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U n i d r o i t

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

DRAFT CONVENTION

providing a uniform law on the form of
the International Will

Text drawn up by the
Committee of Governmental Experts on the Form of Wills

Rome, May 1971

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 I

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 II

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 authorized to act in connexion with international wills.

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

Article III

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 authorized to act in connexion with it whenever such person is so authorized 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 an authorized person whenever, in accordance with the law of such State, it has been received by a person qualified to receive wills.

Article IV

The effectiveness of the certificate provided for in article 8 of the Annex shall be recognized in the territories of all Contracting Parties.

Article V

1. The conditions to be a witness of an international will shall be governed by the internal law of the place where the will is received.
2. Nevertheless an alien may act as a witness of an international will.

Article VI

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

Article VII

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

Article VIII

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 IX

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

Article X

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 XI

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 XII

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 XI, denounce this Convention in relation to all or part of the territories concerned.

Article XIII

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 X; -
- (d) any notice received in accordance with Article II, paragraph 2;
- (e) any declaration received in accordance with Article XIII, paragraph 2 and the date on which such declaration takes effect;
- (f) any denunciation received in accordance with Article XI, paragraph 1, or Article XII, 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 II, paragraph 2, and also any designation made by constituent states or provinces.

A N N E X

UNIFORM LAW ON THE FORM OF THE INTERNATIONAL WILL

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 in articles 2 to 4 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 authorized to act in connexion with international wills that the document is his will and that he knows the content thereof.
2. The testator need not inform the witnesses, or the authorized person, of the content of the will.

Article 4

1. In the presence of the witnesses and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.

2. The witnesses and the authorized person shall there and then sign the will in the presence of the testator.

Article 5

1. The signature of the testator shall be placed at the end of the will.

2. If the will consists of several sheets, each sheet shall also be signed by the testator, unless the sheets follow each other and form a whole.

Article 6

1. The date of the will is the date of its reception.

2. The date of the reception shall be affixed to the will by the authorized person.

3. In case of dispute the date of the reception may be established by any means.

Article 7

1. The authorized person shall add to the will a certificate stating that:

(a) the testator, in his presence and in that of the witnesses, has declared that the document is his will and that he knows the content thereof;

(b) the testator, in his presence and in that of the witnesses, has signed the will or has acknowledged his signature previously affixed;

(c) the witnesses have then signed it;

(d) the authorized person has satisfied himself of the identity of the testator and of the witnesses;

(e) the witnesses satisfied the requirements needed according to the internal law of the place where the will is received.

The authorized person shall also state his identity and those of the testator and of the witnesses. He shall date and sign the certificate.

2. The authorized person shall keep a copy of the certificate and deliver one to the testator.

3. The fact that the certificate has not been established does not affect the validity of the will.

4. Unless impeached by competent proof, the foregoing certificate of the authorized person shall be accepted as sufficient proof in any cause or proceeding of all facts necessary to the due execution of the instrument as an international will.

Article 8

The authorized person has the duty to ensure the safekeeping of the will in accordance with the internal law of the place where the will is received, particularly by undertaking any official deposit or registration required by that law.