Convention (No. 14) on the recording of surnames and forenames in civil status registers

signed at Berne on 13 September 1973

The signatory States to this Convention, members of the International Commission on Civil Status, being desirous of ensuring uniformity in the recording of surnames and forenames in civil status registers, have agreed as follows:

Article 1

This Convention applies to the recording in civil status registers of the surnames and forenames of all persons, whatever their nationality.

It shall not affect the application of the rules of law in force in the Contracting States concerning the determination of surnames and forenames.

It shall in no way prejudice changes legally made in surnames and forenames after the records and documents produced with a view to the making of a further record were drawn up.

It shall not prevent the authority responsible for making a further record from correcting therein any obvious clerical errors in surnames and forenames contained in the records or documents produced to it.

Article 2

Where a record is to be made in a civil status register by an authority of a Contracting State and there is produced for that purpose a copy of or extract from a civil status record or some other document that shows the surnames and forenames [1] in the same characters as those used in the language in which the record is to be made, those surnames and forenames shall be reproduced literally without alteration or translation.

Any diacritic marks forming part of such surnames and forenames shall also be reproduced, even if such marks do not exist in the language in which the record is to be made.

Article 3

Where a record is to be made in a civil status register by an authority of a Contracting State and there is produced for that purpose a copy of or extract from a civil status record or some other document that shows the surnames and forenames in characters other than those used in the language in which the record is to be made, those surnames and forenames shall be reproduced as far as possible by transliteration, without being translated. If there are standards recommended by the International Organisation for Standardisation (ISO), they shall be applied.

Article 4

In the event of a discrepancy in the spelling of surnames or forenames between two or more of the documents produced, the person concerned shall be designated according to the civil status records or documents establishing his or her identity that were drawn up in the State of which he or she was a national at the time when they were drawn up.

For the purposes of this provision, the term "national" includes not only persons who hold the nationality of a given State but also refugees and stateless persons whose personal status is governed by the law of that State.

Article 5

Unless domestic law otherwise provides, persons who have no surname or whose surname is unknown shall be designated, in any record made in a civil status register by an authority of a Contracting State, by their forenames only. If they have no forenames or if these too are unknown, they shall be designated in the record by the name by which they are commonly known.

[1] Resolution adopted by the General Assembly at its meeting in Berlin on 11 September 1992:
"The General Assembly of the ICCS is of the opinion that the phrase *'or some other document that shows the surnames and forenames'*, contained in Article 2, paragraph 1, covers any public document even if it does not emanate from a civil registrar, such as the passport of the person concerned."

Article 6

If one and the same person is designated by different surnames or forenames in two or more records made in civil status registers by authorities of Contracting States, the competent authorities of each Contracting State shall, where appropriate, take steps to eliminate the discrepancies.

The authorities of the Contracting States may correspond with each other directly for this purpose.

Article 7

The signatory States shall notify the Swiss Federal Council of the completion of the procedures required to render this Convention applicable in their territory.

The Swiss Federal Council shall inform the Contracting States and the Secretary General of the International Commission on Civil Status of any notification made pursuant to the preceding paragraph.

Article 8

This Convention shall enter into force from the thirtieth day following the date of deposit of the second notification and shall take effect from that day between the two States which have completed that formality. For each State which completes the formality mentioned in the preceding Article at a later date, this Convention shall take effect from the thirtieth day following the date of deposit of its notification.

Article 9

This Convention shall apply *ipso jure* throughout the metropolitan territory of each Contracting State.

Any State may, at the time of signature, notification or accession or subsequently, declare by notification to the Swiss Federal Council that the provisions of this Convention shall apply to one or more of its extra-metropolitan territories or the States or territories for whose international relations it is responsible. The Swiss Federal Council shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of the last-mentioned notification. The provisions of this Convention shall become applicable in the territory or territories designated in the notification on the sixtieth day following the date on which the Swiss Federal Council receives the notification.

Any State which has made a declaration pursuant to the provisions of the second paragraph of this Article may subsequently declare at any time by notification to the Swiss Federal Council that this Convention shall cease to apply to one or more of the States or territories designated in the declaration.

The Swiss Federal Council shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of the further notification.

The Convention shall cease to apply to the State or territory concerned on the sixtieth day following the date on which the Swiss Federal Council receives that notification.

Article 10

Any member State of the International Commission on Civil Status, the Council of Europe, the United Nations Organisation or a specialised agency of the United Nations may accede to this Convention. The instrument of accession shall be deposited with the Swiss Federal Council. The latter shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of every deposit of an instrument of accession. The Convention shall enter into force, for the acceding State, on the thirtieth day following the date of deposit of the instrument of accession.

Deposit of an instrument of accession may take place only after the entry into force of this Convention.

Article 11

This Convention shall remain in force indefinitely. However, each Contracting State shall have the option of denouncing it at any time by written notification to the Swiss Federal Council, which shall give notice thereof to the other Contracting States and the Secretary General of the International Commission on Civil Status.

The option to denounce may not be exercised before the expiry of a period of one year from the notification mentioned in Article 7 or the accession.

Denunciation shall take effect six months after the date on which the Swiss Federal Council receives the notification mentioned in the first paragraph of this Article.

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

Done at Berne, on 13 September 1973, in a single copy 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 Contracting States and to the Secretary General of the International Commission on Civil Status.

Declaration

For the *Federal Republic of Germany*, any person who is German within the meaning of the Basic Law for the Federal Republic of Germany shall be considered as a national for the purposes of this Convention.

Territorial scope of the Convention

At the time of notification of ratification of the Convention,

- the *Federal Republic of Germany* declared that the Convention will also apply to the *Land* Berlin with effect from the day of its entry into force in the Federal Republic of Germany;
- the Royal Embassy of *the Netherlands* stated that the Convention is applicable to the Kingdom of the Netherlands in Europe and to the Netherlands Antilles (Editorial note : including Aruba).

It is to be noted that the Kingdom of the Netherlands transmitted to the Swiss Federal Council on 5 October 2010 a communication relating to changes to the structure of the Kingdom and on 8 September 2011 a summary report of the treaties deposited with the Swiss Federal Council. The present condition is thus applicable to the European part of the Netherlands from 31 July 1977, to the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustasius and Saba) from 10 October 2010, to Aruba from 1st January 1986 and to Curaçao and Sint Maarten from 10 October 2010. It has also been applicable to the ex-Netherlands Antilles since 31 July 1977.

The Kingdom of the Netherlands has also reformulated its declaration of 13 September 1973 in the following terms :

> « As concerns the Kingdom of the Netherlands, the terms 'Metropolitan territory' and 'extrametropolitan territories', used in the text of the Convention, as regards the relation existing in terms of public law between the European part of the Netherlands, Aruba, Curaçao, Sint Maarten and the Netherlands Antilles (the islands of Bonaire, Sint Eustasius and Saba), shall consequently be considered, respectively, to signify « European territory » and « Non-European territories ». »

EXPLANATORY REPORT

adopted by the General Assembly at Interlaken on 14 September 1973

GENERAL REMARKS

The Convention is intended to ensure that in all the Contracting States the surnames and forenames of natural persons are uniformly recorded in civil status registers.

It is hardly necessary to emphasise the need for such uniformity. Since surname and forenames are the main means of identifying a person, they must be consistent wherever he or she may be, and the uniformity must be reflected in all civil status records that concern him or her.

The Convention is essentially technical in nature. It is confined to prescribing that the surnames and forenames to be shown in civil status records are to be an exact reproduction of the surnames and forenames appearing in existing records or documents produced with a view to the making of a further record. Reproduction is to be by literal transcription (Article 2) or by transliteration (Article 3), as appropriate. If the documents produced contain discrepancies in the spelling of a person's surname or forenames, preference will be given to records and identity documents emanating from the State of which he or she was a national at the time when the record or document was drawn up (Article 4). If the person concerned has no surname or forename, he or she will be designated by the name by which he or she is commonly known (Article 5). If one and the same person is designated by different surnames or forenames in two or more records, the competent authorities will take steps to eliminate the discrepancies (Article 6).

The technical nature of the Convention is clearly shown by Article 1, which expressly provides that the rules in force in each State regarding the determination of surnames and forenames will continue to apply.

Moreover, when a civil status record is being made, account must be taken not only of the records and documents produced to that end, but also of subsequent changes legally made in the surnames and forenames of the person concerned.

Lastly, if the records or documents produced contain an obvious clerical error, that error must not be repeated in the further record that is to be made.

The Convention thus leaves intact the substantive rules and the conflict-of-laws rules relating to the determination of surnames and forenames. It will be applied after the surname and forenames have been determined by virtue of other provisions. It concerns only the indication, in records that are to be made, of the surname and forenames so determined.

EXAMINATION OF THE ARTICLES

Terminology

(a) *In some countries the term* "acte" *(=record) refers to the original of a civil status record entered in a register; in other countries this original is called* "inscription" *(=entry). In some countries the term* "acte" *refers to the document issued by the civil registrar (=certificate); in other countries this document is termed a* "copie" *(=copy) or* "extrait" *(=extract)*.

The expressions used in the Convention's title ("recording... in registers") and in the various Articles ("record made in a register - copy of or extract from a record") leave no room for ambiguity.

(b) *The expression "authority of a Contracting State" used in Articles 2, 3, 5, and 6 shows that these provisions are intended to apply not only to municipal civil registrars but also to any authority competent to draw up a civil status record, for example at diplomatic or consular posts, in the armed forces and on board ships or aircraft.*

Article 1

This Article defines the scope of the Convention. It applies to the recording in civil status registers of the surnames and forenames not only of nationals of the Contracting States but also of any person, of whatever nationality, who is the subject of a civil status record in one of those States.

In addition, Article 1 is designed to safeguard the application of the rules in force in each Contracting State governing the determination of surnames and forenames.

The expression "rules of law", used in the second paragraph, covers rules of private international law as well.

If the rules of private international law of a Contracting State prescribe that its domestic law is applicable as regards the surname of a national of that State, civil registrars in that State will continue to apply the provisions of their own domestic law. Thus, a Belgian registrar, if called upon to draw up the record of marriage of a legitimate child of Belgian nationality who was born in Spain, will designate the child by his or her father's patronymic alone, even if the record of birth gives the child's family name as the father's surname followed by the mother's.

The expression "rules of law" also makes it clear that if in a Contracting State the rules of private international law render its domestic law applicable to the determination of the surname of nationals of that State, that same domestic law will apply to the determination of the surname of refugees and stateless persons whose personal status is governed by that State's law.

The third paragraph of Article 1 means that a civil registrar who has to make a record in his registers is not released from the obligation to take account of changes legally made in surnames and forenames since the records and documents which are produced were drawn up.

The registrar must take his or her State's rules of private international law into account in order to verify whether the change in the surname or forenames has been legally made.

The fourth paragraph of Article 1 preserves any powers which authorities responsible for making a civil status record may have to disregard any obvious clerical errors in the records or documents produced.

This may be the case, for example, where a civil registrar knows of a previous civil status record drawn up in his or her country or in the country of which the person concerned was formerly a national. If a Belgian woman who was born in the Netherlands has married in France a Frenchman but has not acquired his nationality, and if her surname has been mis-spelt in the record of her marriage, a Belgian or Dutch registrar to whom that record is produced, for instance in connection with the recording of the birth of a child or a subsequent marriage, will be able to detect the error without difficulty. In such a case, he or she will disregard the incorrect record and will use the correct form of the surname of the person concerned, for example after referring to her filiation.

Article 2

This Article applies to cases where, with a view to the making of a civil status record, a record or document is produced in which the surname and forenames are written in the same characters as those used in the language in which the record is to be made.

Of the various systems for reproducing names, the Article chooses the literal system; all the letters which go to make up the surname and the forenames are reproduced without modification. This system is the only one that will ensure uniformity, by avoiding, for example, the letter "u" being changed into "ou" or "oe" or the letters "cz" into "ch" or "tch".

The literal reproduction rule also applies to diacritic marks. Examples are the letter "ü" with diaeresis or the letter "ö", which will be copied as "ö" and not changed into "oe". Diacritic marks must be reproduced, even if they do not exist in the language in which the record is to be made. If the record is typewritten, the diacritic marks are to be added by hand if necessary.

The first paragraph of the Article also provides that surnames and forenames shall be reproduced without being altered or translated. However, it should be remembered that the strictness of this rule, which is especially important where particles, declined names and forenames are concerned, is tempered, in appropriate cases, by the provisions of the second, third and fourth paragraphs of Article 1. Surnames and forenames must be copied from the records and documents which are produced for the purpose of making the further record. This in no way diminishes the right of civil registrars to require the production of other records or documents which they may need to enable them to enter a record in their registers; where necessary, they will apply to a colleague or any competent authority in order to obtain a copy of or an extract from the record that they need to consult. Records and documents obtained in this way must obviously be regarded, along with those supplied by the persons concerned, as "documents produced".

Article 3

This Article applies to cases where, with a view to the making of a civil status record, another record or document is produced in which the surname and forenames are written in characters other than those used in the language in which the record is to be made.

Of the various systems of transposition, the Article chooses transliteration: each letter, with any diacritic marks, is reproduced by its equivalent in the other language.

Here also any translation is forbidden.

The second sentence of Article 3 states that if there are standards recommended by the International Organisation for Standardisation (ISO)[2], they shall be applied.

This system ensures uniformity and avoids discrepancies arising from translators' varying interpretations.

The standards recommended by ISO are at present the following:

1. *ISO/R9. International system for the transliteration of Cyrillic characters, 1st edition, October 1955.*
2. *ISO/R233. International system for the transliteration of Arabic characters, 1st edition, December 1961.*
3. *ISO/R259. Transliteration of Hebrew, 1st edition, May 1962.*
4. *ISO/R843. International system for the transliteration of Greek characters into Latin characters, 1st edition (with corrigenda), October 1968.*

It is obvious that if a standard is amended, it should be applied in the form recommended by ISO at the time when the record is entered in the registers. Any amendments to standards can be found in the bulletin published annually by ISO. Records which have been entered before a standard was amended need not, of course, be corrected.

It is for the Contracting States to take the necessary steps to ensure the circulation and application of the ISO standards.

Where there are no standards recommended by ISO, the transposition must, as far as possible, still be achieved by transliteration.

Thus, there are at present no standards for the transliteration of Latin characters into Greek characters. Transliteration does however seem possible in many cases, especially with the help of the transliteration rules contained in ISO/R843 (international system for the transliteration of Greek characters into Latin characters).

On the other hand, it seems clear that in the total absence of standards it is not possible to transliterate Cyrillic, Arabic or Hebrew characters into Greek characters, or Chinese characters into Greek or Latin characters. In these circumstances reproduction can be achieved, in the cases envisaged, by another process such as phonetic transposition. However, even in that event, translation is still forbidden. The surname and forenames must be reproduced by transliteration from the records and documents produced with a view to the making of the further record.

What has already been said à propos of Article 2, concerning a civil registrar's right to require the production of certain records or documents or to request them from the authorities having custody of them, also applies for the purposes of Article 3.

If, in a Contracting State, different scripts are used (e.g. Latin script and Gothic script in German), the Convention does not prevent civil registrars from choosing between those scripts according to the rules in force in their country.

It may happen, for instance in the case of a record of birth or death which must of necessity be drawn up at short notice, that no record or document can be produced. In the absence of provisions on this matter, a civil registrar may rely on the word of the informant who presents himself or herself and ask that person to make a written statement concerning the surname and forenames. The written statement will enable the surname and forenames to be reproduced, either by transliteration (Article 3) or literally (Article 2). This written-statement procedure will sometimes be the only possibility as regards the forenames given to a child in the record of his or her birth.

[2] *Address: International Organisation for Standardisation, 1 rue de Varembé, 1211 Geneva 20 (Switzerland).*

Article 4

This Article governs cases where there is a discrepancy between the documents produced, as regards the spelling of a person's surname or forenames: in such a case, regard will be had to the civil status records and documents establishing the identity of the person concerned that were drawn up by an authority of the State of which he or she was a national at the time when such records or documents were drawn up.

The reader is referred to what has already been said regarding a civil registrar's right to require informants to present themselves, or to request the competent authorities to produce certain records or documents.

The second paragraph of Article 4 specifies that the term "national" used in the first paragraph applies not only to nationals of a given State but also to stateless persons and refugees whose personal status is governed by the laws of that State.

Article 4 does not govern cases where a dual national produces documents drawn up in both of the States of which he or she is a national. In such an eventuality, a solution must be sought in the ordinary rules on dual nationality. Nor does the Article govern cases where a person was not a national of the State of origin of the document produced, or cases where a person has held the nationality of several States in succession and produces documents drawn up in each of them at a time when he or she held its nationality. In such cases, the registrar will refer to his or her own legislation.

Article 5

This Article governs the case of persons who have no surname or whose surname is unknown. They will be designated by their forenames only; if they have no forenames or if these too are unknown, they will be designated by the name by which they are commonly known.

However, the Article specifies that this procedure must be used only if domestic law does not provide otherwise (e.g. rules on the conferment of a surname or forenames on foundlings).

Article 6

This Article deals with cases in which different surnames or forenames are attributed to one and the same person in civil status records made in several Contracting States or indeed in only one of them.

This situation may arise in respect of records made before the Convention's entry into force; it might also arise in respect of records made thereafter, for example if some of the Convention's provisions have not been correctly applied.

The situation envisaged could also derive from the very application of the Convention : for example, the application of Articles 4 and 5 may produce differing results.

In all such cases, the competent authority in each Contracting State should do whatever is necessary to eliminate the discrepancies; the authorities may correspond with each other directly for this purpose.

In practice, civil registrars who by virtue of the Convention decide not to reproduce, in the record they are making, surnames or forenames in the form appearing in the record or document produced to them will notify the authority from which that record or document emanates, explaining why they have been obliged to depart from it.

Such notifications may be sent by the registrars themselves, or by their superior or supervising authority (public prosecutor's department, supervisory authority).

The authority receiving the notification will in this way be able verify whether the record or document which it drew up contains an error; if it concludes that there is in fact an error in a civil status record drawn up in its country, it will take the necessary steps to have the record put right. If, however, it concludes that the error was made by the authority which sent the notification, it will give its reasons, so that the latter authority may determine whether it should have a correction made. This correspondence may possibly reveal that the two conflicting records both contain errors and that both must be corrected.

The application of Article 6 will thus help to ensure consistency in civil status records in the Contracting States, but it must not be interpreted as imposing an obligation on their authorities to see that all errors, however minor, that may appear in civil status records are corrected.

Those authorities remain entitled in each case to assess whether it is desirable to have a correction made. It is quite conceivable that they may refrain from doing so in appropriate cases where the error is of little consequence, e.g. in the case of a minor error in the forenames, when the record is not likely to affect the spelling of the person's name in a subsequent record; this could be the case for example when the individual concerned appears in the record only as an informant or witness. The essential aim of Article 6 is to show up errors and to enable incorrect records to be put right. This is not the case with discrepancies arising from the application of different rules of private international law.

Article 6 in no way derogates from the Convention on decisions concerning the rectification of civil status records, signed at Paris on 10 September 1964, the main effect of which is that an authority of a Contracting State that takes a decision rectifying an error in a civil status record drawn up in that State's territory is competent to rectify by that same decision any reproduction of the same error in a record concerning the same person or his or her descendants drawn up subsequently in the territory of another Contracting State.

Articles 7 to 11

These Articles contain the final clauses governing ratification of the Convention and its entry into force and duration.