

## SUMMARIES OF THE COUNCIL OF EUROPE TREATIES

The summaries available hereunder are designed to meet a practical need, that of supplying the public at large with concise descriptions of the Council of Europe treaties. The summaries are necessarily short and can therefore only give a first introduction to the main features of each treaty.

### Subject-matter: **LEGAL CO-OPERATION IN CIVIL MATTERS**

**European Convention on Information on Foreign Law** ([ETS No. 62](#)), open for signature, in London, on 7 June 1968.

Entry into force: 17 December 1969.

Under the terms of the Convention, the Parties undertake to supply information, when problems of foreign law arise into course of legal proceedings, concerning their law and procedure in civil and commercial fields as well as on their judicial system.

Each Party is to set up or appoint two bodies: a "receiving agency", to receive requests for information from another Party and to take action on its request, and a "transmitting agency" to receive requests for information from its judicial authorities and to transmit them to the competent foreign receiving agency. The names and addresses of these bodies are communicated by the Secretary General of the Council of Europe to the Parties.

\* \* \*

**European Convention on the Repatriation of Minors** ([ETS No. 71](#)), open for signature, in The Hague, on 28 May 1970.

Entry into force: 28 July 2015.

This Convention shall apply to minors in the territory of a Contracting State whose repatriation is requested by another Contracting State for one of the following reasons:

- a. the presence of the minor in the territory of the requested State is against the will of the person or persons having parental authority in respect of him;
- b. the presence of the minor in the territory of the requested State is incompatible with a measure of protection or re-education taken in respect of him by the competent authorities of the requesting State;
- c. the presence of the minor is necessary in the territory of the requesting State because of the institution of proceedings there with a view to taking measures of protection and re-education in respect of him.

This Convention shall also apply to the repatriation of minors whose presence in its territory a Contracting State deems to be incompatible with its own interests or with the interests of the minors concerned, provided that its legislation authorises removal of the minor from its territory.

\* \* \*

**Convention on the Establishment of a Scheme of Registration of Wills** ([ETS No. 77](#)), open for signature, in Basel, on 16 May 1972.

Entry into force: 20 March 1976.

This Convention allows a testator to register his will with the competent authorities not only in a State of his residence, but also in other Parties. The Convention provides that each Party shall establish or appoint one or more bodies responsible for the registration provided for by the Convention. These bodies will be in charge, after the death of the testator, of answering requests for information providing from the persons concerned.

Each Party appoints a national body which shall facilitate the international co-operation on this matter.

\* \* \*

**European Agreement on the Transmission of Applications for Legal Aid** ([ETS No. 92](#)), open for signature, in Strasbourg, on 27 January 1977.

Entry into force: 28 February 1977.

The Agreement is designed to eliminate economic obstacles to proceedings and to permit persons in an economically weak position more easily to exercise their rights Parties. Accordingly, the Agreement provides that persons having their habitual residence in the territory of a Party may apply for legal aid in civil, commercial or administrative matters in the territory of another Party to the Agreement. The Agreement sets out the procedure to be followed and, in particular, makes it possible for the person concerned to submit an application through the intermediary of the State of habitual residence.

\* \* \*

**Additional Protocol to the European Convention on Information on Foreign Law** ([ETS No. 97](#)), open for signature, in Strasbourg, on 15 March 1978.

Entry into force: 31 August 1979.

The Additional Protocol is designed to extend to the field of criminal law and procedure the system of international exchange of information established by the Convention (ETS No. 62).

Parties undertake to supply one another with information on their substantive and procedural law and judicial organisation in the criminal field, including prosecuting authorities, as well as on the law concerning the enforcement of penal measures. This undertaking applies to all proceedings in respect of offences the prosecution of which, at the time of the request for information, falls within the jurisdiction of the judicial authorities of the requesting Party.

The Protocol aims at eliminating economic obstacles to legal proceedings (in the field of legal aid and advice in civil and commercial matters), and to permit persons in an economically weak position more easily to exercise their rights.

\* \* \*

**European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children** ([ETS No. 105](#)), open to signature, in Luxembourg, on 20 May 1980.

Entry into force: 1 September 1983.

The Convention protects custody and access rights in international situations and provides for free, prompt, non-bureaucratic assistance from central authorities designated by each Party in discovering the whereabouts and restoring custody of a child improperly removed.

Application for the restoration of custody of a child may be made directly either to a court or to the central authorities of any Party concerned. Central authorities are required, *inter alia*:

- to assist the applicants in their action;
- to discover the whereabouts of the child;
- to avoid, in particular by any necessary provisional measures, prejudice to the interests of the child or of the applicant;
- to secure the recognition or enforcement of the custody decision;
- to secure the delivery of the child to the applicant where enforcement is granted.

The Convention deals with various situations and offers specific solutions. For instance, if application is made within six months of the improper removal of a child, restoration of custody is to be immediate and subject to no condition other than the establishment of the facts:

- that the child was improperly removed, that the child and both parents had as their sole nationality the nationality of the State in which the decision on custody was made and that, in addition, the child had his habitual residence in that State or

- that the child has not been repatriated after the exercise of access abroad, in violation of the conditions governing exercise of the right of access.

If these conditions are not met but the application is lodged within the six-month time-limit, restoration of custody is subject to stricter conditions. Once the six-month time-limit has expired, restoration of custody is subject to more numerous conditions, since the child may already be integrated into a different environment.

\* \* \*

**Additional Protocol to the European Agreement on the Transmission of Applications for Legal Aid (ETS No. 179)**, open for signature, in Moscow, on 4 October 2001.

Entry into force: 1 September 2002.

This Additional Protocol is designed to improve the operation of the Agreement (ETS No. 92), which enables persons having their habitual residence in the territory of a Party to apply for legal aid in civil, commercial or administrative matters in the territory of another Party, in particular as regards the co-operation between Central Authorities, the communication between lawyers and applicants and the improvement of the efficiency in the application of the Agreement by Central Authorities.

\* \* \*

**Convention on Contact concerning Children (ETS No. 192)**, open for signature, in Strasbourg, on 15 May 2003.

Entry into force: 1 September 2005.

Given the problems inherent in the exercise and protection of children's personal relationships, as well as its possible limitations, the Convention aims to regulate these relations in the light of the best interests of the child.

The aim of the Convention is to improve certain aspects of the right of national and transfrontier contact and, in particular, to specify and reinforce the basic right of children and their parents to maintain contact on a regular basis. This right may be extended, if necessary, to include contact between a child and other persons than his or her parents, in particular when the child has family ties with such a person.

In this respect, the object of the Convention is to determine the general principles to be applied to contact orders, as well as to fix appropriate safeguards and guarantees to ensure the proper exercise of such contact and the immediate return of children at the end of the period of contact. It establishes co-operation between all the bodies and authorities concerned with contact orders and reinforces the implementation of relevant existing international legal instruments in this field.

\* \* \*

**Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210)**, open for signature, in Istanbul, on 11 May 2011.

Entry into force: 1 August 2014.

This new landmark treaty of the Council of Europe opens the path for creating a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence.

The Convention also establishes a specific monitoring mechanism ("GREVIO") in order to ensure effective implementation of its provisions by the Parties.