

Convention (No.32) on the recognition of registered partnership

signed at Munich on 5 September 2007

Preamble

The signatory States to this Convention, members of the International Commission on Civil Status,
Being desirous of facilitating the recognition in a Contracting State of the formation, dissolution or
annulment of a partnership registered in another State,
Have agreed as follows:

Article 1

In this Convention the expression "registered partnership" means 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.

Article 2

Subject to Article 7, a partnership registered in a State shall be recognised as valid in the Contracting States.

Article 3

Subject to Article 7, the civil-status effects of a registered partnership which are prescribed by the law of the State in which it has been registered and indicated in Articles 4 to 6 shall be recognised in the Contracting States.

Article 4

To the extent that the law of the State in which it has been registered so provides, a partnership constitutes an impediment to the conclusion or formation by one or other of the partners of a marriage or a new partnership with a third person.

Article 5

1. In the event of a partnership formed between persons at least one of whom is a national of a Contracting State, a declaration made by the partners concerning the surname that they will bear after registration of the partnership or by one of them concerning the surname that he or she will bear after registration of the partnership shall, if made in a Contracting State of which one of the partners is a national or in the Contracting State where both partners are habitually resident on the day of the declaration, be recognised in the Contracting States.
2. In the event of dissolution or annulment of a partnership, a declaration whereby a partner or former partner who is a national of a Contracting State either reverts to a surname that he or she bore previously or elects to keep the surname that he or she bore during the partnership shall, if made in the Contracting State or one of the Contracting States of which he or she is a national or in the Contracting State where he or she was habitually resident on the day of the declaration, be recognised in the Contracting States.

Article 6

If the same partners cause partnerships to be registered in several States, the civil-status effects indicated in Articles 4 and 5 and prescribed by the law of one or more of those States shall be recognised even if the said effects are not prescribed by the law of all those States.

Article 7

A Contracting State may refuse to recognise a partnership registered in another State on one of the following grounds only:

1. the two partners are related, by blood or marriage, to a degree that would, under the law of the requested State, have prevented them from forming a partnership with or marrying each other;
2. at the time of the declaration of intent before the competent authority, one of the partners was party to a marriage or a partnership with a third person that had not been dissolved;
3. at the time of the declaration of intent before the competent authority, one of the partners had not attained the minimum age required under the law of the requested State in order to form a partnership or, if that State does not know the institution of partnership, in order to enter into a marriage;
4. at the time of the declaration of intent before the competent authority, one of the partners did not have the mental capacity to give his or her consent or had not freely consented to the partnership;
5. at the time of the declaration of intent before the competent authority, neither of the two partners was connected, by nationality or habitual residence, with the State of registration;
6. recognition of the partnership is manifestly incompatible with public policy in the State in which it is sought.

Article 8

1. The Contracting States shall recognise the dissolution or annulment of a partnership to the extent that it affects the effects which the partnership is to be recognised as having under Articles 2 to 7, provided that said dissolution or annulment occurred or is recognised in the State where the partnership was registered.
2. The recognition provided for in the preceding paragraph may be refused only if it is manifestly incompatible with public policy in the State in which it is sought.

Article 9

1. A Contracting State in which a partnership is registered shall issue to each partner a certificate, drawn up in accordance with Article 13, indicating the registration of that partnership.
2. A Contracting State in which a registered partnership is dissolved or annulled shall issue to each of the former partners a certificate, drawn up in accordance with Article 13, indicating the dissolution or annulment.
3. A Contracting State in which a partnership is registered may issue to each of the former partners a certificate, drawn up in accordance with Article 13, attesting that the dissolution or annulment of that partnership is recognised in that State.

Article 10

1. An authority of a Contracting State registering a partnership in which at least one of the partners is a national of or habitually resident in another Contracting State shall inform the authorities of that State, designated in accordance with Article 16, paragraph 2(b), of the registration by sending to them the certificate provided for in Article 9, paragraph 1. It shall do the same where it recognises the dissolution or annulment of that partnership, by sending to those authorities the certificate provided for in Article 9, paragraph 3.
2. The authority of a Contracting State in which a registered partnership is dissolved or annulled shall inform the authorities designated in accordance with Article 16, paragraph 2(b), of the dissolution or annulment by sending to them the certificate provided for in Article 9, paragraph 2. The Contracting States whose authorities must be so informed are:
 - the State in which the partnership was registered;
 - the State or States of which the former partners are nationals;
 - the State or States where the former partners are habitually resident.

Article 11

If the law of the State of recognition so provides and without prejudice to the grounds for non-recognition set out in Article 7, the partnership shall be entered in the relevant official registers of that State, without any special procedure being required. The documents to be furnished in order to have that entry made shall be determined by the law of that State.

Article 12

Without prejudice to Article 8, paragraph 2, dissolutions or annulments of a partnership that have occurred or are recognised in the State where the partnership was registered shall be entered in the relevant official registers of another State if the law of that State so provides, without any special procedure being required. The documents to be furnished in order to have that entry made shall be determined by the law of that other State.

Article 13

1. The certificates referred to in Article 9 shall be drawn up in conformity with the models appearing in Appendix 1 to this Convention. The standard entries appearing in the certificates shall bear code numbers a list whereof is set out in Appendix 2 to this Convention. The rules applicable to the certificates are set out in Appendix 3 to this Convention. Appendices 1, 2 and 3 may be modified by a resolution adopted by a simple majority of the representatives of the member States of the International Commission on Civil Status and the non-member Contracting States. Any such resolution shall be deposited with the Swiss Federal Council and shall take effect, in relations between the Contracting States, on the first day of the sixth month following such deposit.
2. At the time of ratification, acceptance or approval of or accession to this Convention, each Contracting State shall deposit with the Secretariat General of the International Commission on Civil Status the translation into its official language or languages of the terms which must, in accordance with Appendix 3 to this Convention, appear in the certificates. This translation must be approved by the Bureau of the International Commission on Civil Status. Any modification of this translation must be deposited with the Secretariat General of the International Commission on Civil Status and approved by the Bureau of the International Commission on Civil Status.
3. If an interested party so requests, the authority issuing a certificate shall append a list of the code numbers appearing therein and their translation into the official language or one of the official languages of the Contracting State or States where the certificate is to be used. That authority may also decode the certificate by translating it into the official language or one of the official languages of the Contracting State or States where it is to be used.
4. Any interested party may request the competent authority of a Contracting State in which a certificate is being used to translate the code numbers into the official language or one of the official languages of that State or to decode the certificate.

Article 14

1. For the purposes of the application of Articles 2, 3, 4, 6, 8 and 9, the registration by the consular authorities of a State of a partnership or of its dissolution or annulment shall be deemed to have occurred in that State.
2. For the purposes of the application of Article 5, a declaration made before the consular authorities of a Contracting State shall be deemed to have been made in that State.
3. Paragraphs 1 and 2 shall apply only if the consular authority is empowered under the law of the sending State to register such events or receive such declarations and provided that there is nothing contrary thereto in the laws and regulations of the receiving State.

Article 15

1. The validity and civil-status effects of a partnership registered before the entry into force of the Convention for a State shall be recognised in that State provided that the conditions for recognition laid down by the Convention are satisfied. However, such recognition shall not be afforded if it would

call into question the validity of acts having occurred before the entry into force of the Convention for that State.

2. Dissolutions or annulments of a partnership that have been registered before the entry into force of the Convention for a State shall be recognised in that State in accordance with Article 8 provided that the conditions for recognition laid down by the Convention are satisfied.

Article 16

1. At the time of signature, ratification, acceptance, approval or accession, each State shall, if appropriate, designate the institutions under its law which correspond to the definition set out in Article 1.
2. At the time of signature, ratification, acceptance, approval or accession, each State shall designate the authority or authorities empowered
 - (a) to issue the certificates referred to in Article 9;
 - (b) to send and receive the information provided for in Article 10;
 - (c) to translate the code numbers or decode certificates in accordance with the provisions of paragraph 4 of Article 13.
3. Any subsequent modification of designations made in accordance with paragraph 1 shall be notified to the Swiss Federal Council and shall take effect on the date indicated by the State making the modification.
4. Any subsequent modification of designations made in accordance with paragraph 2 shall be notified to the Swiss Federal Council and shall take effect on the first day of the sixth month following that notification.

Article 17

1. This Convention is open to signature by the member States of the International Commission on Civil Status.
2. The Convention shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Swiss Federal Council.

Article 18

1. Any other State may accede to this Convention.
2. The instruments of accession shall be deposited with the Swiss Federal Council.

Article 19

1. This Convention shall enter into force on the first day of the fourth month following the month of deposit of the second instrument of ratification, acceptance or approval.
2. In respect of a State ratifying, accepting, approving or acceding after its entry into force, the Convention shall take effect on the first day of the fourth month following the month of deposit by that State of the instrument of ratification, acceptance, approval or accession.

Article 20

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right:
 - (a) not to apply the Convention to registered partnerships formed between persons of different sex;
 - (b) to exclude the application of Article 2;
 - (c) to exclude the application of Article 5;
 - (d) to recognise a declaration referred to in Article 5, paragraph 1, that affects the surname of one of its nationals, only if such declaration is made in the State where both partners are habitually resident and if one of the partners is a national of the latter State.
2. No other reservation shall be permitted.

3. Any State may at any time withdraw a reservation which it has made. The withdrawal shall be notified to the Swiss Federal Council and shall take effect on the first day of the fourth month following the month of receipt of that notification.

Article 21

1. Any State may, at the time of signature, ratification, acceptance, approval or accession or at any later date, declare that this Convention shall extend to all of the territories for whose international relations it is responsible, or to one or more of them.
2. Any declaration made pursuant to paragraph 1 shall be notified to the Swiss Federal Council. It shall take effect when the Convention enters into force for that State or, subsequently, on the first day of the fourth month following the month of receipt of the notification.
3. Any declaration made pursuant to paragraph 1 may be withdrawn by notification to the Swiss Federal Council. The Convention shall cease to apply to the designated territory on the first day of the fourth month following the month of receipt of that notification.

Article 22

1. This Convention shall remain in force indefinitely.
2. However, any State party to this Convention shall have the option of denouncing it at any time after the expiry of a period of one year from the date of entry into force of the Convention in respect of that State. Denunciation shall be notified to the Swiss Federal Council and shall take effect on the first day of the fourth month following the month of receipt of that notification. The Convention shall remain in force among the other States.

Article 23

1. The Swiss Federal Council shall notify the member States of the International Commission on Civil Status and any other State which has acceded to this Convention of:
 - (a) the deposit of any instrument of ratification, acceptance, approval or accession;
 - (b) any date of entry into force of the Convention;
 - (c) any resolution adopted pursuant to Article 13, paragraph 1, together with the date on which it will take effect;
 - (d) any designation made pursuant to Article 16, paragraphs 1 and 2, and any subsequent modification, together with the date on which the modification will take effect;
 - (e) any reservation made pursuant to Article 20, paragraph 1, or its withdrawal, together with the date on which the withdrawal will take effect;
 - (f) any declaration made pursuant to Article 21, paragraph 1, or its withdrawal, together with the date on which the declaration or withdrawal will take effect;
 - (g) any denunciation of the Convention made pursuant to Article 22, paragraph 2, and the date on which it will take effect.
2. The Swiss Federal Council shall inform the Secretary General of the International Commission on Civil Status of any notification made pursuant to paragraph 1.
3. On the entry into force of this Convention, a certified copy shall be transmitted by the Swiss Federal Council to the Secretary General of the United Nations for the purposes of registration and publication, in accordance with Article 102 of the United Nations Charter.

In witness whereof the undersigned, duly authorised to this end, have signed this Convention.

Done at Munich on 5 September 2007, in a single copy in the French language, which shall be deposited in the archives of the Swiss Federal Council and a certified copy of which shall be transmitted, through diplomatic channels, to each of the member States of the International Commission on Civil Status and to the acceding States. A certified copy shall also be sent to the Secretary General of the International Commission on Civil Status.

Territorial scope of the Convention

At the moment of ratification, Spain made the following declaration :

« In the case where the present Convention should apply to Gibraltar, Spain wishes to make the following declaration :

1. Gibraltar is a non-autonomous territory whose exterior relations are under the responsibility of the United-Kingdom and who is the object of a decolonisation process in accordance with the relevant resolutions and decisions of the General Assembly of the United Nations.
2. The Gibraltar authorities are of a local nature and have exclusively internal competencies which find their origin and their justification in a distribution and attribution of competencies carried out by the United-Kingdom, in conformity with its internal legislation, in its quality as sovereign State of whom depends the said non-autonomous territory.
3. Consequently, the possible participation of the Gibraltar authorities in the application of the Convention shall be known to be carried out exclusively in the framework of Gibraltar's internal competencies and cannot be considered to modify anything mentioned in the two previous paragraphs.

The procedure provided for in the Regime relating to the Gibraltar authorities in the context of certain international treaties (2007), adopted by Spain and the United Kingdom on 19 December 2007 (as well as the 'regime relating to the Gibraltar authorities in the context of EU and EC instruments and related treaties', adopted on 19 April 2000, applies to the present convention. »

Declaration made in application of Article 16

On 28 October 2010, Spain made the following declaration :

1. Article 16 of the Convention provides in its first paragraph that, at the time of signature, ratification, acceptance, approval or accession, each State will designate, if relevant, the institutions which, in virtue of its legislation, correspond to the definition in Article 1, which limits the sense of « registered partnership » to « 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. ». This definition corresponds to the institutions regulated by the different autonomous legislations under different denominations, of which unions of stable couples, partnerships and factual unions are the most common.
2. In accordance with Paragraph 2 of Article 16 of the Convention, the authorities in charge of the registration and/or the accreditation of unions of stable couples, partnerships and factual unions in their corresponding Autonomous Community are the competent authorities : a) for the issue of the certificates mentioned in Article 9 : b) to send and receive the information mentioned in Article 10 ; c) to translate the codes and proceed with the decoding in accordance with the dispositions of Article 13.4 (unofficial translation, provided by the person making the declaration, from the original Spanish).