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U n i d r o i t

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

WORKING COMMITTEE ON THE ELABORATION OF UNIFORM

PROVISIONS CONCERNING THE FORM OF WILLS

Draft Convention

providing for a uniform law on the form of wills

Rome, October 1965

DRAFT CONVENTION

The States signatories to the present Convention,

Desirous to provide to a greater extent for the respecting of last wills by establishing a form of will henceforth to be called an "international will" which, if employed, would dispense with the search for the applicable law and dispense with the examination of formalities prescribed by such law;

Have resolved to conclude a Convention for this purpose and have agreed upon the following provisions:

Article 1

1. Each Contracting Party undertakes that within six months of the date of entry into force of this Convention in respect of that Party it shall introduce into its law the rules regarding an international will set out in the Annex to this Convention.

2. Each Contracting Party may introduce the provisions of the Annex into its law either by reproducing the actual text, or by translating it into its official language or languages.

Article 2

1. Each Contracting Party shall complete and implement the provisions of the Annex in its law, within the period provided for in the preceding article, by designating the persons who, in its territory, shall be qualified to receive international wills.

2. The Party shall notify such designation, as well as any other later modification thereof, to .....

Article 3

1. A will made in the form of an international will in the territory of a Contracting Party shall, in the territories of the other Contracting Parties, be considered as having been made in the presence of a person qualified to receive it whenever such person is so qualified according to the law of the Contracting Party in whose territory the will was made.

2. A will made in the form of an international will in the territory of a State which is not a Contracting Party shall, in the territories of the Contracting Parties, be considered as having been made in the presence of a qualified person whenever, in accordance with the law of such State, it has been received by a person qualified to receive wills and has been placed in this custody.

Article 4

Each Contracting Party may provide in its law that the persons listed in Article 11, paragraph 2 of the Annex may not benefit from any dispositions in their favour that the will may contain.

Article 5

1. The signature of the testator, of the person qualified to receive the will and of the witnesses of an international will shall be exempt from legalisation.

2. Nevertheless, the competent authorities of the Contracting Parties may verify the authenticity of such signatures.

Article 6

Each Contracting Party may in its law provide for rules relating to the custody of international wills.

Article 7

No reservation shall be admitted to this Convention or to its Annex.

Article 8

1. This Convention shall be open for signature from .....  
to .....
2. This Convention shall be ratified.
3. Instruments of ratification shall be deposited with .....

Article 9

1. This Convention shall be open to accession by .....
2. Instruments of accession shall be deposited with .....

Article 10

1. This Convention shall come into force six months after the date on which the fifth instrument of ratification or accession has been deposited.

2. In the case of each State which ratifies this Convention or accedes to it after the fifth instrument of ratification or accession has been deposited, this Convention shall come into force six months after the deposit of its own instrument of ratification or accession.

Article 11

1. Each Contracting Party may denounce this Convention by a notice addressed to .....

2. Such denunciation shall take effect twelve months from the date on which the ..... has received notice thereof.

Article 12

1. Each State may, when it deposits its instrument of ratification or accession or at any time later, declare, by a notice addressed to ....., that this Convention shall apply to all or part of the territories for whose international relations it is responsible.

2. Such declaration shall have effect six months after the date on which the ..... shall have received notice thereof or, if at the end of such period the Convention has not yet come into force, from the date of its entry into force.

3. Each Contracting Party which has made a declaration in accordance with paragraph 1 of this Article may, in accordance with Article 11, denounce this Convention in relation to all or part of the territories concerned.

Article 13

The ..... shall give notice to the signatory or acceding States, and to the International Institute for the Unification of Private Law, of:

- a) any signature;
- b) the deposit of any instrument of ratification or accession;
- c) any date on which this Convention enters into force in accordance with Article 10;
- d) any notice received in accordance with Article 2, paragraph 2;
- e) any declaration received in accordance with Article 12, paragraph 2 and the date on which such declaration takes effect;
- f) any denunciation received in accordance with Article 11, paragraph 1, or Article 12, paragraph 3, and the date on which the denunciation takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Convention.

DONE at ....., the ....., in ....., the ..... texts being equally authoritative.

The original of this Convention shall be deposited with ..... who shall transmit certified copies thereof to each of the signatories and acceding States and to the International Institute for the Unification of Private Law.

Clause concerning federal and non-unitary States

(for possible insertion)

Article ....

- a) With respect to those articles of this Convention and its Annex that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to that extent be the same as those of Contracting States which are not federal States;
- b) With respect to those articles of this Convention and its Annex that come within the legislative jurisdiction of constituent States or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;
- c) It shall also be the duty of the federal Government to notify the designation of persons qualified to receive international wills, in accordance with Article 2, paragraph 2, and also any designation made by constituent States or provinces.

(Annex)

PRELIMINARY DRAFT OF A UNIFORM LAW

Article 1

- (1) A will shall be valid as regards form, irrespective of the place where it is made and irrespective of the nationality, domicile or residence of the testator, if it is made in the form of an international will complying with the provisions set out hereafter.
- (2) Failure to observe any such provision shall not by itself affect the validity of the document as a will of another kind.

Article 2

- (1) The will shall be made in writing.
- (2) It may be written in any language, by hand or by any other means.
- (3) It need not be written by the testator himself.

Article 3

- (1) The testator shall declare in the presence of two witnesses and of a person qualified to receive the will that the document is his will.
- (2) The testator need not inform the witnesses, or the person qualified to receive the will, of the content of the will.



Article 4

- (1) The will shall be signed by the testator in the presence of the witnesses and of the person qualified to receive it.
- (2) The signature of the testator shall be placed at the end of the will.

Article 5

The witnesses and the person qualified to receive the will shall there and then sign the will in the presence of the testator.

Article 6

- (1) The date of reception shall be indicated on the document.
- (2) The absence of a date or the indication of an erroneous date shall not affect the validity of the will.

Article 7

- (1) If the will consists of several sheets, each sheet shall be signed or initialled by the testator, unless the sheets follow each other and form a whole.
- (2) Every correction in the body of the will shall be signed or initialled by the testator.
- (3) Additions subsequent to the signatures shall be signed by the testator, the witnesses and the person qualified to receive the will.

Article 8

The signature or initials of the testator required by this law may be replaced by the fingerprint of the testator.

Article 9

- (1) If the testator is unable to read, the will shall be read to him in the presence of the witnesses and of the person qualified to receive the will.
- (2) If the testator does not know the language in which the will is drawn up, the will shall be read to him, translated into a language which he knows, in the presence of the witnesses and of the person qualified to receive the will.
- (3) Such circumstances shall be mentioned in the document.

Article 10

The person who receives the will shall satisfy himself of the identity of the testator and of the witnesses.

Article 11

- (1) The capacity of the witnesses shall be governed by the internal law of the place where the will is received.
- (2) The fact that a will contains a disposition in favour of a witness or of the person who receives the will or in favour of a parent, relation, including relation by marriage, or spouse of any of them, shall not affect his capacity to act as a witness or to receive the will.

Article 12

The will shall be left in the custody of the qualified person who has received it.

Article 13

The will shall cease to be valid, as an international will, if it be withdrawn by the testator.