



## **European Convention on Establishment, and Protocol thereto**

Paris, 13.XII.1955

---

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to safeguard and to realise the ideals and principles which are the common heritage of its members and to facilitate their economic and social progress;

Recognising the special character of the links between the member countries of the Council of Europe as affirmed in conventions and agreements already concluded within the framework of the Council such as the Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4th November 1950, the Protocol to this Convention signed on 20<sup>th</sup> March 1952, the European Convention on Social and Medical Assistance and the two European Interim Agreements on Social Security signed on 11th December 1953;

Being convinced that, by the conclusion of a regional convention, the establishment of common rules for the treatment accorded to nationals of each member State in the territory of the others may further the achievement of greater unity;

Affirming that the rights and privileges which they grant to each other's nationals are conceded solely by virtue of the close association uniting the member countries of the Council of Europe by means of its Statute;

Noting that the general plan of the Convention fits into the framework of the organisation of the Council of Europe,

Have agreed as follows:

### **Chapter I – Entry, residence and expulsion**

#### **Article 1**

Each Contracting Party shall facilitate the entry into its territory by nationals of the other Parties for the purpose of temporary visits and shall permit them to travel freely within its territory except when this would be contrary to ordre public, national security, public health or morality.

#### **Article 2**

Subject to the conditions set out in Article 1 of this Convention, each Contracting Party shall, to the extent permitted by its economic and social conditions, facilitate the prolonged or permanent residence in its territory of nationals of the other Parties.

### **Article 3**

- 1 Nationals of any Contracting Party lawfully residing in the territory of another Party may be expelled only if they endanger national security or offend against ordre public or morality.
- 2 Except where imperative considerations of national security otherwise require, a national of any Contracting Party who has been so lawfully residing for more than two years in the territory of any other Party shall not be expelled without first being allowed to submit reasons against his expulsion and to appeal to, and be represented for the purpose before, a competent authority or a person or persons specially designated by the competent authority.
- 3 Nationals of any Contracting Party who have been lawfully residing for more than ten years in the territory of any other Party may only be expelled for reasons of national security or if the other reasons mentioned in paragraph 1 of this article are of a particularly serious nature.

## **Chapter II – Exercise of private rights**

### **Article 4**

Subject to the conditions set out in Article 1 of this Convention, each Contracting Party shall, to the extent permitted by its economic and social conditions, facilitate the prolonged or permanent residence in its territory of nationals of the other Parties.

### **Article 5**

Notwithstanding Article 4 of this Convention, any Contracting Party may, for reasons of national security or defence, reserve the acquisition, possession or use of any categories of property for its own nationals or subject nationals of other Parties to special conditions applicable to aliens in respect of such property.

### **Article 6**

- 1 Apart from cases relating to national security or defence,
  - a any Contracting Party which has reserved for its nationals or, in the case of aliens including those who are nationals of other Parties, made subject to regulations the acquisition, possession or use of certain categories of property, or has made the acquisition, possession or use of such property conditional upon reciprocity, shall, at the time of the signature of this Convention, transmit a list of these restrictions to the Secretary General of the Council of Europe indicating which provisions of its municipal law are the basis of such restrictions. The Secretary General shall forward these lists to the other signatories;
  - b after this Convention has entered into force in respect of any Contracting Party, that Contracting Party shall not introduce any further restrictions as to the acquisition, possession or use of any categories of property by nationals of the other Parties, unless it finds itself compelled to do so for imperative reasons of an economic or social character or in order to prevent monopolisation of the vital resources of the country. It shall in this event keep the Secretary General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary General shall communicate this information to the other Parties.
- 2 Each Contracting Party shall endeavour to reduce its list of restrictions for the benefit of nationals of the other Parties. It shall notify the Secretary General of any such changes and he shall communicate them to the other Parties. Each Party shall also endeavour to grant to nationals of other Parties such exemptions from the general regulations concerning aliens as are provided for in its own legislation.

### **Chapter III – Judicial and administrative guarantees**

#### **Article 7**

Nationals of any Contracting Party shall enjoy in the territory of any other Party, under the same conditions as nationals of the latter Party, full legal and judicial protection of their persons and property and of their rights and interests. In particular they shall have, in the same manner as the nationals of the latter Party, the right of access to the competent judicial and administrative authorities and the right to obtain the assistance of any person of their choice who is qualified by the laws of the country.

#### **Article 8**

- 1 Nationals of any Contracting Party shall be entitled in the territory of any other Party to obtain free legal assistance under the same conditions as nationals of the latter Party.
- 2 Indigent nationals of a Contracting Party shall be entitled to have copies of actes de l'état civil issued to them free of charge in the territory of another Contracting Party in so far as these are so issued to indigent nationals of the latter Contracting Party.

#### **Article 9**

- 1 No security or deposit of any kind may be required, by reason of their status as aliens or of lack of domicile or residence in the country, from nationals of any Contracting Party, having their domicile or normal residence in the territory of a Party, who may be plaintiffs or third parties before the Courts of any other Party.
- 2 The same rule shall apply to the payment which may be required of plaintiffs or third parties to guarantee legal costs.
- 3 Orders to pay the costs and expenses of a trial imposed upon a plaintiff or third party who is exempted from such security, deposit or payment in pursuance either of the preceding paragraphs of this article or of the law of the country in which the proceedings are taken, shall without charge, upon a request made through the diplomatic channel, be rendered enforceable by the competent authority in the territory of any other Contracting Party.

### **Chapter IV – Gainful occupations**

#### **Article 10**

Each Contracting Party shall authorise nationals of the other Parties to engage in its territory in any gainful occupation on an equal footing with its own nationals, unless the said Contracting Party has cogent economic or social reasons for withholding the authorisation. This provision shall apply, but not be limited, to industrial, commercial, financial and agricultural occupations, skilled crafts and the professions, whether the person concerned is self-employed or is in the service of an employer.

#### **Article 11**

Nationals of any Contracting Party who have been allowed by another Party to engage in a gainful occupation for a certain period may not, during that period, be subjected to restrictions not provided for at the time the authorisation was granted to them unless such restrictions are equally applicable to nationals of the latter Party in similar circumstances.

## **Article 12**

- 1 Nationals of any Contracting Party lawfully residing in the territory of any other Party shall be authorised, without being made subject to the restrictions referred to in Article 10 of this Convention, to engage in any gainful occupation on an equal footing with nationals of the latter Party, provided they comply with one of the following conditions:
  - a they have been lawfully engaged in a gainful occupation in that territory for an uninterrupted period of five years;
  - b they have lawfully resided in that territory for an uninterrupted period of ten years;
  - c they have been admitted to permanent residence.

Any Contracting Party may, at the time of signature or of deposit of its instrument of ratification of this Convention, declare that it does not accept one or two of the conditions mentioned above.

- 2 Such Party may also, in accordance with the same procedure, increase the period laid down in paragraph 1.a of this article to a maximum of ten years, provided that after the first period of five years renewal of an authorisation may in no case be refused in respect of the occupation pursued up to that time nor may such renewal be conditional upon any change in that occupation. It may also declare that it will not in all cases automatically grant the right to change from a wage-earning occupation to an independent occupation.

## **Article 13**

Any Contracting Party may reserve for its own nationals the exercise of public functions or of occupations connected with national security or defence, or make the exercise of these occupations by aliens subject to special conditions.

## **Article 14**

- 1 Apart from the functions or occupations mentioned in Article 13 of this Convention,
  - a any Contracting Party which has reserved certain occupations for its own nationals or made the exercise of them by aliens, including nationals of the other Parties, subject to regulations or reciprocity, shall at the time of signature of this Convention transmit a list of these restrictions to the Secretary General of the Council of Europe, indicating which provisions of its municipal law are the basis of such restrictions. The Secretary General shall forward these lists to the other signatories;
  - b after this Convention has entered into force in respect of any Contracting Party, that Party shall not introduce any further restrictions as to the exercise of gainful occupations by the nationals of other Parties unless it finds itself compelled to do so for imperative reasons of an economic or social character. It shall in this event keep the Secretary

General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary General shall communicate this information to the other Parties.

- 2 Each Contracting Party shall endeavour for the benefit of nationals of the other Parties:
  - to reduce the list of occupations which are reserved for its own nationals or the exercise of which by aliens is subject to regulations or reciprocity; it shall notify the Secretary General of any such changes, and he shall communicate them to the other Parties;
  - in so far as its laws permit, to allow individual exemptions from the provisions in force.

#### **Article 15**

The exercise by nationals of one Contracting Party in the territory of another Party of an occupation in respect of which nationals of the latter Party are required to possess professional or technical qualifications or to furnish guarantees shall be made subject to the production of the same guarantees or to the possession of the same qualifications or of others recognised as their equivalent by the competent national authority;

Provided that nationals of the Contracting Parties engaged in the lawful pursuit of their profession in the territory of any Party may be called into the territory of any other Party by one of their colleagues for the purpose of lending assistance in a particular case.

#### **Article 16**

Commercial travellers who are nationals of a Contracting Party and are employed by an undertaking whose principal place of business is situated in the territory of a Contracting Party shall not need any authorisation in order to exercise their occupation in the territory of any other Party, provided that they do not reside therein for more than two months during any half year.

#### **Article 17**

- 1 Nationals of any Contracting Party shall, in the territory of another Party, enjoy treatment no less favourable than nationals of the latter Party in respect of any statutory regulation by a public authority concerning wages and working conditions in general.
- 2 The provisions of this chapter shall not be understood as requiring a Contracting Party to accord in its territory more favourable treatment as regards the exercise of a gainful occupation to the nationals of any other Party than that accorded to its own nationals.

### **Chapter V – Individual rights**

#### **Article 18**

No Contracting Party may forbid nationals of another Party who have been lawfully engaged for at least five years in an appropriate occupation in the territory of the former Party from taking part on an equal footing with its own nationals as electors in elections held by bodies or organisations of an economic or professional nature such as Chambers of Commerce or of Agricultural or Trade Associations, subject to the decisions which such bodies or organisations may take in this respect within the limits of their competence.

#### **Article 19**

Nationals of any Contracting Party in the territory of any other Party shall be permitted, without any restrictions other than those applicable to nationals of the latter Party, to act as arbitrators in arbitral proceedings in which the choice of arbitrators is left entirely to the parties concerned.

### **Article 20**

In so far as access to education is under State control, nationals of school age of any Contracting Party lawfully residing in the territory of any other Party shall be admitted, on an equal footing with the nationals of the latter Party, to institutions for primary and secondary education and technical and vocational training. The application of this provision to the grant of scholarships shall be left to the discretion of individual Parties. School attendance shall be compulsory for nationals of school age residing in the territory of another Contracting Party if it is compulsory for the nationals of the latter Party.

## **Chapter VI – Taxation, compulsory civilian services, expropriation, nationalisation**

### **Article 21**

- 1 Subject to the provisions concerning double taxation contained in agreements already concluded or to be concluded, nationals of any Contracting Party shall not be liable in the territory of any other Party to duties, charges, taxes or contributions, of any description whatsoever, other, higher or more burdensome than those imposed on nationals of the latter Party in similar circumstances; in particular, they shall be entitled to deductions or exemptions from taxes or charges and to all allowances, including allowances for dependants.
- 2 A Contracting Party shall not impose on nationals of any other Party any residence charge not required of its own nationals. This provision shall not prevent the imposition in appropriate cases of charges connected with administrative formalities such as the issue of permits and authorisations which aliens are required to have, provided that the amount levied is not more than the expenditure incurred by such formalities.

### **Article 22**

Nationals of a Contracting Party may in no case be obliged to perform in the territory of another Party any civilian services, whether of a personal nature or relating to property, other or more burdensome than those required of nationals of the latter Party.

### **Article 23**

Without prejudice to the provisions of Article 1 of the Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms, nationals of any Contracting Party shall be entitled, in the event of expropriation or nationalisation of their property by any other Party, to be treated at least as favourably as nationals of the latter Party.

## **Chapter VII – Standing Committee**

### **Article 24**

- 1 A Standing Committee shall be set up within a year of the entry into force of this Convention. This Committee may formulate proposals designed to improve the practical implementation of the Convention and, if necessary, to amend or supplement its provisions.
- 2 In the event of differences of opinion arising between the Parties over the interpretation or application of the provisions of Article 6, paragraph 1.b, and Article 14, paragraph 1.b, of this Convention, the Committee shall at the request of any Party concerned endeavour to settle such differences.
- 3 The Committee shall arrange for the publication of a periodical report containing all information regarding the laws and regulations in force in the territory of the Parties in respect of matters provided for in this Convention.

- 4 Each member of the Council of Europe which has ratified this Convention shall appoint a representative to this Committee. Any other member of the Council may be represented by an observer with the right to speak.
- 5 The Committee shall be convened by the Secretary General of the Council of Europe. Its first session shall take place within three months of the date of its establishment. Subsequent sessions shall be held at least once every two years. The Committee may also be convened whenever the Committee of Ministers of the Council considers it necessary. The period of two years shall run from the date of the end of the last session.
- 6 Opinions or recommendations of the Standing Committee shall be submitted to the Committee of Ministers.
- 7 The Standing Committee shall draw up its own Rules of Procedure.

## **Chapter VIII – General provisions**

### **Article 25**

The provisions of this Convention shall not prejudice the provisions of municipal law, bilateral or multilateral treaties, conventions or agreements which are already in force or may come into force under which more favourable treatment would be accorded to nationals of one or more of the other Contracting Parties.

### **Article 26**

- 1 Any member of the Council of Europe may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the said provision. Reservations of a general nature shall not be permitted under this article.
- 2 Any reservation made under this article shall contain a brief statement of the law concerned.
- 3 Any member of the Council which makes a reservation under this article shall withdraw the said reservation as soon as circumstances permit. Such withdrawal shall be made by notification addressed to the Secretary General of the Council and shall take effect from the date of the receipt of such notification. The Secretary General shall transmit the text of this notification to all the signatories of the Convention.

### **Article 27**

A Contracting Party which has made a reservation in respect of a particular provision of the Convention in accordance with Article 26 of this Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

### **Article 28**

- 1 In time of war or other public emergency threatening the life of the nation, any Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation and provided that such measures are not inconsistent with its other obligations under international law.
- 2 Any Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

## **Chapter IX – Field of application of the Convention**

### **Article 29**

- 1 This Convention shall apply to the metropolitan territories of the Contracting Parties.
- 2 Any member of the Council may, at the time of the signature or ratification of this Convention or at any later date, declare by notice addressed to the Secretary General of the Council of Europe that this Convention shall apply to the territory or territories mentioned in the said declaration and for whose international relations it is responsible.
- 3 Any declaration made in accordance with the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 33 of this Convention.
- 4 The Secretary General shall communicate to the other members of the Council any declaration transmitted to him in accordance with paragraph 2 or paragraph 3 of this article.

### **Article 30**

- 1 For the purpose of this Convention, “nationals” means physical persons possessing the nationality of one of the Contracting Parties.
- 2 No Contracting Party shall be obliged to grant the benefits of this Convention to nationals of another Contracting Party ordinarily resident in a non metropolitan territory of the latter Party to which the Convention does not apply.

## **Chapter X – Settlement of disputes**

### **Article 31**

- 1 Any disputes which may arise between the Contracting Parties concerning the interpretation or the application of this Convention shall be submitted to the International Court of Justice by special agreement or by application by one of the parties to the dispute, unless the parties agree on a different method of peaceful settlement.
- 2 After the entry into force of the European Convention for the Peaceful Settlement of Disputes, the Parties to that Convention shall apply those of its provisions which are binding upon them to all disputes which may arise between them concerning the present Convention.
- 3 Any dispute subjected to a procedure referred to in the preceding paragraphs shall be immediately reported by the parties concerned to the Secretary General of the Council of Europe, who shall inform the other Contracting Parties without delay.
- 4 If one of the parties to a dispute fails to carry out its obligations laid down in a decision of the International Court of Justice or the award of an arbitral tribunal, the other party may appeal to the Committee of Ministers of the Council of Europe. The latter may, if it deems necessary, make recommendations by a majority of two thirds of the representatives entitled to sit on the Committee with a view to ensuring the execution of the said decision or award.

## **Chapter XI – Final provisions**

### **Article 32**

The Protocol attached to this Convention shall form an integral part of it.

### **Article 33**

- 1 A Contracting Party may denounce this Convention only at the end of five years from the date on which it became a Party to it, having previously given six months' notice by notification addressed to the Secretary General of the Council of Europe, who shall inform the other Parties. A Party which does not so exercise the right of denunciation will remain bound for further successive periods of two years and may denounce this Convention only at the end any such period, having given notice six months previously.
- 2 Denunciation shall not have the effect of releasing the Contracting Party concerned from its obligations under this Convention in respect of any act which may have been performed by it before the date upon which the denunciation became effective.
- 3 Any Contracting Party which ceases to be a member of the Council of Europe shall under the same conditions cease to be a Party to this Convention.

### **Article 34**

- 1 This Convention shall be open for signature by the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.
- 2 This Convention shall come into force on the date of deposit of the fifth instrument of ratification.
- 3 As regards any signatory ratifying subsequently, the Convention shall come into force on the date of deposit of its instrument of ratification.
- 4 The Secretary General shall notify all the members of the Council of the entry into force of the Convention, the names of the Contracting Parties which have ratified it, any reservations made and the subsequent deposit of any instruments of ratification.

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

Done at Paris, this 13th day of December 1955, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified true copies to each of the signatories.

---

## **Protocol to the European Convention on Establishment**

Paris, 13.XII.1955

---

### **Section I – Articles 1, 2, 3, 5, 6, paragraph 1.b, 10, 13 and 14, paragraph 1.b**

- a Each Contracting Party shall have the right to judge by national criteria:
  - 1 the reasons of “ordre public, national security, public health or morality” which may provide grounds for the exclusion from its territory of nationals of other Parties;
  - 2 “the economic and social conditions” which may prevent the admission of nationals of other Parties to prolonged or permanent residence or the exercise of gainful occupations in its territory;
  - 3 the circumstances which constitute a threat to national security or an offence against ordre public or morality;
  - 4 the reasons specified in the Convention for which a Contracting Party may reserve for its own nationals the acquisition, possession or use of any categories of property or the exercise of certain rights and occupations or may make the exercise thereof by nationals of the other Parties subject to special conditions.
- b Each Contracting Party shall determine whether the reasons for expulsion are of a “particularly serious nature”. In this connection account shall be taken of the behaviour of the individual concerned during his whole period of residence.
- c A Contracting Party may only restrict the rights of nationals of other Parties for the reasons set forth in this Convention and to the extent compatible with the obligations assumed by the Parties.

### **Section II – Articles 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 17 and 20**

- a Regulations governing the admission, residence and movement of aliens and also their right to engage in gainful occupations shall be unaffected by this Convention in so far as they are not inconsistent with it.
- b Nationals of a Contracting Party shall be considered as lawfully residing in the territory of another Party if they have conformed to the said regulations.

### **Section III – Articles 1, 2 and 3**

- a The concept of “ordre public” is to be understood in the wide sense generally accepted in continental countries. A Contracting Party may, for instance, exclude a national of another Party for political reasons, or if there are grounds for believing that he is unable to pay the expenses of his stay or that he intends to engage in a gainful occupation without the necessary permits.
- b The Contracting Parties undertake, in the exercise of their established rights, to pay due regard to family ties.

- c The right of expulsion may be exercised only in individual cases. The Contracting Parties shall, in exercising their right of expulsion, act with consideration, having regard to the particular relations which exist between the members of the Council of Europe. They shall in particular take due account of family ties and the period of residence in their territory of the person concerned.

#### **Section IV – Articles 8 and 9**

Articles 8 and 9 of this Convention in no way affect obligations contracted under The Hague Convention on Civil Procedure.

#### **Section V – Articles 10, 11, 12, 13, 14, 15, 16 and 17**

- a The provisions of Articles 10, 11, 12, 13, 14, 15, 16 and 17 of this Convention shall be subject to the conditions governing entry and residence laid down in Articles 1 and 2.
- b The husband or wife and dependent children of nationals of any Contracting Party lawfully residing in the territory of another Party who have been authorised to accompany or rejoin them shall as far as possible be allowed to take up employment in that territory in accordance with the conditions laid down in this Convention.
- c The provisions of Article 12 of this Convention shall not apply to nationals of a Contracting Party residing in the territory of another Party in pursuance of special regulations or engaged in a gainful occupation therein in pursuance of special rules or agreements, including such persons as members, or staff not locally recruited, of diplomatic or consular missions; members of the staff of international organisations; student employees, apprentices, students and persons employed for the purpose of completing their vocational training; crews of ships and aircraft.
- d For the purpose of Article 16 of this Convention, the Contracting Parties shall not, in their municipal legislation or regulations, treat the occupation of commercial traveller as an itinerant trade or form of hawking.
- e It is understood that Article 16 applies only to commercial travellers acting under the orders of an undertaking situated outside the receiving country and remunerated solely by such undertaking.
- f Article 17, paragraph 1, of this Convention shall not apply to the special case of student employees in respect of their remuneration.

#### **Section VI – Articles 2, 11, 12, 13, 14, 15, 16, 17 and 25**

- a It is understood that this Convention shall not apply to industrial, literary and artistic property and new vegetable products, as these subjects are reserved for international conventions or other international agreements relating thereto which are already in force or will come into force.
- b Those Contracting Parties to this Convention which are now or will be bound by the decisions of the Organisation for European Economic Co-operation governing the employment of nationals of its member countries shall, in their mutual relations and in respect of the exercise of wage earning occupations, apply the provisions of this Convention or of the said decisions, whichever grant the more favourable treatment to wage earners. In applying the provisions of Articles 2, 10, 11, 12, 13, 14, 15, 16 and 17 of this Convention and judging the economic or social reasons mentioned in Articles 10 and 14, they shall conform to the spirit and the letter of the said decisions in so far as the latter are more favourable to wage earners than the provisions of this Convention.

**Section VII – Article 26, paragraph 1**

The Contracting Parties shall exercise their right to make reservations only in so far as they consider that essential provisions of their municipal law so require.

**Section VIII – Article 29, paragraph 1**

- a This Convention shall, in respect of France, also apply to Algeria and the overseas Departments.
- b The Federal Republic of Germany may extend the application of this Convention to the Land Berlin by a declaration addressed to the Secretary General of the Council of Europe who shall notify the other Contracting Parties thereof.

**Article 29, paragraph 2**

Any member of the Council of Europe which makes a declaration in accordance with Article 29, paragraph 2, of this Convention shall, at the same time and in respect of any territory mentioned in such declaration, transmit to the Secretary General of the Council the lists of restrictions specified in Article 6, paragraph 1, and Article 14, paragraph 1, any declaration made in accordance with Article 12 and any reservation made in accordance with Article 26 of this Convention.

**Article 30**

The term “ordinarily resident” shall be defined according to the regulations applicable in the country of which the person concerned is a national.

**Section IX – Article 31, paragraph 1**

Contracting Parties not party to the Statute of the International Court of Justice shall take the necessary steps to obtain access to the Court.