

CONVENTION ON THE  
**RIGHTS OF THE FAMILY**

## The States Parties to the present Convention,

Considering that the family constitutes one of the most precious of human values;

Drawn up with taking into account inter alia: Art. 21 par. 1 of the Constitution of the Hellenic Republic Greece of 9 June 1975; Art. 41 par. 1 of the Constitution of the Republic of Ireland of 1 July 1937; Art. 38 first sentence of the Constitution of the Republic of Lithuania of 25 October 1992; Art. 48 par. 1 of the Constitution of the Republic of Moldova 29 July 1994; Art. 62 of the Constitution of Bolivia of 25 January 2009; Art. 226 of the Constitution of the Federative Republic of Brazil of 5 October 1988; Art. 1 of the Constitution of the Republic of Chile of 11 July 1980; Art. 42 of the Constitution of the Republic of Colombia of 4 July 1991; Art. 119 of the Constitution of the Republic of Mozambique of 15 November 2004; Art. 17 of the Constitution of the Republic of Senegal of 22 January 2001; Art. 45 of the Constitution of the Republic of Kenya of 4 August 2010; Art. 22 par. 1 of the Constitution of the Republic of Guinea of 7 May 2010; Art. 14 of the Constitution of the Gabonese Republic of 26 March 1991; Art. 22 of the Constitution of Eritrea of 23 May 1997; Art. 10 of the Constitution of the Arab Republic of Egypt of 18 January 2014; Art. 37 of the Constitution of the Republic of Chad of 31 March 1996; Art. 30 of the Constitution of the Republic of Burundi of 28 February 2005; Art. 23 of the Constitution of Burkina Faso of 2 June 1991; Art. 35 par. 1 of the Constitution of the Republic of Angola of 5 February 2010; Art. 54 of the Constitution of the Islamic Republic of Afghanistan of 4 January 2004; Art. 35 of the Constitution of the Republic of Armenia of 5 July 1995; Art. 17 of the Constitution of the Republic of Azerbaijan of 12 November 1995; Art. 29 of the Constitution of the Republic of Iraq of 15 October 2005; Art. 6 par. 4 of the Constitution of the Hashemite Kingdom of Jordan of 1 January 1952; Art. 21 of the Constitution of Qatar of 29 April 2003, art. 36 par. 1 of the Constitution of the Kyrgyz Republic of 21 June 2010; Art. 9 of the Constitution of Kuwait of 11 November 1962; Art. 27 of the Constitution of the Democratic Socialist Republic of Sri Lanka of 7 September 1978; Art. 35 of the Constitution of the Republic of Cuba of 24 February 1976; Art. 259 of the Constitution of the Republic of Haiti of 10 March 1987; Art. 55 point 1 of the Constitution of the Commonwealth of Dominica of 25 July 1978; Art. 4 of the Constitution of Peru of 29 December 1993; Art. 49 of the Constitution of the Republic of Paraguay of 20 June 1992.

Considering that the family is the foundation of social order and fundamental group unit of society, primary to the State and autonomous towards public authorities;

Considering that future of humanity depends on well-functioning family;

Considering that parents, children, grandparents and other blood relatives and relatives by marriage form a unique community which provides the best environment for the development of an individual and his or her protection from violence and other pathologies;

Considering that in the light of historical experience, family subjectivity whereby parents' rights and children's rights are breached, is characteristic of political systems depersonalizing humans;

Considering that the family is the first and irreplaceable school of social values related to social life in general and inherent in civilizational, national and spiritual identity of particular societies;

Considering that a State is unable to pursue common good without the participation of families;

Concerned with the attempts to undermine a natural notions of the family, marriage, sex and parenthood;

Considering that full respect of the basic values is particularly important for the integral development of an individual and all human communities;

Considering that the family provides an indispensable moral and material support for its members, in particular the youngest and the oldest ones;

Noticing that many regions of the world are affected by the unprecedented demographic crisis on the grounds of undermining natural notion of the family and disregarding the social function of marriage and family;

Objecting to any measures designated to weaken the importance of the family in a human life and family disintegration, including questioning the parents' right to bring up their children in conformity with their own convictions, disproportionate interference with parental relations, practices hindering families from transmitting values to their offspring, use of public institutions for ideological indoctrination, lack of respect for human dignity at the earliest stage of life and strengthening the mentality which disregards the value of the conception of new human life;

Convinced that parents, spouses and children need to have the safeguard of their rights and freedoms reinforced;

Considering that the family, based on marriage, and marriage, understood as a union of one man and one woman, are unique and natural institutions;

Considering that parents are primarily responsible for the upbringing of their children;

Noticing that the complementarity which exists between married men and women allows for the best integral development of the family;

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a natural family environment, in an atmosphere of happiness, love and understanding;

Drawn up with taking into account the Preamble of the Convention on the Rights of the Child of 20 November 1989.

Recognizing that domestic violence is a form of violence that impairs family life and poses a threat to family and its members;

Noticing that sexual violence and any form of promotion thereof in culture pose a significant threat to marriage and family as regards fulfilment of their natural functions in the society,

Noticing that the natural role and autonomy of the family in the social life as well as mutual obligations of family members have been increasingly undermined over the past decades and natural identity of marriage have been questioned, thus weakening the basic structures of protection against violence, including domestic violence and contributing to the intensification thereof;

Recognizing the importance of international co-operation between States, international organisations and societies for the effective protection of core values against new threats,

Have agreed as follows:

# Chapter I

## Definitions

### Article 1

For the purposes of the present Convention:

- a. “marriage” means a free and permanent union of woman and man subject to particular protection under national law;
- b. “family” means a community of people related by blood, marriage and adoption;
- c. “sex” means a set of biological (including genetic) characteristics allowing for an objective differentiation between woman and man;
- d. “child’s best interest” means all conditions necessary for the proper personal, spiritual and intellectual development of the child and necessary to provide him or her with the basic material conditions, which are first and foremost provided by parents and other family members and where they are deprived of parental authority in compliance with the present Convention, by other legal guardians. Such conditions are identified in consideration of the need to maintain family bonds and family integrity, secure life and health of the minor child and protect him or her from depravity, respect his or her cultural identity as well as, appropriately to his or her age and maturity, his or her opinion on his or her situation;  
Drawn up with taking into account, inter alia, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, chapter V, letter A para. 1; European Court of Human Rights’ judgments of 30 July 2013, *Berisha v. Switzerland*; of 26 June 2014, *Menesson and Others v. France*; of 2 February 2016, *N. Ts. v. Georgia* and Polish case-law (Supreme Court decisions of 11 February 1997, II CKN 90/96; of 11 January 2000, I CKN 327/98).
- e. “violence” means a single or recurring deliberate action in breach of another person’s rights, which constitutes an act prohibited by the law of the State Party against life, health, physical integrity, freedom or property
- f. “domestic violence” means a single or recurring deliberate action in breach of another person’s rights, which constitutes an act prohibited by law of the State Party against life, health, physical integrity, freedom or property, committed in a family or domestic context between ex-spouses or cohabitants, regardless of whether or not the offender lives together with the victim.

# Chapter II

## General Rules

### Article 2

Drawn up with taking into account, e.g.: Art. 6 (1) of the Constitution of the Federal Republic of Germany of 23 May 1949, Art. 41 (1) of the Constitution of the Slovak Republic of 1 September 1992, Art. 51 sentence 5 of the Constitution of the Ukraine of 28 June 1996, Art. 7 (2) and art. 38 (1) of the Constitution of the Russian Federation of 12 December 1993, Art. 53 (2) of the Constitution of the Republic of Albania of 21 October 1998, Art. 14 of the Constitution of the Republic of Bulgaria of 12 July 1991, Art. 61 (1) and Art. 62 of the Constitution of the Republic of Croatia of 22 December 1990, Art. 72 (1) and Art. 73 (1) of the Constitution of the Republic of Montenegro of 21 May 2007, Art. 27 (1) of the Constitution of the Republic of Estonia of 28 June 1992, Art. 39 (1-2) of the Constitution of the Kingdom of Spain of 27 December 1978, Art. 41 (1, 3) of the Constitution of the Republic of Ireland of 1 July 1937, Art. 38 (2) of the Constitution of the Republic of Lithuania of 25 October 1992, Art. 21 (1) of the Constitution of the Hellenic Republic of 9 June 1975, Art. 68-69 of the Constitution of the Portuguese Republic of 2 April 1976.

**1.** Marriage, family and parenthood are subject to special protection of the States Parties.

**2.** When applying national law, the States Parties shall resolve any doubts in such a manner as to maintain the family integrity.

### Article 3

Each family has the right to to exercise human rights and fundamental freedoms available to other people, in particular freedom of thought, conscience and religion, freedom of speech, economic freedom, right to peaceful enjoyment of private property and right to respect for private and family life.

### Article 4

Each family has the right to have its independence of public authorities respected. The relations between the family and the State shall be based on the principle of subsidiarity, pursuant to which a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good. Any interference of the State in the family matters should be exceptional rather than regular.

Drawn up with taking into account  
Encyclical *Centesimus annus*, para. 48.

Drawn up with taking into account the Declaration of the Rights of the Child of 20 November 1959, the Convention on the Rights of the Child of 20 November 1989, Article 15 (1) of the Constitution of Slovak Republic of 1 September 1992; Article 6 (1) of the Charter of Fundamental Rights and Freedoms of the Czech Republic of 16 December 1992;

### Article 5

**1.** The child is subject to special legal protection, both before as well as after birth.

2. No compensation can be claimed for damages caused by the conception or birth of a child.

| Article 40 (1) of the Constitution of the  
| Republic of Ireland of 1 July 1937; Article  
| 8 of the Constitution of the Principality of  
| Andorra of 14 March 1993, Article 2 of the  
| Constitution of Hungary of 25 April 2011.

### **Article 6**

National law on inheritance and transfer of assets between the family members shall respect their rights and needs.

| Drawn up with taking into account Art. 9  
| (a) of the Charter of the Rights of the Family  
| presented by Holy See on October 22, 1983.

### **Article 7**

Discrimination on the grounds of performing unpaid work of raising children is prohibited.

### **Article 8**

The States Parties respect everybody's right to promote the rights and freedoms guaranteed by the present Convention, both individually and collectively, internally and internationally.

### **Article 9**

1. The States Parties do not recognise the legal effects of same-sex relationships, polygamous relationships and incestuous relationships entered into in any form whatsoever, either internally or abroad.

2. The States Parties cannot be required to take any measures facilitating same-sex relationships, polygamous relationships or incestuous relationships abroad.

### **Article 10**

There shall be no interference by the States Parties with the exercise of the rights and freedoms of spouses, parents and children guaranteed by the present Convention except such as is in accordance with the law and is necessary in the interests of national security, public safety, for the protection of health, meeting the just requirements of morality or for the protection of the rights and freedoms of others.

# Chapter III

## Spouses' Rights

### Article 11

Drawn up with taking into account Art. 23 (2) of the International Covenant on Civil and Political Rights of 16 December 1966.

Every man and every woman of marriageable age has the right to marry and found a family.

### Article 12

1. No one can be forced to marry.
2. Forced marriages are invalid.

### Article 13

The spouses have equal rights and obligations.

### Article 14

Drawn up with taking into account Art. 3 of the Charter of the Rights of the Family.

1. Public authorities shall not, in any way, affect the reduction of fertility or make it difficult for families to have children.

Drawn up with taking into account Art. 71 of the Constitution of the Republic of Poland.

2. Public authorities shall ensure social recognition and specific support to families with many children.

3. Public authorities shall counteract any discrimination against parents, in particular against women, by employers, on grounds of their parental duties.

### Article 15

There shall be no discrimination of families as regards access to family benefits, tax benefits and other forms of public support due to the fact that parents are married.



# Chapter IV

## Parents' Rights

### Article 16

1. The States Parties respect the liberty of parents to perform parental authority over their children.

Drawn up with taking into account Art. 18 (4) of the International Covenant on Civil and Political Rights of 16 December 1966.

2. Parental freedom includes, in particular, the right to education of the child in compliance with one's own convictions, in particular religious and moral convictions, freedom to choose parental techniques appropriate to child's maturity, freedom to choose the form and place of child's education as well as other rights and freedoms guaranteed by the present Convention.

3. A parent can only be deprived of parental authority or have parental authority restricted under law and by way of a final decision of an independent court, subject to paragraph 5, where:

- 1) he or she commits a crime to the detriment of the child,
- 2) he or she is declared legally incapacitated,
- 3) he or she abandons the child,
- 4) he or she is convicted for a long-term imprisonment for a crime and
- 5) he or she exposures to the danger child's life or to serious damage child's health.

4. An independent court may apply measures necessary to secure the child's best interest for the time necessary to establish the circumstances laid down in paragraph 3, on terms and conditions and in the manner laid down in national law.

5. Deprivation or restriction of parental authority or application of provisional measures concerning parental authority otherwise than by virtue of a court order is forbidden. According to national law, public authorities can only take a child away, with immediate effect, when his or her life is at risk or the child

can suffer serious impairment of health, which cannot be otherwise prevented. In such an event, the decision to take a child away by intervention for the duration of the proceedings on the limitation or deprivation of parental authority shall be confirmed by the court without undue delay.

### **Article 17**

Each parent has the right to protection of legitimate expectations. The State establishes law in compliance with the principles of decent legislation, including clarity and precision of provisions, protection of acquired rights, legal certainty, principle of non-retroactivity and the prohibition of the creation of illusionary rights.

### **Article 18**

1. Everyone has the right to an independent and fair trial in cases concerning rights and freedoms of parents, children and spouses.
2. In the proceedings concerning deprivation or restriction of parental authority or application of provisional measures concerning parental authority, the competent public authorities shall rely on the presumption that the child's best interest is best served with his or her biological family.

### **Article 19**

1. Parents have the right to freely choose schools or other measures necessary to educate their children in keeping with their convictions.
2. Parents have the right to participate in the creation of core curricula for school education.
3. When dividing public subsidies, the States Parties take the needs of home-schooling parents into consideration.

4. The States Parties respect the independence of religious schools and other private schools, in particular by providing them with freedom of developing their core curricula which shall conform to such minimum standards as may be laid down by the public authorities.

Drawn up with taking into account Art. 13 (3) of the International Covenant on Economic, Social and Cultural Rights of 16 December 1966.

## Article 20

Drawn up with taking into account Art. 5 (b, c, e) of the Charter of the Rights of the Family and also Art. 37 of the Constitution of the Republic of Estonia of 28 June 1992.

1. Education at school and in other educational and care facilities is conducted under parental direction and supervision.
2. Religion of a church or other religious association which legal situation is regulated in accordance with the program established thereby, can be taught at schools.
3. Parents have the right to decide on the participation of their children in the classes affecting their morals.

## Article 21

Parents have the right to take care of their child's development.

## Article 22

Parents have the right to transmit national identity to their children, in particular their culture and native language.

# Chapter V

## Children's rights

### Article 23

1. In all child-related actions, the States Parties shall strive to secure the best interest of the child in the best manner possible.

2. The States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians or other individuals legally responsible for him or her and for this purpose take all appropriate legislative and administrative measures.

### Article 24

The child has the right to be protected against cruel, degrading or inhuman treatment.

### Article 25

All children are equal before the law. Any discrimination against children on the grounds of birth status is prohibited.

### Article 26

Every child has the right to know his or her parents. The foregoing cannot be construed as the basis for restricting the right of a parent in a difficult situation to anonymously entrust his or her child to the care of a trustworthy person or institution (baby boxes).

Drawn up with taking into account: Art. 4 (f) of the Charter of the Rights of the Family, Art. 40 of the Constitution of the Republic of Macedonia of 17 November 1991.

### Article 27

1. Every child has the right to be brought up by mother and father. If a child loses his or her mother and father, he or she has the right to be brought up by the family members.

2. The child who is orphaned or who is without a care from parents has the right to special assistance from public authorities. The States Parties shall make it easier for families to accept children in temporary or permanent need.

## Article 28

The child who is separated from one or both parents has the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's interests.

Drawn up with taking into account: Art. 9 (3) of the Convention on the Rights of the Child of 20 November 1989; Resolution 2232 (2018) of the Parliamentary Assembly of Council of Europe of 28 June 2018.

## Article 29

Restraining child from communicating in a language of his or her parents is prohibited.

## Article 30

1. Every child has the right to be treated in a friendly manner by the judicial authorities.

Drawn up with taking into account Art. 39 (8) of the Constitution of the Federal Democratic Republic of Nepal of 20 September 2015.

2. The States Parties consider the child's view in all matters affecting his or her rights and interests if possible and appropriately to his or her age and maturity.

Drawn up with taking into account Art. 12 of the Convention on the Rights of the Child of 20 November 1989.

## Article 31

1. The States Parties protect children from depersonalisation, crime, depravity, exploitation and addictions.

2. Any act whereby a child is transferred by any person or group of persons to another person or group of persons for remuneration or any other consideration shall be prohibited.

Drawn up with taking into account Art. 2 (a) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000.

## Article 32

Disabled children have the right to special assistance allowing their proper development.

## Article 33

It is prohibited to retrieve organs or tissues from a deceased child against his or her parents' will.

# Chapter VI

## Preventing and combating domestic violence and violence detrimental to family life

### Article 34

1. Everyone has the right to live free of violence in the public and private spheres, in particular the right to live free of domestic violence and violence detrimental to family life.
2. This Chapter shall not prevent the application of direct coercion measures by authorised public authorities pursuant to national law.

### Article 35

See Art. 5 (2), Art.9, Art. 12(2), Art. 13(2), Art. 15, Art. 16, Art. 21, Art. 22, Art. 23, Art. 25, Art. 28, Art. 30, Art. 3, Art. 52, Art. 57 of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

1. In view of safety, support and respect for the victim's rights, as well as professionalism and sensitivity in the provision of aid, the States Parties shall take the measures necessary to prevent, counteract and provide reparation for acts of violence committed by a natural or legal person and shall, in particular:

- 1) support victims in overcoming the effects of domestic violence through services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment,
- 2) ensure access to health care and services providing aid to the victims,
- 3) support educational programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns,
- 4) support treatment programmes aimed at preventing perpetrators, in particular sex offenders, from re-offending,
- 5) support the organisation of training for professionals dealing with victims or perpetrators of all acts of violence, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation,

- 6) ensure that victims have information on and access to applicable regional and international individual/collective complaints mechanisms,
- 7) strive to provide for, in the spatial distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence,
- 8) strive to ensure sufficient number of appropriate and easily accessible shelters to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children,
- 9) strive to ensure sufficient number of appropriate and easily accessible centres to provide aid to rape victims and victims of sexual violence and to ensure medical and forensic examination, trauma support and counselling,
- 10) ensure appropriate protection and support services to child witnesses of all forms of violence, including psychosocial and social aid to child witnesses of any form of violence,
- 11) ensure access to state-wide round- the-clock (24/7) telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of the present Convention,
- 12) provide universal access to free national informational portals in at least all official languages as well as languages of national and ethnic minorities of the State Party, where information can be found on all forms of violence falling within the scope of the Convention, methods of preventing them, rights of victims of violence and obligations of public authorities arising hereunder and allowing any case of violence to be reported,
- 13) guarantee that victims who have sustained serious bodily injury or impairment of health as a consequence of an act of violence have the right to claim compensation from perpetrators, to the extent that the damage is not covered by other sources,
- 14) ensure that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of the act of violence to vacate the residence of the victim or person at risk of domestic violence for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk,

- 15) guarantee that appropriate restraining or protection orders are available to victims of all forms of violence. A breach of any such restraining or protection order shall be subject to dissuasive and proportionate criminal or other administrative sanctions. The restraining or protection orders shall be available for immediate protection and without undue financial or administrative burdens placed on the victim, issued for a specified period or until modified or discharged; where necessary, issued on an ex parte basis which has immediate effect; available irrespective of, or in addition to, other legal proceedings and shall be allowed to be introduced in subsequent legal proceedings,
- 16) provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their national law,
- 17) disseminate information on measures available to prevent acts of violence and
- 18) violence prevention programs provide for a principle that family members are the partners of public authorities in preventing the violence and family is the best environment ensuring protection against violence, especially for women and children .

2. When planning, undertaking and implementing the measures referred to in paragraph 1, the States Parties cooperate with the relevant organisations of civic society.

Drawn up with taking into account Art. 11 of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

### **Article 36**

1. The States Parties shall monitor cases of all forms of violence, in particular by way of:
  1. collecting disaggregated statistical data at regular intervals;
  2. supporting and disseminating research in the field of violence, including domestic violence, in order to study its root causes, effects, frequency and conviction rates, as well as the efficacy of measures taken to implement this Convention;
  3. conducting population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Convention.



2. The States Parties shall provide information collected pursuant to this Article to the Committee referred to in Article 43, in order to support international co-operation and allow for the international comparative analysis.
3. The data collected under the measures referred to in paragraph 1 shall be available to general public.

Drawn up with taking into account: Art. 33, 34, 36, 37, 40, 41, 46, 58 of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

### Article 37

1. The States Parties shall ensure that perpetrators of violence are subject to criminal liability applying effective, proportionate and dissuasive sanctions for the following intentional conduct:
  - 1) seriously impairing a person's psychological integrity through coercion or threats,
  - 2) repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety,
  - 3) committing acts of physical violence against another person,
  - 4) engaging in non-consensual acts of a sexual nature with another person,
  - 5) causing another person to engage in non-consensual acts of a sexual nature with a third person,
  - 6) approving sexual violence,
  - 7) forcing an adult or a child to enter into a marriage,
  - 8) luring an adult or a child to the territory of a State Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage,
  - 9) coercing or procuring a woman to undergo circumcision, infibulation or performance any other mutilation to the whole or any part of her labia majora, labia minora or clitoris as well as inciting, coercing or procuring a girl to undergo any of the said acts,
  - 10) performing a forced abortion on a woman as well as performing an illegal abortion with her consent and
  - 11) performing surgery on a woman which has the purpose of terminating her capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.

2. Any assistance or incitement to commit a crime referred to in paragraph 1 points 1-10 as well as attempt to commit a crime referred to in paragraph 1 points 3-10 shall be subject to criminal liability.

3. The States Parties undertake that any form of harassment with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, shall be subject to criminal or other legal sanction.

4. The States Parties undertake that the following circumstances may, in conformity with national law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences referred to in this Article:

- 1) the offence was committed against the former or current spouse or person in cohabitation as recognised by national law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority,
- 2) the offence, or related offences, were committed repeatedly,
- 3) the offence was committed against a person made vulnerable by particular circumstances,
- 4) the offence was committed against or in the presence of a child,
- 5) the offence was committed by two or more people acting together,
- 6) the offence was preceded or accompanied by extreme acts of violence,
- 7) the offence was committed with the use or threat of a weapon,
- 8) the offence resulted in severe physical or psychological harm for the victim and
- 9) the perpetrator had previously been convicted of offences of a similar nature.

5. The States Parties shall establish the statute of limitation periods in the manner that is sufficient and commensurate with the gravity of the offence in question, and where the offence is committed against a minor child, they shall take

account of the need to efficiently initiate proceedings after the victim has reached the age of majority.

6. The perpetrator's liability for offences laid down in this Article cannot be waived or limited on the grounds of the relationship between victim and perpetrator.

### **Article 38**

1. The States Parties shall recognise their jurisdiction over any offence referred to in the present Convention, when the offence is committed:

- 1) in their territory;
- 2) on board a ship flying their flag;
- 3) on board an aircraft registered under their laws;
- 4) by one of their nationals or
- 5) by a person residing who has her or his habitual residence in their territory.

2. The States Parties shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence referred to in the present Convention where the offence is committed against one of their nationals or a person who has her or his habitual residence in their territory.

3. For the prosecution of the offences referred to in Article 37 paragraphs 1 points 4, 8 and 9, the States Parties shall ensure that their jurisdiction is not subordinated to the condition that the acts are criminalised in the territory where they were committed.

4. For the prosecution of the offences referred to in Article 37 paragraphs 1 points 4, 6, 8 and 9, the States Parties shall ensure that their jurisdiction as regards points d and e of paragraph 1 is not subordinated to the condition that the prosecution can only be initiated following the reporting by the victim of the offence or the laying of information by the State of the place where the offence was committed.

5. The States Parties shall establish jurisdiction over the offences referred to in Article 37, in cases where an alleged perpetrator is present on their territory and they do not extradite her or him to another State Party, solely on the basis of her or his nationality.

6. When more than one State Party claims jurisdiction over an alleged offence referred to in Article 37, the States Parties involved shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution.

7. Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its national law.

### Article 39

Drawn up with taking into account Art. 47 of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

The States Parties shall provide national courts with the possibility of taking into account final sentences passed by the court of another State Party in relation to the offences referred to in Article 37 when determining the sentence.

### Article 40

Drawn up with taking into account Art. 56 of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

1. The States Parties shall protect the rights and interests of victims, including their special needs as witnesses, in the investigation and judicial proceedings, in particular by:

- 1) providing for their protection, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation;
- 2) ensuring that victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively;
- 3) informing victims, under the conditions provided for by national law, of their rights and the services at their disposal and the follow-up given to their complaint, the charges, the general progress of the investigation or

- proceedings, and their role therein, as well as the decision issued in the case;
- 4) enabling victims, in a manner consistent with the procedural rules of national law, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered,
  - 5) providing victims with appropriate support services so that their rights and interests are duly presented and taken into account;
  - 6) ensuring that measures may be adopted to protect the privacy and the image of the victim;
  - 7) ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible;
  - 8) providing victims with independent and qualified interpreters when victims are parties to proceedings or when they are supplying evidence and
  - 9) enabling victims to testify, according to the rules provided by national law, in the courtroom without being present or at least without the presence of the alleged perpetrator of an offence, notably through the use of appropriate communication technologies, where available.

2. A child victim and child witness of violence and domestic violence shall be afforded, where appropriate, special protection measures taking into account the best interest of the child.

Drawn up with taking into account Art. 62 of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 011.

## Article 41

1. The States Parties shall co-operate with each other, in accordance with the provisions of this Convention and pursuant to relevant international and regional agreements on co-operation in civil and criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation and their national law, to the widest extent possible, for the purpose of

- 1) preventing, combating and prosecuting all forms of violence covered by the scope of this Convention,
- 2) protecting and providing assistance to victims,
- 3) investigations or proceedings concerning the offences referred to in this Convention and
- 4) enforcing relevant civil and criminal judgments issued by the judicial authorities of the States Parties, including protection orders.

2. The States Parties shall ensure that victims of an offence referred to in Article 37 paragraph 1 and committed in the territory of a State Party other than the one where they reside may make a complaint before the competent authorities of their State of residence.

3. If a State Party that makes legal assistance in criminal matters, extradition or enforcement of civil or criminal judgments imposed by another State Party to this Convention conditional on the existence of an agreement receives a request for such legal co-operation from a State Party with which it has not concluded such an agreement, it may consider this Convention to be the legal basis for legal assistance in criminal matters, extradition or enforcement of civil or criminal judgments imposed by the other State Party in respect of the offences referred to in this Convention.

# Chapter VII

## International Family Rights Committee

See Art. 42-44 of the Convention on the Rights of the Child of 20 November 1989.

### Article 42

The States Parties shall make the principles and provisions of the present Convention widely known, by measures at their disposal, to adults and children alike.

### Article 43

1. For the purpose of examining the progress made by States Parties in the implementation of the obligations laid down in the present Convention, there shall be established an International Family Rights Committee, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of the number of experts equivalent to the number of States Parties appointed by State Party for a 5-year term of office, subject to paragraph 5.
3. The experts shall be people of high moral standing and recognized skills in the field covered by this Convention. The Committee members shall be appointed by each State Party from among its citizens, consideration being given to the need to include a certain number of people with legal experience.
4. Before assuming their roles, the Committee members shall make a solemn declaration at the open meeting of the Committee, to the effect that they shall perform their tasks fairly and impartially.
5. If a member of the Committee dies or resigns or declares that for any other cause he or she cannot perform the duties of the Committee member, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

After the end of the term of office, the appointment of a member of the Committee shall be held in accordance with the provisions of the present Convention.

6. The Committee shall establish its own rules of procedure, whereas all decisions shall be taken by a majority of the votes cast in the presence of at least half of the members.

7. The meetings of the Committee shall normally be held at ..... or at any other convenient place as determined by the Committee. The Committee shall normally meet annually.

8. The Executive Secretary shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

9. With the approval of the Executive Secretary, the members of the Committee established under the present Convention shall receive emoluments from Office resources.

#### **Article 44**

1. States Parties undertake to submit to the Committee, through the Executive Secretary, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

- 1) within two years of the entry into force of the Convention for the State concerned,
- 2) thereafter every four years.

2. Reports made under the present Article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the State Party concerned, in particular information referred to in Article 36 paragraph 1 of the Convention.



3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 point b, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the Executive Secretary, every two years, reports on its activities.
6. States Parties shall make their reports referred to in paragraph 5 widely available to the general public.

# Chapter VIII

## Executive Secretary's Office

### Article 45

1. The Executive Secretary, assisted by the Office, shall be responsible for the coordination of organisational matters related to the dissemination, enforcement and promotion of the Convention as well as administrative support of the International Family Rights Committee and organisation of the election of its members.
  
2. The Executive Secretary shall be elected for a term of six years by States Parties from among their nationals by a consensus and where no consensus can be reached, by an absolute majority of the votes.
  
3. The Executive Secretary shall manage the work of the Office and shall, in particular, appoint the staff necessary to assist him or her in the performance of his or her tasks. When appointing the staff and establishing the terms and conditions of service, particular account should be taken of the need to ensure the highest level of efficiency, professional qualifications and integrity. Due consideration should also be given to the staff's interest on the widest possible geographical basis.
  
4. Every two years, the Executive Secretary shall provide the States Parties with a draft budget of the Office for approval by an absolute majority of the votes. The annual contributions of the States Parties are the sources of income.
  
5. The Office of the Executive Secretary is located at .....

# Chapter IX

## Final Provisions

### Article 46

1. When executing the present Convention or submitting an instrument of ratification, any State Party may make a reservation on each provision of the Convention to the extent any law applicable on its territory is incompliant with that provision. General reservations and reservations to Articles 1-4, Articles 10-14, Article 16, Article 18, Articles 23-24, Article 27, Article 29 and Article 31 shall not be permitted.
2. Each reservation shall include a short description of the law concerned.
3. The Executive Secretary shall receive and circulate to all States Parties the text of reservations made at the time of ratification or accession.
4. A State Party making a reservation pursuant to paragraph 1 of this Article may withdraw its reservation at any time by notification addressed to the Executive Secretary, who shall then inform all States Parties.

### Article 47

The present Convention applies to all parts of federal States Parties without any restrictions or exceptions.

### Article 48

The State Parties to any dispute which may arise concerning the application or interpretation of the provisions of this Convention shall first seek to resolve it by means of negotiation, conciliation, arbitration or by any other methods of peaceful settlement accepted by mutual agreement between them.

Drawn up with taking into account Art. 74 (1) of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

**Article 49**

1. The present Convention shall be open for signature by all States.
2. The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Executive Secretary.
3. The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Executive Secretary.

**Article 50**

1. The present Convention shall enter into force on the first day of the month following the lapse of three months of the date of deposit with the Executive Secretary of the fourth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the fourth instrument of ratification or accession, the Convention shall enter into force on the first day of the month following upon the lapse of three months of the date of deposit by such State of its instrument of ratification or accession.

**Article 51**

The Executive Secretary is designated as the depositary of the present Convention.

**Article 52**

The original of the present Convention, of which the ..... texts are equally authentic, shall be deposited with the Executive Secretary. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

