

DIPLOMATIC CONFERENCE ON WILLS

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COMMENTS BY THE DELEGATION OF BELGIUM ON THE DRAFT CONVENTION PROVIDING A UNIFORM LAW ON THE FORM OF THE INTERNATIONAL WILL

The Belgian Delegation agrees in principle to adopting the text of the Draft Convention. However, it wishes to make the following comments:

1. Articles II and III limit the persons authorized to receive the international will to those who are so qualified in the territory of the contracting state. Persons authorized in another territory are therefore excluded, and, more specifically, diplomatic agents and consuls who, under their national law, are often competent to draw up or receive wills from their fellow nationals, in the same capacity as local notaries.

If the international will is introduced in the legislation of a country that accedes to the Convention, the diplomatic agents and consuls of that country should be qualified even though they do not reside in the national territory.

Consideration might therefore be given to adding the following sentence to paragraph 2: "They may also authorize their diplomatic and consular representatives abroad, insofar as they are so authorized by their national law."

2. Paragraph 1 of Article III is not very clear. Indeed, it is not "in the territory" of the other contracting parties that the international will is to be recognized, but by the contracting parties themselves. It would therefore seem preferable to say: "shall be considered by the other contracting parties as having been made in the presence of a person authorized to receive it..." The same comment may be made concerning paragraph 2 of that Article. It would likewise be preferable to say: "shall be considered by the contracting parties" instead of "in the territory of the contracting parties."

3. In Article IV it would also be preferable to delete the words "in the territory" as well as the term "the effectiveness." This Article could therefore read as follows: "The certificate provided for in Article 7 of the Annex shall be recognized by the contracting parties."

4. Article V, paragraph 2, should be amended, in the event of the adoption of the proposal made above concerning Article II with respect to diplomatic and consular representatives. Indeed, if that were the

case, it would no longer read "the internal law of the place where the will is received" but "the law applied by the person authorized to draw up the will."

5. In Article VI it would seem preferable to replace the expression "the authenticity of such signatures" by "the veracity of the signatures, and the capacity in which the person authorized to receive the will acted."

6. The Uniform Law should specify whether the formalities provided for in Articles III and IV, on the one hand, and in Article V, on the other hand, are compulsory or not.

7. In Article VII of the Uniform Law, paragraph (e) should be amended if, as proposed above, the diplomatic and consular representatives are authorized to receive the international will. Instead of "according to the internal law of the place where the will is received" it should read "according to its own law."

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