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Secon Report to the Council of Europe on the work of the International Commission on Civil Status (October 1956 - October 1957)

Report

1.

The Hague, 22nd October 1957.

Sir,

With reference to Article 4, paragraph 1, of t h e Agreement of 31st October 1955, between the Council of Europe and the International Commission on Civil Status, I have the honour to transmit the following report on the activities of the Commission during the period October 1956—October 1957.

The number of member countries of the Commission remains unchanged; these consist of the Federal Republic of Germany, Belgium, France, the Grand Duchy of Luxembourg, the Netherlands, Switzerland and Turkey. Italy has tabled a Bill on accession to the Protocol relating to the International Commission on Civil Status, but is not yet a Member of t h e Commission, as t h e Bill has not yet been passed by the Italian Parliament.

1.1. A. Exchange of the texts of laics and regulations

In accordance with its Statute, the Commission has circulated among its member countries the texts of recent laws and regulations concerning Civil Status. It has brought the following texts to the notice of the various national branches :

the German Law of 18th June 1957, proclaiming equality between the sexes ;

the German Law of 8th August 1957, relating to the status of individuals ;

the Belgian Law of 14th February 1957, containing additions to the provisions of the Civil Code concerning the effects of separation a mensa et ihoro ;

the Belgian Law of 1st July 1957, amending Article 164 of the Civil Code ;

the French Law, No. 57-498, of 17th April 1957, amending Articles 344 and 368 of the Civil Code relating to adoption and legitimation by adoption ;

the Netherlands Law of 14th June 1956/B. d. L. 343, relating to the abolition of married women's disability ;

the Swiss Law of 7th December 1956, on the resumption of nationality by Swiss women married to foreigners (Art. 58 bis of the law of 29th September 1952, on nationality).



1.2. B. Publication of the International File of Information on Civil Status

During the year under review the Commission's tenth set of documentary material, that dealing with marriage, went to press and will be distributed very shortly. The Turkish sets Nos. I, II, III, IV, V, VI, VII and IX are at present in the press.

In accordance with the principles of the International Commission on Civil Status, these collections—the purpose of which is to simplify the work of those whose duty it is to administer the law relating to individual status and nationality in the various Member States —conform to a standard lay-out and a standard nomenclature and headings, in order to facilitate research and bring out similarities and differences between the legislation or case law of the various States. The main texts are reproduced in full and the leading decisions and instructions are cited.

1.3. C. Methods of simplifying or standardising the law on personal status and practice in regard to registration of births, marriages, etc.

In its endeavour to improve by legal and technical measures the methods of registering births, marriages, etc., and to harmonise as far as possible municipal law in this matter, the Commission has instigated research into the legal recognition of children born out of wedlock. The following papers on this subject were read during the General Assembly at Luxembourg in 1957 :

Legal paper on Anerkennungen, by the German Section ;

Legal paper on recognition, by the Swiss Section ;

Legal paper on recognition under the Code Napoleon, by the French Section ;

Legal paper on divergences from the Code Napoleon in current Dutch law.

Continuing its practical work, the Commission has elaborated an international Agreement concerning the issue free of charge and without need for authentication of certificates of civic status. The Agreement, a copy of which is attached to this letter, was signed by the representatives of Germany, Belgium, France, Luxembourg, the Netherlands and Turkey on 26th September 1957, at the formal opening of the Luxembourg General Assembly.

The Commission has also approved a draft Convention concerning the effects in foreign countries of changes of surname or first name by deed poll, excluding those resulting from a change in individual status.

1.4. D. Consultations granted to administrative or other authorities of Member States

During the year under review the national branches of the International Commission on Civil Status were consulted with regard to various technical difficulties connected with civil status and the law relating to individual status.

I have the honour to be, Sir,

Your obedient Servant,

Signed : VAN PRAAG.

Secretary-General

2. ANNEX - Translation by the Secretariat of the Council of Europe - Convention on the free issue of certificates of civil status and exemption from the need for authentication

The Governments of the Federal Republic of Germany, the Kingdom of Belgium, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Swiss Confederation and the Turkish Republic, being Members of the International Convention on Civil Status and desirous of reaching agreement on certain questions relating to the issue and authentication of certificates of civil status, are agreed as follows :

ARTICLE 1

Without prejudice to the application of bilateral conventions already in existence or to be concluded between two States which are parties to the present Convention, each contracting State undertakes to issue free of charge to the other contracting States full copies of or extracts from certificates of civil status drawn up on its territory and relating to nationals of the requesting Government, where the request is made for administrative purposes or on behalf of indigent persons.

ARTICLE 2

The request shall be made by the diplomatic mission or consuls to the competent authority designated by each contracting State in the Annex to the present Convention; the grounds for the request shall be briefly specified as " for administrative purposes " or " indigence of applicant ".

ARTICLE 3

The issue of a copy of a certificate of civil status shall not affect the nationality of the person concerned.

ARTICLE 4

Full copies of or extracts from certificates of civil status signed and sealed by the authority issuing them shall be exempt from need for authentication in the respective territories of the contracting States.

ARTICLE 5

By certificates of civil status within the meaning of Articles 1, 3 and 4 shall be understood :

birth certificates,
birth certificates,
certificates of affiliation of illegitimate children drawn up by registrars or copies made by them,
marriage certificates,
death certificates,
certificates of divorce or copies of divorce decrees,
copies of orders or judgments or decrees relating to civil status.

ARTICLE 6

The Convention shall be ratified and the instruments of ratification shall be deposited with the Swiss Federal Council.

A record shall be kept of every instrument of ratification deposited, one certified copy of which shall be sent through diplomatic channels to each of the signatory States.

ARTICLE 7

The Convention shall enter into force on the thirtieth day after the deposit of the second instrument of ratification referred to in the previous Article.

In each of the signatory States which subsequently ratify the Convention, it shall enter into force on the thirtieth day after the deposit of the instrument of ratification by that State.

ARTICLE 8

The Convention shall be automatically applicable throughout the metropolitan territory of every contracting State.

Every State may, when signing, ratifying or acceding to the Convention, or at any later date, declare, by notifying the Swiss Federal Council, that the provisions of the Convention shall be applicable in one or more of its non-metropolitan territories, or in States or territories for whose international relations it is responsible. The Swiss Federal Council will forward through diplomatic channels a certified true copy of the notification to each

of the contracting States. The provisions of the Convention shall become applicable in the territory or territories named in the notification on the sixtieth day after the Swiss Federal Council has received the notification.

Every State which has made a declaration in conformity with the provisions of paragraph 2 of this Article may, at any subsequent time, by notifying the Swiss Federal Council, declare that the Convention shall cease to be applicable in one or more of the States or territories named in the declaration.

The Swiss Federal Council will send a certified true copy of the new notification through diplomatic channels to each contracting State.

The Convention shall cease to be applicable in the territory concerned on the sixtieth day after the Swiss Federal Council has received the notification.

ARTICLE 9

Every State may accede to the Convention. A State wishing to accede shall notify the Swiss Federal Council of its intentions by depositing with it an instrument of accession. The Swiss Federal Council will send a certified true copy of this instrument by diplomatic channels to each contracting State. In a State which has acceded to the Convention, it shall enter into force on the thirtieth day after the deposit of the instrument of accession.

The instrument of accession may not be deposited until this Convention has entered into force in pursuance of Article 7, paragraph 1.

ARTICLE 10

The Convention may be revised for the purpose of making any desirable amendments thereto.

Motions to revise the Convention shall be tabled with the Swiss Federal Council which will notify the various contracting States and the Secretary-General of the International Commission on Civil Status.

ARTICLE 11

This Convention shall remain in force for ten years from the date mentioned in Article 7, paragraph 1.

The Convention shall be automatically renewed every ten years unless denounced.

Notice of termination must be given at least six months before the expiry of such notice to the Swiss Federal Council which will inform each of the other contracting States.

Only the State giving notice of termination shall be affected by it ; the Convention will remain in force in every other contracting State.

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

Done at Luxembourg, this twenty-sixth day of September 1957, in a single copy which shall remain in the archives of the Swiss Federal Council and of which a certified copy shall be sent through diplomatic channels to each contracting State.

For the Government of the Federal Republic of Germany :

Signed

For the Government of the Kingdom of Belgium :

Signed

For the Government of the French Republic :

Signed

For the Government of the Grand Duchy of Luxembourg :

Signed

For the Government of the Kingdom of the Netherlands :

Having regard to the existing equality under public law between the Netherlands, Surinam, and the Dutch West Indies, the terms " metropolitan " and " non-metropolitan " appearing in the Convention have lost their original meaning as regards the Kingdom of the Netherlands and will therefore, as regards that Kingdom, be taken to mean " European " and " non-European " respectively.

Signed

For the Government of the Swiss Confederation :

Signed

For the Government of the Turkish Republic :

Signed

Appendix APPENDIX

Subject to the application of specific Conventions appointing another authority, the competent authority referred to in Article 2 of the present Convention shall be :

For the Federal Republic of Germany, the registrar in possession of the certificate.

For the Kingdom of Belgium, the Minister for Foreign Affairs.

For the French Republic, the registrar in possession of the certificate.

For the Grand Duchy of Luxembourg, the registrar in possession of the certificate.

For the Kingdom of the Netherlands, the registrar in possession of the certificate.

For the Swiss Confederation, the Federal Registration Service at Berne.

For the Turkish Republic, the registrar in possession of the certificate.