

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2013 Nr. 121 HERDRUK

A. TITEL

*Verdrag nopens de erkenning en de tenuitvoerlegging van beslissingen
over onderhoudsverplichtingen jegens kinderen;
's-Gravenhage, 15 april 1958*

B. TEKST

De Franse tekst van het Verdrag is geplaatst in *Trb.* 1959, 187.

C. VERTALING

Zie *Trb.* 1959, 187.

D. PARLEMENT

Zie *Trb.* 1964, 59 en *Trb.* 1981, 19.

E. PARTIJGEGEVENS

Zie rubriek E van *Trb.* 1959, 187 en de rubrieken F en H van *Trb.* 1965, 204.

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
België	11-07-58	15-09-61	R	01-01-62		
China						
Denemarken	12-08-65	02-11-65	R	01-01-66		
Duitsland	08-10-58	02-11-61	R	01-01-62		
Finland	10-02-66	26-06-67	R	24-08-67		
Frankrijk	06-01-65	26-05-66	R	25-07-66		

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Griekenland	15-04-58					
Hongarije		20-10-64	T	19-12-64		
Italië	08-10-58	22-02-61	R	01-01-62		
Liechtenstein		02-06-72	T	01-08-72		
Luxemburg	14-03-62					
Nederlanden, het Koninkrijk der – Nederland: – in Europa – Bonaire – Sint Eustatius – Saba – Aruba – Curaçao – Sint Maarten	25-05-59	28-02-64 – – – – – –	R	28-04-64 10-10-10 10-10-10 10-10-10 01-01-86 10-10-10 10-10-10		
Noorwegen	19-05-58	02-09-65	R	01-11-65		
Oostenrijk	15-04-58	05-09-60	R	01-01-62		
Portugal	09-09-71	27-12-73	R	24-02-74		
Slowakije		26-04-93	VG	01-01-93		
Spanje	18-01-73	11-09-73	R	09-11-73		
Suriname		11-11-76	VG	25-11-75		
Tsjechië		28-01-93	VG	01-01-93		
Tsjechoslowakije (<01-01-1993)		24-09-70	T	23-11-70		
Turkije	11-06-68	27-04-73	R	25-06-73		
Zweden	10-12-65	31-12-65	R	01-03-66		
Zwitserland	04-07-63	18-11-64	R	17-01-65		
* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R=Bekrachtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend						

Uitbreidingen

China

Uitgebreid tot	In werking	Buiten werking
Macau SAR	20-12-1999	

Frankrijk

Uitgebreid tot	In werking	Buiten werking
Comoren, de (< 06-07-1975)	02-03-1968	06-07-1975
Djibouti (< 27-06-1977)	02-03-1968	27-06-1977
Frans Guyana	02-03-1968	
Frans-Polynesië	02-03-1968	
Franse Zuidelijke en Zuidpoolgebieden	02-03-1968	
Guadeloupe	02-03-1968	
Martinique	02-03-1968	
Nieuw Caledonië	02-03-1968	
Réunion	02-03-1968	
Sint Pierre en Miquelon	02-03-1968	
Wallis en Futuna	02-03-1968	

Nederlanden, het Koninkrijk der

Uitgebreid tot	In werking	Buiten werking
Suriname (< 25-11-1975)	01-09-1964	25-11-1975

Portugal

Uitgebreid tot	In werking	Buiten werking
Macau (<20-12-1999)	24-02-1974	20-12-1999

Aanvaardingen van toetreding**Hongarije**

Aanvaard door	Aanvaarding	In werking
Denemarken	29-11-1972	29-11-1972
Duitsland	19-12-1964	19-12-1964
Finland	16-10-1972	16-10-1972
Frankrijk	30-08-1966	30-08-1966
Italië	05-04-1965	05-04-1965
Nederlanden, het Koninkrijk der	27-08-1979	27-08-1979
Noorwegen	11-10-1972	11-10-1972
Oostenrijk	04-07-1972	04-07-1972
Portugal	25-06-1984	25-06-1984
Spanje	27-04-1992	27-04-1992
Turkije	25-07-1974	25-07-1974
Zweden	02-10-1972	02-10-1972
Zwitserland	25-06-1971	25-06-1971

Liechtenstein

Aanvaard door	Aanvaarding	In werking
Denemarken	12-01-1973	12-01-1973
Duitsland	07-12-1972	07-12-1972
Finland	14-12-1972	14-12-1972
Hongarije	08-08-1972	08-08-1972
Italië	28-02-1974	28-02-1974
Nederlanden, het Koninkrijk der	15-08-1972	15-08-1972
Noorwegen	08-12-1972	08-12-1972
Oostenrijk	05-04-1973	05-04-1973
Portugal	01-08-1964	01-08-1964
Slowakije	14-10-1997	14-10-1997

Aanvaard door	Aanvaarding	In werking
Spanje	08-12-1994	08-12-1994
Tsjechië	14-11-1997	14-11-1997
Turkije	25-07-1974	25-07-1974
Zweden	20-12-1972	20-12-1972
Zwitserland	01-08-1972	01-08-1972

Slowakije

Aanvaard door	Aanvaarding	In werking
België	01-01-1993	01-01-1993
Denemarken	01-01-1993	01-01-1993
Duitsland	01-01-1993	01-01-1993
Finland	01-01-1993	01-01-1993
Frankrijk	01-01-1993	01-01-1993
Italië	01-01-1993	01-01-1993
Nederlanden, het Koninkrijk der (voor het Europese deel van Nederland en Aruba)	12-09-1993	11-11-1993
Noorwegen	01-01-1993	01-01-1993
Oostenrijk	01-01-1993	01-01-1993
Suriname	18-12-1998	16-02-1999
Turkije	01-01-1993	01-01-1993
Zweden	01-01-1993	01-01-1993
Zwitserland	01-01-1993	01-01-1993

Suriname

Aanvaard door	Aanvaarding	In werking
België	25-11-1975	25-11-1975
Denemarken	25-11-1975	25-11-1975
Duitsland	25-11-1975	25-11-1975

Aanvaard door	Aanvaarding	In werking
Finland	24-02-1983	24-02-1983
Frankrijk	27-04-1983	27-04-1983
Hongarije	15-03-1977	15-03-1977
Italië	25-11-1975	25-11-1975
Nederlanden, het Koninkrijk der (voor het Europese deel van Nederland)	25-11-1975	25-11-1975
Noorwegen	25-11-1975	25-11-1975
Oostenrijk	25-11-1975	25-11-1975
Portugal	10-01-1977	10-01-1977
Spanje	08-12-1994	08-12-1994
Turkije	30-03-1977	30-03-1977
Zweden	25-11-1975	25-11-1975
Zwitserland	04-03-1977	04-03-1977

Tsjechië

Aanvaard door	Aanvaarding	In werking
België	01-01-1993	01-01-1993
Denemarken	01-01-1993	01-01-1993
Duitsland	01-01-1993	01-01-1993
Finland	01-01-1993	01-01-1993
Frankrijk	01-01-1993	01-01-1993
Italië	01-01-1993	01-01-1993
Nederlanden, het Koninkrijk der (voor het Europese deel van Nederland en Aruba)	12-09-1993	11-11-1993
Noorwegen	01-01-1993	01-01-1993
Oostenrijk	01-01-1993	01-01-1993
Spanje	09-10-1994	08-12-1994
Turkije	01-01-1993	01-01-1993
Zweden	01-01-1993	01-01-1993

Aanvaard door	Aanvaarding	In werking
Zwitserland	01-01-1993	01-01-1993

Tsjechoslowakije (<01-01-1993)

Aanvaard door	Aanvaarding	In werking
België	29-12-1970	29-12-1970
Denemarken	29-11-1972	29-11-1972
Duitsland	06-05-1971	06-05-1971
Finland	16-10-1972	16-10-1972
Frankrijk	10-02-1971	10-02-1971
Italië	05-06-1972	05-06-1972
Noorwegen	11-10-1972	11-10-1972
Oostenrijk	04-07-1972	04-07-1972
Turkije	25-07-1974	25-07-1974
Zweden	02-10-1972	02-10-1972
Zwitserland	13-04-1971	13-04-1971

Verklaringen, voorbehouden en bezwaren

Frankrijk, 26 mei 1966

The Convention is applicable to the whole territory of the French Republic.

Liechtenstein, 2 juni 1972

(Art. 18). Failing a standard of national competence, decisions rendered by the authorities of another contracting State, which would have been competent in view of the place of habitual residence of the party entitled to maintenance (Article 3, paragraph 2, of the Convention), may not be recognised or declared enforceable in the Principality of Liechtenstein.

Luxemburg, 14 maart 1962

Decisions rendered in other contracting States by an authority which would have been competent solely by virtue of the place of residence of the party entitled to maintenance will not be recognised or enforced in the Grand Duchy of Luxembourg.

Nederlanden, het Koninkrijk der, 28 februari 1964

[...] declared that so far as the Kingdom of the Netherlands is concerned, the expression “metropolitan territories” employed in the text of the said Convention means “European territory”, in view of the equality which exists under public law between the Netherlands, Suriname and the Netherlands Antilles.

In the Kingdom of the Netherlands, decisions rendered by an authority of another contracting State which would have been competent by virtue of the place of residence of the party entitled to maintenance will not be recognised or declared enforceable under the Convention.

Nederlanden, het Koninkrijk der, 12 december 1980

The Kingdom of the Netherlands withdraws the reservation by virtue of Article 18 that was made upon ratification on 28 February 1964.

Nederlanden, het Koninkrijk der, 18 oktober 2010

The Kingdom of the Netherlands consisted of three parts: the Netherlands, the Netherlands Antilles and Aruba. The Netherlands Antilles consisted of the islands of Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba.

With effect from 10 October 2010, the Netherlands Antilles ceased to exist as a part of the Kingdom of the Netherlands. Since that date, the Kingdom consists of four parts: the Netherlands, Aruba, Curaçao and Sint Maarten. Curaçao and Sint Maarten enjoy internal self-government within the Kingdom, as Aruba and, up to 10 October 2010, the Netherlands Antilles do.

These changes constitute a modification of the internal constitutional relations within the Kingdom of the Netherlands. The Kingdom of the Netherlands will accordingly remain the subject of international law with which agreements are concluded. The modification of the structure of the Kingdom will therefore not affect the validity of the international agreements ratified by the Kingdom for the Netherlands Antilles. These agreements, including any reservations made, will continue to apply to Curaçao and Sint Maarten.

The other islands that have formed part of the Netherlands Antilles – Bonaire, Sint Eustatius and Saba – became part of the Netherlands, thus constituting “the Caribbean part of the Netherlands”. The agreements that applied to the Netherlands Antilles will also continue to apply to these islands; however, the Government of the Netherlands will now be responsible for implementing these agreements.

Nederlanden, het Koninkrijk der, 25 juli 2012

[...] the Kingdom of the Netherlands declares that so far as the Kingdom of the Netherlands is concerned, the expression “metropolitan territories” employed in the text of the said Convention means “European territory”, in view of the relations which exist under public law between the European part of the Netherlands, Aruba, Curaçao, Sint Maarten and

the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba).

Noorwegen, 19 mei 1958
Subject to ratification.

Portugal, 9 september 1971
The present Convention is applicable throughout the national territory.

Slowakije, 26 april 1993
Slovakia maintains the declarations made by Czechoslovakia.

Suriname, 1 maart 1980
On 29 October 1976 the Government of Suriname made a declaration of succession in respect of the Convention concerning the recognition and enforcement of decisions relating to maintenance obligations towards children which was signed on 15 April 1958 in The Hague.
The declaration implicitly included the reservation in Article 18 of the Convention made by the Kingdom of the Netherlands.
[...] the Republic of Suriname no longer wishes to retain this reservation as of today.

Tsjechië, 28 januari 1993
The Czech Republic maintains the declarations made by Czechoslovakia.

Depositaire mededelingen

Frankrijk, 14 februari 1967
In a Note dated 14 February 1967 the French Government defined that “the whole territory of the French Republic” means besides the Departments in Europe, the Overseas Departments and the Overseas Territories, which are the following:

- Overseas Departments: Guadeloupe, Guiana, Martinique and Réunion;
- Overseas Territories: Comores, French Somaliland *), New Caledonia, French Polynesia, St. Pierre and Miquelon, Southern and Antarctic Territories, Wallis and Futuna.

The following States have deposited a declaration of acceptance, provided for in article 14, paragraph 3, of the Convention:

03-01-1968 the Kingdom of the Netherlands (for the Kingdom in Europe, Suriname and the Netherlands Antilles)

13-08-1968 Austria **)

19-08-1969 Germany

29-12-1994 Spain

*) Since 05-07-1967: French territory of the Affairs and the Issas (later Djibouti).

***) In a Note dated 19 November 1968 Austria defined that the acceptance includes the French Overseas Departments as well as the French Overseas Territories.

In accordance with article 16, paragraph 3, the Convention was put into effect between the French Overseas Departments and Overseas Territories and:

02-03-1968 the Kingdom of the Netherlands (for the Kingdom in Europe, Suriname and the Netherlands Antilles)

11-10-1968 Austria

17-10-1969 Germany

26-02-1995 Spain

Nederlanden, het Koninkrijk der, 28 februari 1964

The Government of the Kingdom of the Netherlands notified its intention to bring the Convention into force with regard to the Netherlands Antilles, in accordance with article 14, paragraph 2, of the Convention. The following States have deposited a declaration of acceptance, provided for in article 14, paragraph 3, of the Convention:

16-04-1964 Belgium

01-09-1964 Germany

14-09-1964 Italy

27-06-1966 Norway

30-08-1966 France

07-11-1966 Denmark

05-06-1968 Sweden

11-06-1968 Austria

07-03-1995 Spain

In accordance with article 16, paragraph 3, the Convention was put into effect between the Netherlands Antilles and:

15-06-1964 Belgium

31-10-1964 Germany

13-11-1964 Italy

25-08-1966 Norway

28-10-1966 France

05-01-1967 Denmark

03-08-1968 Sweden

09-08-1968 Austria

05-05-1995 Spain

Nederlanden, het Koninkrijk der, 27 mei 1964

The Government of the Kingdom of the Netherlands notified its intention to bring the Convention into force with regard to Suriname, in accordance with article 14, paragraph 2, of the Convention.

The following States have deposited a declaration of acceptance, provided for in article 14, paragraph 3, of the Convention:

03-07-1964 Belgium

01-09-1964 Germany

14-09-1964 Italy
 27-06-1966 Norway
 30-08-1966 France
 07-11-1966 Denmark
 05-06-1968 Sweden
 11-06-1968 Austria

In accordance with article 16, paragraph 3, the Convention was put into effect between Suriname and:

01-09-1964 Belgium
 31-10-1964 Germany
 13-11-1964 Italy
 25-08-1966 Norway
 28-10-1966 France
 05-01-1967 Denmark
 03-08-1968 Sweden
 09-08-1968 Austria

Nederlanden, het Koninkrijk der, 23 januari 1996

In accordance with article 16, paragraph 3, the Convention was put into effect between Aruba and:

22-03-1996 Spain

Autoriteiten

België, 15 september 1961

Depending on the circumstances of the case the judicial authorities competent to render decisions relating to maintenance obligations towards children under Belgian law are the “juges de paix” (limited jurisdiction courts) and the courts of first instance. Courts of first instance hear appeals against judgments of the “juges de paix” and the courts of appeal hear appeals against judgments of the courts of first instance.

The courts of first instance are competent to declare that decisions rendered abroad are enforceable. In such cases, the courts of appeal hear appeals against judgments rendered at first instance.

Denemarken, 2 november 1965

1. In Denmark, decisions relating to maintenance obligations towards children are rendered by the following authorities:

- a. the ordinary courts (courts of first instance, courts of appeal and Supreme Court).
- b. the county administrative authorities (“amtmand”); in Copenhagen, the Office of the Prefect of the city of Copenhagen (“Overpræsidenten i København”), whose decisions may be amended by the Ministry of Justice.

2. In Denmark, the chief of police of the place where a maintenance debtor habitually resides or, if he has no habitual residence, where he is

staying has the power to declare foreign maintenance orders, as referred to by the Convention, enforceable. In Copenhagen, however, it is the overpraesident.

3. Consequently, an application for enforcement of a foreign maintenance order should be sent to the chief of police of the place where the debtor habitually resides or, if he has no habitual residence, where he is staying; in Copenhagen, the application should be sent to the overpraesident. In cases where the recipient of the maintenance payments does not know in which police district the debtor resides or is staying, the application may be sent to the National Commissioner of the Danish Police (Rigspolitichefen), Copenhagen, with a request to forward it to the competent authority.

Denemarken, 8 oktober 1979

In accordance with Article 13 of the Convention concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Towards Children (The Hague, April 15, 1958) the Ministry of Foreign Affairs of the Kingdom of Denmark has the honour to inform the Ministry of Foreign Affairs of the Kingdom of the Netherlands that effective January 1, 1979, the competence to declare foreign decisions liable to execution in Denmark became vested in the chief administrative authorities, viz. the county administrative authorities and, in Copenhagen the Office of the Prefect.

Enclosed please find a full list of [...] the authorities in question.

List of [...] the authorities in question

Københavns overpraesidium (The Office of the Prefect)

Københavns amt (County Administrative Authority)

Frederiksborg amt

Roskilde amt

Vestsjællands amt

Storstrøms amt

Bornholms amt

Fyns amt

Sønderjyllands amt

Ribe amt

Vejle amt

Ringkøbing amt

Aarhus amt

Viborg amt

Nordjyllands amt

Duitsland, 2 februari 1962

In the Federal Republic of Germany, the local courts (Amtsgerichte) are in the first instance competent to render decisions relating to maintenance and the regional courts (Landgerichte) are the competent courts of appeal (No. 23, no. 2, letters e and f, section 72 of the Act on the Organisation of the Courts).

The local courts are competent to render decisions on the maintenance entitlements of children given in one of the contracting states of the Convention of 15 April 1958 enforceable and the regional courts are competent to hear appeals and complaints (section 1 of the Act of 18 July 1961 (Federal Law Gazette, part I, p.1033) implementing the Hague Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children).

Finland, 26 juni 1967

1) In Finland, decisions relating to maintenance obligations towards children are rendered by the ordinary courts (courts of first instance, courts of appeal and Supreme Court).

2) A request for enforcement of a foreign decision falling within the scope of application of the Convention must be addressed to the Helsinki Court of Appeal.

Frankrijk, 26 mei 1966

The authorities referred to in Article 13 which are competent to render decisions relating to maintenance are:

- for metropolitan France and the French Overseas Departments, the court of first instance where the respondent has his habitual residence, the regional court (Tribunal de Grande Instance), the Court of Appeal or the Court of Cassation.

- for the French Overseas Territories: the ordinary civil law courts.

The authorities referred to in Article 13 which are competent to enforce foreign decisions are:

- for metropolitan France and the French Overseas Departments: the “Tribunal de Grande Instance” with jurisdiction over the debtor or over the place where the decision must be enforced, the Court of Appeal or the Court of Cassation.

- for the French Overseas Territories: the ordinary civil law courts.

Hongarije, 20 oktober 1964

a) Under the provisions of Section 29, subsection 2 of Act III of 1952 on civil procedure, when the party entitled to maintenance is a Hungarian national, the court competent to render decisions relating to maintenance is the district court of a municipality or city which has territorial jurisdiction based on the last place of habitual residence in Hungary of the party liable for maintenance. If the place of habitual residence cannot be established, or if the respondent party has never habitually resided in Hungary, the habitual place of residence of the party entitled to maintenance or, failing that, his actual place of residence, determines which court is competent. Under Article 34 paragraph 1 of the Code of Civil Procedure, a claim for maintenance may also be filed with the court with jurisdiction over the district in which the person entitled to maintenance has his habitual residence.

b) Pursuant to Article 210 paragraph 2 of Legislative Decree no. 21 of 1955, amended by Legislative Decree no. 9 of 1961, a foreign party entitled to maintenance may file a request for enforcement in Hungary of a decision rendered by an authority of a foreign country at a district court which is competent because the habitual residence of the Hungarian debtor falls within its territorial jurisdiction.

Italië, 22 februari 1961

Under the provisions in force in Italy, first instance judges (“Praetor” or “President of the court”) are competent in the matter of interlocutory measures (Article 446 of the Civil Code in relation to Articles 2 and 3 of the Hague Convention of 15 April 1958).

For decisions with the force of *res judicata*, however, the competent authorities are the “*juges de paix*” (limited jurisdiction courts), courts of first instance and courts of appeal (Article 7 ff of the Code of Civil Procedure). Moreover, the courts of appeal also have the power to declare that the decisions of the competent foreign authorities are valid in Italian territory.

Liechtenstein, 2 juni 1972

Competent Authority: “Fürstlich Liechtensteinisches Landgericht” at Vaduz.

Nederlanden, het Koninkrijk der, 28 februari 1964

For the Kingdom in Europe:

In proceedings at first instance the district courts and the presidents of the district courts, in appeal proceedings the courts of appeal, and in cassation proceedings the Supreme Court are competent to render decisions relating to maintenance obligations in the Netherlands.

In proceedings at first instance the district courts, in appeal proceedings the courts of appeal, and in cassation proceedings the Supreme Court are competent to enforce foreign judicial decisions relating to maintenance.

For Suriname:

The courts of limited jurisdiction (*kantonrechter*) and in appeal proceedings the Court of Justice of Suriname are competent to render decisions relating to maintenance.

Authorisation of the President of the Court of Justice of Suriname is required for enforcement of decisions relating to maintenance rendered in foreign countries.

Nederlanden, het Koninkrijk der, 1 januari 1986

For the Netherlands Antilles:

The courts of first instance and the Court of Justice of the Netherlands Antilles are competent to render decisions relating to maintenance.

For Aruba:

The court of first instance and in appeal proceedings the Joint Court of Justice of the Netherlands Antilles and Aruba.

Nederlanden, het Koninkrijk der, 25 juli 2012

For Aruba:

The Joint Court of Justice of Aruba, Curaçao and Sint Maarten is competent to render decisions relating to maintenance, in first instance and in appeal.

For Curaçao:

The Joint Court of Justice of Aruba, Curaçao and Sint Maarten is competent to render decisions relating to maintenance, in first instance and in appeal.

For Sint Maarten:

The Courts of first instance and the Joint Court of Justice of Aruba, Curaçao and Sint Maarten is competent to render decisions relating to maintenance.

For the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba):

The authorities of the European part of the Netherlands are also competent for the Caribbean part of the Netherlands.

Noorwegen, 2 september 1965

In Norway, decisions on maintenance may be rendered by the following authorities:

1. the ordinary courts (canton or municipal courts, assize courts, Supreme Court);
2. the prefects (chief administrative officer of a region) or the Ministry of Justice in respect of maintenance due to legitimate children;
3. The prefects or the Ministry of Social Affairs in respect of maintenance due to illegitimate children.

The authority to grant a request for enforcement in Norway in respect of maintenance ordered abroad lies with the court responsible for seizing movable property in the district where the person liable for maintenance has his habitual residence or – if his habitual residence is abroad or is unknown – by the court responsible for seizing property in the district where enforcement is to be effected. Such a request may be transmitted by the Ministry of Foreign Affairs.

Noorwegen, 14 april 1992

In Norway, the amount of a child maintenance payment is determined by the Maintenance Payments Officer (“Bidragsfogden”) in the maintenance recipient’s place of residence. If one of the parents is resident abroad, the foreign affairs section of the Maintenance Payments Office in Oslo (“Bidragsfogden i Oslo, utenlandsavdelingen”) will determine the amount of the payment. As from 1 October 1992 the Norwegian National Insurance Office for Social Insurance Abroad, Child Maintenance Division, functions as transmitting as well as receiving agency for the recovery of maintenance contributions to children where one of the parents is resident abroad.

[...]

The Governor of Oslo gives judgement in cases of appeals against decisions taken by the Maintenance Payment Officer.

The courts give final judgement in child maintenance cases only when one of the parents requests such a judgement during divorce proceedings or proceedings concerning the custody of the child or visiting rights.

The Maintenance Payments Office can also refer the parents to the courts if the nature of the case seems to warrant it.

The courts give final judgement in cases concerning applications from the other parent for payments, but the Governor for the appropriate area can also take such decisions if both parents agree. The Ministry of Justice gives judgement in cases of appeals against decisions by Governors. Requests for the enforcement of decisions given in other countries concerning child maintenance payments should be addressed to the foreign affairs section of the Maintenance Payments Office in Oslo ("Bidragsfogden i Oslo, utenlandsavdelingen"). As from 1 October 1992, such request should be addressed to the Foreign Affairs Service of the National Insurance Scheme ("Folketrygdkontoret for utenlandssaker").

Noorwegen, 25 januari 2008

The Norwegian body designated as requesting agency is:

The Labour and Welfare Collection Agency.

The Norwegian body designated as receiving agency is:

The National Office for Social Insurance Abroad.

Oostenrijk, 5 september 1960

In accordance with article 13 of the Convention concerning the recognition and enforcement of decisions relating to maintenance obligations towards children, notice is hereby given of the following:

In Austria, the district courts (Bezirksgerichte), and in appeal proceedings also the courts of first instance (regional and circuit courts (Landes- und Kreisgerichte)) and the Supreme Court (Oberste Gerichtshof), are competent to render decisions relating to maintenance, and the courts of first instance (Landes- und Kreisgerichte), and in appeal proceedings also the higher regional courts (Oberlandesgerichte) and the Supreme Court (Oberste Gerichtshof), are competent to render foreign decisions enforceable.

Portugal, 16 juli 1974

The Government of Portugal designated the authorities provided by the Convention [...]: as follows:

a) with regard to maintenance orders: the children's court in the jurisdiction in which the minor is domiciled;

b) with regard to the recognition and enforcement of foreign maintenance orders: the Court of Appeal (Tribunal de Relação) of the judicial district in which the person against whom the maintenance order is to be enforced is domiciled.

Spanje, 11 september 1973

The authorities competent to take decisions relating to maintenance obligations are the

“Juzgados de Primera Instancia e Instrucción”.

The authority competent to take decisions on the enforcing of foreign judgements is the

“Tribunal Supremo”.

Tsjechoslowakije (<01-01-1993), 26 april 1971

Under Czechoslovak law, the court is the only authority which is competent to render, modify or rescind decisions relating to maintenance obligations (Article 2 of the Code of Civil Procedure No. 99/1963, Collection of Statutes).

The competent court is the court with jurisdiction in the district where the minor has his habitual residence pursuant to an agreement entered into by the parents or a decision of a court or, if applicable, further to other decisive facts (Article 88, paragraph C, of the Code of Civil Procedure, no. 99/1963, Collection of Statutes).

Under Act no. 36/1964 of the Collection of Statutes on the organisation of courts and the appointment of judges, as set out in amended Act no. 156/1969 of the Collection of Statutes, the district courts ruling in first instance render decisions relating to maintenance obligations.

In the jurisdiction of the city of Prague, capital of the Czechoslovak Socialist Republic, the district courts are the courts of first instance; in the jurisdiction of the city of Bratislava, capital of the Slovak Socialist Republic, and of the cities of Brno and Košice, the municipal courts are the courts of first instance. The regional courts hear appeals against decisions of the district courts and the municipal courts of Bratislava, Brno and Košice ruling at first instance. The court of the city of Prague is the authority which hears appeals against decisions rendered by the district courts ruling at first instance in the jurisdiction of the city of Prague.

The courts are competent to declare that a foreign decision relating to maintenance obligations is enforceable (Section 66, Act no. 97/1963 on private international law and the procedure relating thereto, Collection of Statutes).

The court which is competent to make an order and to have the order enforced is the ordinary court in the district where the debtor has his habitual residence, or if he does not have a habitual residence, the court with jurisdiction over the district in which he is residing. If there is no ordinary court in the Czechoslovak Socialist Republic under whose jurisdiction the debtor falls, the court in the district where he has property is competent. In cases involving enforcement of a decision through assignment of a claim to a third party, the ordinary court with jurisdiction over the third-party debtor is competent. If however enforcement of the decision concerns real property, the court with jurisdiction over the district in which the property is located is competent (Article 85, para-

graph 1, and Article 252 of the Code of Civil Procedure no. 99/1963, Collection of Statutes).

No separate judgment is required in respect of recognition of a foreign decision relating to a financial matter. Recognition is automatic in that the Czechoslovak courts take cognizance of such a decision in the same manner as if it were a decision rendered by a Czechoslovak court (Section 65, Act no. 97/1963 on private international law and the procedure relating thereto).

If all statutory conditions have been satisfied, any foreign decision relating to maintenance may be enforced in the Czechoslovak Socialist Republic if enforcement has been ordered by a Czechoslovak court; the order for enforcement must always state the grounds on which it is based (Section 66, Act no. 97/1963 on private international law and the procedure relating thereto, Collection of Statutes).

Turkije, 27 april 1973

1. In Turkey, the authorities competent to render decisions relating to maintenance obligations for children are the limited jurisdiction civil courts (Sulh Hukuk Mahkemesi) and the regional civil courts (Asliye Hukuk Mahkemesi).

2. Pursuant to Article 2 paragraph 3 of the Convention, provisionally enforceable decisions rendered as security during proceedings by a court, or other decisions which are final and which relate to payment of maintenance are deemed to be enforceable even if an appeal against those decisions is still pending.

3. In Turkey, the authority competent to render decisions on the enforcement of foreign judgments is the regional court with territorial jurisdiction over the debtor's habitual residence. If the debtor does not have an habitual residence or is not currently residing in Turkey, the competent authority is the Ankara or Istanbul regional court.

Zweden, 31 december 1965

The authorities which are competent to render decisions relating to maintenance are the courts of first instance ("Häradsrätt" and "Radhusrätt"), the courts of appeal ("Hövrätt") and the Supreme Court. Only the Svea court of appeal ("Svea hovrätt") in Stockholm is competent to enforce decisions of foreign courts in Sweden.

Zwitserland, 18 november 1964

I. In Switzerland, the cantonal judicial authorities are usually competent to make orders in respect of child maintenance, for example in divorce (Art. 144 and 156 Civil Code) or paternity (Art. 312 and 319 Civil Code) proceedings. As the organisation of the judiciary varies from one canton to the other, the name of the judicial authorities differs according to canton and the official language used by the authorities thereof. The courts of first instance are generally known as "Bezirksgericht", "Amtsgericht", "Zivilgericht", "Landgericht", "Tri-

bunal de district”, “Tribunal d’arrondissement” and “Pretura”. The courts of appeal also have different names (“Kantonsgericht”, “Obergericht”, “Appellationsgericht”, “Tribunal cantonal”, “Tribunale di appello”). Listing every judicial authority would serve no purpose. Moreover, in some cantons, and in certain cases, the administrative authorities are competent to order child maintenance. In the canton of Bern, for example, the prefect (“Regierungsstatthalter”) is competent, in so far as the divorce courts are not competent by virtue of Art. 156 CC to set the amounts of maintenance a parent must pay (Art. 272, par. 1:284, par. 3:289, par. 2:324, par. 2 and 325, par. 2, CC). Subject to the same reservation in respect of the competence of the divorce courts, in the canton of Bâle-Ville, the guardianship authority (“Vormundschaftsbehörde”) is competent to set the amount of maintenance.

However, as the administrative authorities in many cantons are competent to order child maintenance (“Unterstützungsansprüche”) within the meaning of Art. 328 ff. of the CC, it would be appropriate to list the cantonal authorities with competence to rule on matters relating to maintenance obligations. They are:

Zurich – Bezirksgericht

Bern – Regierungsstatthalter (Préfet)

Lucerne – Gemeinderat

Uri – Regierungsrat

Schwyz – Gemeinderat

Unterwald-Le Haut (Unterwalden ob dem Wald) – Regierungsrat

Unterwald-le-Bas (Unterwalden nid dem Wald) – Regierungsrat

Glaris – Gemeinderat

Zoug – Einwohnerrat

Fribourg – Président du tribunal d’arrondissement (Bezirksgerichtspräsident)

Soleure (Solothurn) – Oberamtmann

Bâle-Ville (Basel-Stadt) – Regierungsrat

Bâle-Campagne (Basel-Landschaft) – Kantonale Direktion des Innern

Schaffhouse – Gemeinderat

Appenzell Rh. ext (Appenzell A.-Rh.) – Gemeinderat

Appenzell Rh. int. (Appenzell I.-Rh.) – Vormundschaftsbehörde

St. Gall – Gemeinderat

Grisons (Graubünden) – Kleiner Rat

Argovie (Aargau) – Bezirksgericht

Thurgovie (Thurgau) – Bezirksrat

Tessin (Ticino) – Pretore

Vaud – Préfet

Valais – Conseil communal (Gemeinderat) ou préfet (Regierungsstatthalter)

Neuchâtel – Autorité tutélaire de district

Genève – Tribunal de première instance.

II. The Swiss authorities competent to enforce foreign decisions falling within the scope of application of the Convention are the courts and judges competent to set aside the debtor's objection ("juges de mainlevée", "Rechtsöffnungsrichter"), that is, special courts designated by the cantons to implement the federal Act of 1889 on prosecution for debt or bankruptcy. These courts follow the procedure for setting aside the debtor's objection ("procédure de mainlevée", "Rechtsöffnungsverfahren"), that is, summary proceedings regulated by the cantons which replace "exequatur proceedings" within the meaning of Art. 6, par. 1 of the Convention. However, they are not judicial proceedings in the proper sense but an interlocutory measure during compulsory enforcement proceedings in respect of financial debts (known as "prosecution for debt"). Nor is the "procédure de mainlevée" an independent proceeding which may be initiated by a claimant who has received satisfaction by virtue of a foreign decision falling under the scope of the Convention. For such a decision to be enforced, the claimant must directly initiate – that is, without true exequatur proceedings – compulsory enforcement proceedings for the debt recognised by that foreign decision. For this to happen, he need only – without even having to produce the foreign decision – use a special printed form to submit a "request for prosecution" ("Betreibungsbegehren") to the "enforcement department" ("l'office des poursuites", "Betreibungsamt") which is competent by virtue of the habitual residence of the debtor in matters relating to maintenance obligations. If the debtor does not object ("opposition", "Rechtsvorschlag") to the "order for payment" ("Zahlungsbefehl") which he has received from the enforcement department but does not pay the debt within a set time limit, the party entitled to maintenance may, without any other formality, request that prosecution be continued, generally by way of "seizure" ("saisie", "Pfändung"), that is, by appropriation of the debtor's property. However, if the debtor objects to the order for payment, before being entitled to request continuation of prosecution, the party entitled to maintenance must first have the objection set aside by applying to the "juge de mainlevée", at which time – and only then – is he required to produce the foreign decision. "Mainlevée" in this case becomes an "exequatur proceeding". The judge who must rule in those proceedings also acts as exequatur judge and determines whether the foreign decision satisfies the conditions set by the Convention for its enforcement in Switzerland. If it does, the judge declares that the objection has been set aside and, in so doing, grants exequatur to the foreign decision. Once this has been done, the claimant may request that prosecution continue as if the debtor had not objected to the order to pay. If however the judge competent to set aside an objection refuses to do so – in other words refuses to grant exequatur – his decision may

be referred to the Swiss federal court by way of a public law appeal on the grounds of a breach of the Convention.

The Swiss “jurisdictions de mainlevée” (“Rechtsöffnungsrichter”), as designated by the cantons, are:

Zurich – Einzelrichter des Bezirksgerichts

Berne – Gerichtspräsident (Président du tribunal)

Lucerne – Amtsgerichtspräsident

Uri – Gerichtskommission Uri in Aldorf; Gerichtskommission Urseren in Andermatt

Schwyz – Bezirksgerichtspräsident

Unterwald-le-Haut (Unterwalden ob dem Wald) – Kantongerichtspräsident;

exception pour Engelberg: Talgerichtspräsident

Unterwald-le-Bas (Unterwalden nid dem Wald) – Einzelrichter in Betreibungs- und Konkursachen

Glaris – Zivilgerichtspräsident

Zoug – Kantonsgerichtspräsident

Fribourg – Président du tribunal d’arrondissement (Bezirksgerichtspräsident)

Soleure (Solothurn) – Amtsgerichtspräsident

Bâle- Ville (Basel-Stadt) – Zivilgerichtspräsident

Bâle-Campagne (Basel-Landschaft) – Bezirksgerichtspräsident

Schaffhouse – Bezirksrichter

Appenzell Rh. ext. (Appenzell A.-Rh.) – Bezirksgerichtspräsident

Appenzell Rh. int. (Appenzell I.-Rh.) – Bezirksgerichtspräsident

St.Gall – Bezirksgerichtspräsident

Grisons (Graubünden) – Kreisamt

Argovie (Aargau) – Bezirksgerichtspräsident

Thurgovie (Thurgau) – Bezirksgerichtspräsident

Tessin (Ticino) – Giudice di pace or Pretore, depending on the type of proceedings

Vaud – Juge de paix ou Président du tribunal, depending on the type of proceedings

Valais – Juge-instructeur (Instruktionsrichter)

Neuchâtel – Président du tribunal de district

Geneva – Tribunal de première instance.

G. INWERKINGTREDING

Zie *Trb.* 1964, 59, rubriek H van *Trb.* 1965, 204 en de rubrieken G van *Trb.* 1981, 19 en *Trb.* 1994, 89.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag, dat vanaf 1 januari 1986 voor Nederland (het Europese deel), de Nederlandse Antillen en Aruba gold, vanaf 10 oktober 2010 ook voor Nederland (het Europese en het Caribische deel), Aruba, Curaçao en Sint Maarten.

J. VERWIJZINGEN

Zie voor verwijzingen en overige verdragsgegevens *Trb.* 1959, 187, *Trb.* 1963, 27, *Trb.* 1964, 59, *Trb.* 1965, 204, *Trb.* 1966, 186, *Trb.* 1967, 34, *Trb.* 1967, 156, *Trb.* 1968, 119, *Trb.* 1971, 60, *Trb.* 1973, 70, *Trb.* 1978, 4, *Trb.* 1981, 19, *Trb.* 1984, 142 en *Trb.* 1994, 89.

Verbanden

Het Verdrag wordt tussen partijen vervangen door:

- Titel : Verdrag inzake de erkenning en de tenuitvoerlegging van beslissingen over onderhoudsverplichtingen; 's-Gravenhage, 2 oktober 1973
- Laatste *Trb.* : *Trb.* 2013, 23
- Titel : Verdrag inzake de internationale inning van levensonderhoud voor kinderen en andere familieleden; 's-Gravenhage, 23 november 2007
- Tekst : *Trb.* 2011, 144 (Frans, Engels en vertaling)

Overige verwijzingen

- Titel : Statuut van de Haagse Conferentie voor Internationaal Privaatrecht; 's-Gravenhage, 31 oktober 1951
- Laatste *Trb.* : *Trb.* 2011, 199
- Titel : Verdrag nopens de wet welke op alimentatieverplichtingen jegens kinderen toepasselijk is; 's-Gravenhage, 24 oktober 1956
- Laatste *Trb.* : *Trb.* 1987, 50

Uitgegeven de *tweede* augustus 2013.

De Minister van Buitenlandse Zaken,

F.C.G.M. TIMMERMANS