

EXPLANATORY REPORT

Adopted by the General Assembly in Frankfurt on 24 March 1976

A. GENERAL REMARKS

The Convention on the issue of certain extracts from civil status records for use abroad, signed at Paris on 27 September 1956, is in force in nine of the member States of the International Commission on Civil Status.

Drawn up in seven languages, extracts issued in pursuance of that Convention are accepted in many countries and are especially useful both to emigrants and to the authorities of countries of immigration. Nevertheless, it was thought necessary to amend the Convention, partly because of the accession of new members to the International Commission on Civil Status and Yugoslavia's accession to the Convention (entailing the use of additional languages) and partly because it seemed advisable to harmonise the forms with those in the international family record booklet introduced by the Convention signed at Paris on 12 September 1974.

The extent of the changes to be made was such that the drafting of a new Convention was preferred to recourse to the revision procedure provided for in Article 12 of the 1956 Convention.

B. COMMENTARY ON THE ARTICLES

Articles 1 and 2

These Articles deal with the matters governed by Article 1 of the 1956 Convention. Under that Convention there was an option – but not an obligation – to issue multilingual extracts in cases where the use of an extract in a single language necessitated a translation. The new Convention imposes an obligation to issue a multilingual extract in such cases and in all cases where a party so requests. This change takes account of the interest of the parties concerned, a matter which should not be left to the discretion of the authority having custody of the record.

Article 3

This Article corresponds to the second paragraph of Article 4 of the 1956 Convention.

However, it allows an identity number to be added to the forms without prior authorisation (see the last paragraph of Article 7 of the 1974 Convention).

Unlike the 1956 Convention, the new one no longer lists the particulars that must be included in the extracts. Such listing is now superfluous, since model extracts are appended to the Convention.

Article 4

This Article is based on the provisions of the first paragraph of Article 6 of the 1974 Convention.

Article 5

The way of writing dates and using the symbols mentioned in Article 3 of the 1956 Convention is now in line with that specified in Article 7 of the 1974 Convention.

The second and third paragraphs specify respectively the way in which places and identity numbers are to be indicated.

Article 6

This Article lays down which languages are to be used in preparing extracts.

On the front the standard forms of words are to be printed in at least two languages, including the official language or one of the official languages of the State in which the extract is being issued and the French language (see Article 8 of the 1974 Convention). However, the meaning of the symbols must be indicated at least in the official language or one of the official languages of each of the States which are members of the International Commission on Civil Status or which are bound by the 1956 Convention. If a State – for example Yugoslavia – has several languages, the use of one of them will suffice. In addition, English must always be included because of its very widespread use.

On the reverse of the extract there must first be a reference to the Convention, in the languages prescribed for the explanation of the symbols. This is to be followed by a translation of the standard forms of words in the same languages, with the exception of the languages in which they are printed on the front. Finally, there must be a summary of Articles 3, 4, 5 and 7 of the Convention, which contain the rules governing the preparation of the extract. Since those rules are addressed to the authority issuing the extract, the summary need only be in that authority's language. However, there is nothing to say that it may not be written in other languages as well.

Articles 7 – 10

These Articles are based on the corresponding provisions of the Conventions of 1956 (Articles 3, 5, 6 and 7) and 1974 (Articles 10, 11 and 13). While Article 6 of the 1956 Convention provided that the same charges were to be payable for extracts issued thereunder as for extracts made pursuant to the domestic legislation in force in the State from which the extracts emanated, Article 9 of this Convention merely prescribes that the charges payable for extracts issued pursuant thereto may not be higher than those provided for by domestic legislation. Owing to the requirements of revenue law in some member States of the International Commission on Civil Status, it was not possible to prescribe that extracts issued in pursuance of the Convention should be free of charge. However, having regard to the fact that civil registration constitutes a public service, the International Commission on Civil Status recommends that no charge should be made and would like the issue of copies of or extracts from records, whether in pursuance of the Convention or in accordance with domestic law, to be exempt from any charges of a revenue nature in all the member States.

Article 11

The reservation provided for in this Article may be made by a State which fears that the use of forms A or C may reveal that the extract relates to an adopted child. This reservation may be wholly or partially withdrawn at any time (Article 15).

A Contracting State could also make a partial reservation, for example by limiting it to adopted children whose original filiation subsists.

Articles 12 – 18

These Articles contain the “final” clauses governing ratification of the Convention and its entry into force and duration. Unlike the other Conventions of the International Commission on Civil Status, which provide for their entry into force after two ratifications, this Convention provides in Article 13 that it will enter into force after five ratifications. The reason for this is that the new Convention is intended to replace the 1956 Convention, which is at present binding on ten States.

Unless it is denounced, the 1956 Convention will remain in force between two States which are bound by it, even if one of them has ratified the second Convention, whether or not the latter has entered into force.

However, the first Convention will cease to be in force between two States which were bound by it but who have both ratified the second one, if the latter has entered into force following ratification by five States.

The new Convention, like that of 1956, is an open Convention, that is to say that any State, whether or not a member of the International Commission on Civil Status, may accede to it after its entry into force.