designated by each country but also, under certain conditions, by diplomatic and consular authorities. Certificates are drawn up in the language of the issuing authority and in French, and the standard items of information shown on the front of the form are number-coded in accordance with the policy introduced following the adoption of Convention No. 25 on the coding of entries appearing in civil-status documents.

The Convention is open to member States of the ICCS, the European Union or the Council of Europe and enters in force after ratification by two ICCS member States.

Convention No. 27 entered into force for Spain and Turkey on 1 September 2004. It will enter in force for the Netherlands on 1 December 2011.

**(ii) Convention (No. 28) on the issue of a certificate of nationality**, signed at Lisbon on 14 September 1999 by five States (Germany, Greece, Italy, Portugal and Turkey); it was signed by Spain on 23 July 2009.

The purpose of this Convention is to provide for the issue of a standard document that nationals of one State can use to prove their nationality to the authorities of another, given that such proof is often a condition for access to certain rights, particularly, in the case of the European Union, the right of residence, the right to engage in certain professions and the right to sit competitive examinations governing entry to certain jobs. The European Convention on Nationality of 6 November 1997 moreover enshrines the right to a nationality as a fundamental human right and envisages the issue of a nationality certificate. This nationality certificate, which is issued and accepted by all the Contracting States, should make it easier to prove nationality in so far as it requires neither legalization nor translation yet offers more solid guarantees to the public or private bodies to which it is presented. It is drawn up in two languages: the language of the issuing authority and French. Its standard entries are number-coded in accordance with the policy introduced following the adoption of Convention No. 25.

The Convention is open to member States of the ICCS, the European Union or the Council of Europe and enters in force after ratification by two ICCS member States. Any other State may accede to the Convention after its entry into force, but such accession will have effect only as regards the relations between that State and the Contracting States that have not raised an objection to the accession.

Convention No 28 entered into force for Spain and Turkey on 1 December 2010.

**(iii) Convention (No. 29) on the recognition of decisions recording a sex reassignment**, signed at Vienna on 12 September 2000 by four States (Austria, Germany, Greece and the Netherlands); it was signed by Spain on 23 July 2009.

This Convention provides that a Contracting State shall recognise final court or administrative decisions recording a person's sex reassignment taken in another Contracting State if, at the time when the application was made, the person concerned was a national of or a habitual resident in that other State. Recognition of such decisions may be refused in only three cases: when the physical adaptation has not been carried out and has not been recorded in the decision; when recognition is contrary to public policy in the State in which the decision is relied on; or when the decision was obtained by fraudulent means. The Convention is limited to laying down the conditions of recognition of sex reassignment decisions; it does not deal with the legal and practical consequences deriving therefrom, save as regards civil status, in that it provides that a State recognising such a decision shall update the birth certificate of the person concerned that has been drawn up or transcribed in its civil status registers.

The Convention is open to member States of the ICCS or of the European Union and enters in force after ratification by two ICCS member States. Any other State may accede to the Convention after its entry into force, but such accession will have effect only as regards the relations between that State and the Contracting States

that have declared their acceptance of the accession. Finally, a State may reserve the right not to apply the Convention to administrative decisions.

Convention No 29 entered into force for the Netherlands and Spain on 1 March 2011.

**(iv) Convention (No. 30) on international communication by electronic means**, signed at Athens on 17 September 2001 by six States (France, Germany, Greece, Italy, Portugal and Turkey).

The growing use in the civil status field of the new methods of communication led the ICCS to look into the problems raised by the electronic transmission of civil status data. This work led to the adoption in 2000 of the Convention on international communication by electronic means, which was signed at Athens one year later.

The purpose of this Convention is to enable electronic means (instead of those traditionally used) to be utilised to transmit data whose exchange or issue are provided for in existing or future ICCS Conventions, a list of the relevant Conventions concluded as at 14 September 2000 being appended to the explanatory report on this Convention.

The Convention creates no new obligation to exchange or issue information, but the States have the option of extending its application to data other than those mentioned above. In principle, the data exchanged will relate to the status of persons or to nationality and transmission will take place between authorities or civil registrars of the Contracting States; however, in order to facilitate the steps to be taken by users, notably as regards the Conventions that envisage the issue of documents, this Convention provides that civil registrars or another authority may be empowered to act on behalf of individuals. The Contracting States are to attribute to data transmitted electronically the same value in law as they do to data transmitted in a material form, provided that the electronic transmission ensures the integrity and authenticity of the contents and the security and confidentiality of the communication.

The Convention is open to member States of the ICCS and will enter into force after ratification by two States. After entry into force of the Convention, any other State may accede thereto for the communication of data provided for in an ICCS Convention to which it is party. See also *infra*, IV-Work in progress, b).

**(v) Convention (No. 31) on the recognition of surnames**, signed at Antalya on 16 September 2005 by Portugal.

The earlier ICCS Conventions relating to surnames (Nos. 4, 14, 19 and 21) leave unresolved problems that arise when the national laws of a person having several nationalities produce divergent results as regards his or her surname or when, in the case of spouses of different nationality, each one's national law regulates differently the effects of marriage or its dissolution or annulment on the surnames of the spouses or former spouses.

By its Convention No. 31, the ICCS wished to go a step further and reduce the number of situations in which different surnames may be attributed to the same person by the various laws with which he or she has a connection. Without seeking to unify substantive law or conflict-of-laws rules, the Convention lays down rules whereby the Contracting States are to recognise the determination of a surname made in another State if the person concerned has certain links defined by the Convention (nationality or habitual residence) with that State. In such cases, the risk of the same person's bearing different surnames is eliminated, because the obligation to recognise the surname is coupled with a corresponding obligation not to attribute a different surname and not to recognise any other surnames that might have been attributed by the law of another State. The matters covered by the Convention are: the effects on a surname of marriage and the dissolution of marriage or annulment, especially when the spouses are of different nationality; the effects on a surname of the conclusion and the dissolution of a registered partnership; the surname attributed to a child having several nationalities; and the change of surname of a person likewise having several nationalities.

The Convention is open to member States of the ICCS and will enter into force once it has been ratified by two of them. Any member State of the Council of Europe and any other State invited to do so by the ICCS may accede to the Convention after its entry into force.

**(vi) Convention (No. 32) on the recognition of registered partnerships** (opened for signature at Munich on 5 September 2007, it was signed by Portugal on 1 October 2008 and by Spain on 23 July 2009).

Legislative developments in an increasing number of States have led the ICCS to turn its attention to the institution of registered partnership. It had to take account of the fact that a uniform model of partnership does not exist: thus, the institution is often but not necessarily reserved for persons of the same sex; again, in some States it has effects akin to those of a marriage, whereas in others it is no more than a contract governing the property aspects of living together.

It being generally very easy to register a partnership, in that there are no conditions relating to nationality or even, in some cases, to residence in the State of registration, the ICCS has endeavoured, by Convention No. 32,

to solve civil-status problems arising in a Contracting State and concerning persons who are bound by a partnership registered in another State (whether Contracting or not) or whose partnership has been dissolved or annulled in another State. The main provisions of the Convention –which is limited to recognition of the formation, dissolution or annulment of a partnership, without regulating the law applicable thereto- may be summarised as follows.

1. Within the meaning of the Convention, a "registered partnership" is "a commitment to live together, other than a marriage, entered into by two persons of the same sex or different sex, giving rise to registration by a public authority". Each Contracting State shall, if appropriate, designate the institutions under its law which correspond to this definition.
2. Contracting States undertake to recognise as valid a partnership registered in any State and also the civil-status effects of the partnership (namely, the impediment to the conclusion or formation of a marriage or a new partnership with a third person and the effect on the surname of the partners), to the extent that such effects are prescribed by the law of the State of registration. Recognition of other effects of the partnership (maintenance, inheritance, property, tax, social, etc.) falls outside the field of application of the Convention and is left to the ordinary law.
3. Contracting States may refuse to recognise a partnership only on one of the grounds listed by way of limitation in the Convention (non-compliance with rules on prohibited degrees of relationship or on age; one of the partners is party to a marriage or a partnership with a third person that has not been dissolved; absence of consent; neither partner has the nationality of, or resides habitually in, the State of registration; manifest incompatibility with public policy in the State where recognition is sought).
4. Contracting States also undertake to recognise, on certain conditions, the dissolution or annulment of the partnership.
5. Other provisions concern the issue of certificates designed to facilitate proof of the formation, dissolution or annulment of the partnership; entry of those events in the registers of the State of recognition; and exchanges of information relating to the registration of the partnership and to the occurrence and the recognition of a dissolution or annulment of the partnership, notably in cases where at least one of the partners is a national of or habitually resident in a State other than the State of registration.
6. A Contracting State may reserve the right: not to apply the Convention to partnerships formed between persons of different sex; not to recognise the validity of the partnership (whilst remaining bound to recognise its civil-status effects); and/or not to recognise, or to limit its obligation to recognise, the effects of the partnership on the surname of the partners.

The Convention is open to ICCS member States and will enter into force once it has been ratified by two of them. Any other State may accede to the Convention after its entry into force.

Convention No 32 has been ratified by Spain on 4 August 2010.

## **B. RECOMMENDATIONS**

1. Recommendation on the issue and recognition of documents issued to refugees under the Geneva Convention of 28 July 1958 (adopted in Luxembourg on 8 September 1967)
2. Recommendation relating to the law of marriage (adopted in Vienna on 8 September 1976)
3. Recommendation on the identification of refugees from South-East Asia (adopted in Munich on 3 September 1980)
4. Recommendation relating to the publicity of civil status registers and records (adopted in Rome on 5 September 1984)
5. Recommendation relating to the harmonisation of civil status records (adopted in Lisbon on 10 September 1987)
6. Recommendation relating to international co-operation in the matter of administrative assistance to asylum-seekers (adopted in Patras on 8 September 1989)
7. Recommendation on the harmonisation of extracts from civil status records (adopted in Madrid on 7 September 1990)
8. Recommendation on the computerisation of civil status (adopted in Strasbourg on 21 March 1991)
9. Recommendation on combating documentary fraud with respect to civil status (adopted in Strasbourg on 17 March 2005) : see below.



ICCS drew up Recommendation No. 9 in order to give a more concrete form to the information concerning fraud exchanged between member States during the regular meetings of an ad hoc working party. The text is not confined to fraudulent manoeuvres, but aimed at foreign civil-status documents which lack the requisite guarantees or relate events affecting civil status that do not correspond to reality.

The Recommendation

- recalls the material components in the absence of which the authenticity of any extract derived from a civil-status register cannot be guaranteed;
- draws attention to a certain number of pointers revealed by the conditions in which a document was drawn up or by matters external thereto that may show that it is defective, erroneous or fraudulent;
- specifies the ways of conducting the checks to be carried out and the follow-up action to be taken if they reveal that a document attests events affecting civil status which do not correspond to reality, whether or not the intention be fraudulent;
- advocates the establishment of closer co-operation between the member States in this area.

Opinions expressed by both civil-status practitioners and by consular and administrative authorities of the member States reveal that this text has been very well received and appears to provide concrete replies to a certain number of questions that arise in the field.

### **C. DOCUMENTATION**

#### **a) The ICCS webpage**

Since the beginning of 2001, the ICCS webpage can be consulted at the address "<http://www.ciec1.org>". The site offers on line general information on the ICCS, the text of the Conventions and Recommendations drawn up under its auspices, the studies already published and, for the most recent years, the annual reports of the Secretary General, which are submitted to the General Assembly and highlight the changes made to legislation in the member States. These documents are presented in French, the Commission's only official language, but an English translation of the greater part of the materials can also be found on the site, as well as various national documents and comparative-law reports drafted in several languages

#### **b) International practical guide on civil status**

As part of its documentation work, the ICCS has produced a large volume entitled *Guide pratique internationale de l'état civil* (International practical guide on civil status). This work of more than 500 pages contains the answers, in French, submitted by the National Sections of the Commission's member States to a questionnaire covering all problems concerning practice in the civil-status sphere. The guide thus constitutes a comparative-law study in the field of personal status and, besides being of interest to academics, aims to facilitate the task of civil registrars in the different ICCS member States: when they have occasion to receive documents concerning foreigners, registrars need to know the principles governing the personal status of those foreigners so that the latter do not have to provide information on and proof of the contents of their national laws.

The guide also provides, before each member State's replies to the questionnaire, a standard-form *general introduction* presenting a brief overview of the organisation of civil status in that country. The States holding observer status with the ICCS were invited to become associated with the Commission's documentary work by drawing up, on the same plan as the general introductions, a memorandum presenting the organisation of civil status departments in their respective countries. Thus, there can be found in the guide notes concerning Cyprus, the Holy See, Lithuania, Moldova, Romania, Slovenia and Sweden.

The International practical guide on civil status is available for consultation on the ICCS webpage. It is up-dated when possible and was recently completed with the answers relating to Argentina.

#### **c) Studies relating to fraud in respect of identity and civil-status documents**

At the end of 1996, the ICCS published, in French, a study on "Fraud with respect to civil status" in the *Revue Critique de Droit International Privé* (Dalloz-Sirey, Paris, 1996, pp. 541-571). Translations of this study, into *inter alia* English, Spanish, Italian, Dutch and Polish, have since been prepared and published.

The study was revised and updated in 2000 and supplemented by a note on "the compatibility with the European Convention on Human Rights of legislative and regulatory measures taken by States to combat fraud with respect to civil status". The updated version was published by the ICCS Secretariat General, in English and French, in December 2000.

Since then work on the subject was carried on, and led to the adoption of Recommendation n° 9 on 17 March 2005 (see supra, III-B) and the publication of two comparative law studies in autumn 2010, "The marriages of convenience" and "The persons deprived of civil-status and identity documents".

- The study on « The marriages of convenience » focuses on one of the issues touched upon in the study « Fraud with respect to civil status » which was published in 1996. It summarises the phenomenon increasing significantly in almost all ICSS member States of the unions concluded, not with the usual aims of marriage, but in view of obtaining certain advantages generally associated with marriage. As the legal provisions never stopped evolving in various States, particularly in terms of right of entry and residency, the study and the schedules appended to it take into consideration the dispositions in force on 1 September 2009. Drafted in French, the study was translated in English, Italian and Polish.
- The study on "The persons deprived of civil-status and identity documents" aims to summarise another issue with which ICSS member States have been confronted more and more regularly over the last few years: the presence within their territories of an increasing number of persons who are devoid of identity and/or civil-status documents. The study *gathers the whole of the data collected, the note being based on the state of the legislation as at 31 December 2009*. Drafted in French, the study was translated in English and Polish.

The texts mentioned above can be consulted on the ICSS webpage.

#### **d) ICSS Colloquy on "Civil status in the XXIst century: dusk or dawn?"**

In order to celebrate its sixty years of existence, the ICSS organised on 13 and 14 March 2009 a colloquy in Strasbourg, during which the following topics were discussed, among others, by French and foreign experts: questions regarding the function of civil status in the XXIst century, civil status in China and Algeria, security, and new technologies. A bilingual publication (in French and English) of the addresses made at the Colloquy was prepared and distributed by the Secretariat General in July 2010. Both versions may be consulted on the ICSS webpage.

#### **e) Former publications**

##### **(i) – Monograph "International Commission on Civil Status (ICCS)"**

This monograph was published, in English, in the "International Encyclopaedia of Laws" (*Kluwer Law International, The Hague, London, Boston, International Encyclopaedia of Laws, "Intergovernmental Organizations"*, Supplement 4, January 1999 and "Family and Succession Law", Supplement 14, September 2001). The study presents the ICSS and its activities since its creation and describes its achievements in the areas of exchange of documentation, circulation of records and decisions and co-operation between authorities and its contribution to the harmonisation of the law of persons and family law. In March 2000 the Secretariat General, with the publisher's authorisation, prepared and distributed, on a limited basis, a bilingual (French - English) version of the study. An updated version was published in October 2007. The French version can be consulted on the ICSS Internet site.

##### **(ii) – Study "The establishment of maternal descent and surrogate motherhood"**

Following a request of the French National Section, a questionnaire was addressed to the National Sections of the other ICSS member States concerning their law and practice in the matter of surrogate motherhood, notably as regards the legality of surrogacy contracts and the registration of the birth of the child. On the basis of the replies received and other information in the possession of the ICSS, the Secretariat General prepared a synopsis, which extends also to more general questions relating to the establishment of maternal descent and, notably, anonymous childbirth. This synopsis, written in French and entitled "*L'établissement de la filiation maternelle et les maternités de substitution dans les Etats de la CIEC*" and updated to 20 February 2003, may be consulted on the ICSS webpage.

##### **(iii) – Study "Transsexualism, civil status and private and family life"**

As part of its work to prepare a Convention that would facilitate the recognition in one country of decisions recording a sex reassignment taken in another (see point III-A-b-iii above), the ICSS envisaged the preparation and publication of a study on transsexualism. The study, drafted by the Secretariat General on the basis of the information supplied by the National Sections, was approved by the 1998 General Assembly in Paris.

The study, "*Transsexualisme, état civil, vie privée et familiale dans les Etats de la CIEC*" (Transsexualism, civil status and private and family life in ICSS States) was published in the *Revue Droit de la Famille* (Juris-Classeur, Paris, 1998, No. 12, pp. 3-9).



At the request of the Council of Europe, the ICCS prepared a memorandum on "Transsexualism in Europe", combining the information supplied by its own and Council of Europe member States. A bilingual (English-French) version of this memorandum, supplemented with legislative or administrative texts, international instruments and judgments of the European Court of Human Rights, was published in 2000 (Council of Europe, Strasbourg, June 2000). The French version, updated in September 2002, can be consulted on the ICCS Internet site.

**(iv) – ICCS Colloquy on "Current problems in the law of persons in the ICCS States"**

On 26 March 1999, to mark its fifty years of existence, the ICCS organised a Colloquy in Strasbourg, at which French and foreign speakers addressed legal issues relating to married couples (spouses' and children's surname) and unmarried couples (registered partners, cohabitation contracts), the legal relationship between children born out of wedlock and their parents and how that relationship is affected when a woman gives birth anonymously, when a child is adopted, and when paternity is established under Germanic, Romanist and Anglo-Saxon law. The Colloquy *Proceedings* were prepared and published by the Secretariat General, in English and French, in January 2000; both versions can be consulted on the ICCS Internet site.

**(v) – Study "Civil status and perinatal death" (registration of lifeless children)**

In the context of the revision of the General Instruction on Civil Status, the French Section had requested information on the practice in other ICCS States concerning the registration of lifeless children. The information obtained from the National Sections was harmonised and reproduced in a consolidated summary.

The study "*Etat civil et décès périnatal dans les Etats de la CIEC*" (civil status and perinatal death in ICCS States) was published in French in the *Private International Law Review* (N. Sakkoulas Publishers, Athens, 1998/4B, pp. 291-302) and in *La Semaine Juridique, Edition générale* (JCP [Juris-Classeur Périodique], Paris, 1999, No. 13, pp. 613-616). A bilingual version (English-French) was prepared and published by the Secretariat General in December 1999; both versions can be consulted on the ICCS Internet site

**(vi) – Study "Application in the civil status sphere of the principles set out in the European Convention on Human Rights"**

The European Convention on Human Rights, which guarantees respect for private and family life and whose application is the subject of judgments of the European Court of Human Rights, is not irrelevant to legislation and practice in the civil status sphere. The ICCS has investigated the extent to which different countries' national legislation complies with the principles set out in the Convention and compared their methods of implementing these principles.

At the end of 1990 the ICCS began a series of studies to ascertain the practical arrangements for guaranteeing respect for private and family life in the civil status field, from the angle of the content of and public access to registers as well as in terms of the operation of the civil status service. A synopsis, based on information supplied by the National Sections and drafted in the form of a comparative study of the law in the ICCS member States in the light of the provisions of the European Convention on Human Rights, and in particular Article 8, was completed in June 1996. The 1996 General Assembly in Rome approved the principle of the report and decided to publish it, after a number of additions.

The final version of the study was completed in March 1997 and published, in French, in the *Revue trimestrielle de droit européen* (Dalloz-Sirey, Paris, 1997, pp. 653-684). It can be consulted on the ICCS Internet site.

**IV. WORK IN PROGRESS**

**a) Fraud with respect to civil status** (see also point III-C-c above)

A working group meets regularly to exchange information, notably on cases of fraud (false declarations, falsification of records, bogus marriages or fraudulent acknowledgments of paternity) and on legal and technical measures implemented (use of protected paper, an increase in direct exchanges of information between administrative authorities). Its works led to a recommendation and several comparative law studies. The group presently examines matters relating to identification and civil status.

**b) Harmonisation and centralisation of civil-status information**

A study carried out by the ICCS in 2000 into the means whereby an individual can prove his or her civil status led to the conclusion that there was a need to arrive at increased harmonisation and centralisation of civil-status

information. The working group set up for this purpose is looking at, amongst other things, computerisation and the use of new technologies and their consequences as regards the drawing up, storage and transmission of records. It has been decided to continue work relating to the exchange by electronic means of civil-status data between the member States and to begin with a pilot project. Presently, ICCS is preparing a Platform for the electronic exchange of civil-status data and drafting a convention for its utilization. This Platform, co-financed by the European Commission, will enable that the new technologies can be used for the implementation of ICCS Conventions, which are providing for an automatic exchange of information between authorities as well as for issuing a document to a individual person; at this stage of discussion, the legal tool provides extensions that will allow contracting States to use the Platform for internal exchanges or for the exchange of other civil-status data (for instance on the basis of a bilateral agreement).

**c) Revision of former Conventions.**

Are essentially concerned Conventions No. 16 (on the multilingual extracts of civil-status records, signed at Vienna on 8 September 1976) and No. 26 (on the international exchange of information on civil status, signed at Neuchatel on 12 September 1997), but the work leads to changes in number of forms attached to the conventions and to the creation of new forms, particularly in order to take account of the new technologies and of the recent legislations on partnerships and marriages of same sex persons).

**d)** Further work is pending (such as the revision of Recommendation No. 2 on the law of marriage, surrogate mothers, or international adoption), yet priority was given to work related to the Platform.

**V - RELATIONS WITH NON-MEMBER STATES AND OTHER INTERNATIONAL ORGANISATIONS**

**a) Non-member States**

In September 1973 the ICCS organised a conference in Interlaken on current problems of civil status, at which not only member States but also other European (Finland, the United Kingdom -England and Scotland-, Sweden and Yugoslavia) and North African countries (Morocco and Tunisia) were represented. Since then some of these countries have become members of the ICCS or have regularly attended its General Assemblies as observers.

In 1990 the ICCS drew up a medium and long-term plan to establish relations with all European countries, especially in central and eastern Europe, as the movement of persons from and to the latter would be increasing, and therefore also the problems dealt with by the ICCS. Besides bilateral contacts and occasional visits for the purposes of co-operation, the ICCS organised an International Civil Status Day in Berlin on 9 September 1992, to which European countries that were not members of the Organisation were invited. Some of these countries have since established closer ties with the Commission by applying to accede to it or seeking observer status (see section II above). More recently, the ICCS has established contacts with the *Consejo latinoamericano de Registros civiles, Identificación y Estadísticas Vitales* and with certain Latin-American States; Mexico became a member State of ICCS at the end of 2010 and Argentina and Peru, in particular, are regularly attending ICCS meetings.

**b) Other international organisations**

The ICCS has entered into co-operation agreements with other international organisations -by exchanging letters setting out the arrangements-, in particular with the Council of Europe (exchange of letters on 28 and 31 October 1955), the Hague Conference on Private International Law (exchange of letters on 17 and 28 October 1969), the United Nations High Commissioner for Refugees (exchange of letters on 4 and 17 May 1981) and the European Economic Community (exchange of letters on 14 and 26 July 1983). These organisations are regularly invited to attend the ICCS General Assemblies as observers and the Commission is regularly represented as an observer on the committees of experts of certain of these organisations, which deal with problems falling within its sphere of responsibility.

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