

INTER-AMERICAN CONVENTION ON CONFLICT OF LAWS CONCERNING THE ADOPTION OF MINORS

The Governments of the Member States of the Organization of American States, desirous of concluding a convention on conflict of laws concerning the adoption of minors, have agreed as follows:

Article 1

This Convention shall apply to the adoption of minors in the form of full adoption, adoptive legitimation and other similar institutions that confer on the adoptee a legally established filiation, when the domicile of the adopter (or of the adopters) is in one State Party and the habitual residence of the adoptee is in another State Party.

Article 2

When signing, ratifying or acceding to this Convention, any State Party may declare that it applies to any other form of international adoption of minors.

Article 3

The law of the habitual residence of the minor shall govern capacity, consent, and other requirements for adoption, as well as those procedures and formalities that are necessary for creating the relationship.

Article 4

The law of the domicile of the adopter (or adopters) shall govern:

- a. The capacity to be an adopter;
- b. The age and marital status requirement to be met by an adopter;
- c. The consent of an adopter's spouse, if required, and d. The other requirements for being an adopter.

If, however, the requirements of the law of the adopter (or adopters) are manifestly less strict than those of the law of the adoptees habitual residence, the law of the adoptee shall govern.

Article 5

Adoptions that are in conformity with this Convention shall produce their effects unconditionally in the States Parties, and the exception of the unknown institution may not be invoked.

Article 6

The requirements of publication and registration of adoption shall be subject to the law of the State in which they are to be satisfied.

The particular features and type of adoption shall be stated in the registration.

Article 7

Where called for, the secrecy of the adoption shall be guaranteed. However, whenever possible, medical background information on the minor and on the birth parents, if it is known, shall be communicated to the legally appropriate person, without mention of their names or of other data whereby they may be identified.

Article 8

In adoptions governed by this Convention, the authorities granting the adoption may require the adopter (or adopters) to provide evidence of his physical, moral, psychological and economic capacity, through public or private institutions, the specific purpose is to protect minors. These institutions must be specifically authorized by some State or by some international organization.

The institutions that certify the capacity referred to above shall undertake to report to the authority granting the adoption on the conditions under which the adoption has developed over a period of one year. To this end, the authority granting the adoption shall inform the certifying institution that the adoption has been granted.

Article 9

In case of full adoption, adoptive legitimation, and similar institutions:

- a. The relations between the adopter (or adopters) and the adoptee, including support relations, and the relations between the adoptee and the family of the adopter (or adopters), shall be governed by the same law as would govern the relations between the adopter (or adopters) and his legitimate family;
- b. Ties between the adoptee and his family of origin shall be considered dissolved. However, impediments to marriage shall continue.

Article 10

In the case of adoptions other than full adoption, adoptive legitimation, and similar institutions, relations between the adopter (or adopters) and the adoptee shall be governed by the law of the domicile of the adopter (or adopters).

The relations between the adoptee and his family of origin shall be governed by the law of his habitual residence at the time of adoption.

Article 11

The rights of succession of the adoptee or the adopter (or adopters) shall be governed by the rules applicable to the respective successions.

In case of full adoption, adoptive legitimation, and similar institutions, the adoptee, and the adopter (or adopters) and the family thereof, shall have the same rights of succession as those of legitimate family members.

Article 12

Adoptions referred to in Article I are irrevocable. Revocation of adoptions referred to in Article 2 shall be governed by the law of the habitual residence of the adoptee at the time of adoption.

Article 13

Where it is permitted, conversion of simple adoption into full adoption, adoptive legitimation, or similar institutions shall be governed, at the choice of the petitioner,

by the law of the habitual residence of the adoptee at the time of the adoption, or by that of the State in which the adopter (or adopters) has his domicile at the time the conversion is requested.

If the adoptee is more than 14 years of age, his consent shall be required.

Article 14

Annulment of the adoption shall be governed by the law under which it was granted. An annulment shall be decreed only by judicial authorities, and the interests of the minor shall be protected in accordance with Article 19 of this Convention.

Article 15

The authorities of the State of the habitual residence of the adoptee shall be competent to grant the adoptions referred to in this Convention.

Article 16

The judges of the State where the adoptee was habitually resident at the time the adoption was granted shall be competent to decide on annulment or revocation of the adoption.

The authorities of the State of habitual residence of the adoptee at the time of the adoption; those of the State of domicile of the adopter (or adopters); or those of the State of domicile of the adoptee, if he has a domicile of his own at the time the conversion is requested, shall be competent, at the option of the petitioner, to decide on the conversion, where it is permitted, of simple adoption into full adoption, adoptive legitimation, or similar institutions.

Article 17

The judges of the State of the domicile of the adopter (or adopters) shall be competent to rule on matters concerning the relations between the adoptee and the adopter (or adopters) and the family thereof until the adoptee has a domicile of his own.

As soon as the adoptee has his own domicile, the judge of the domicile of the adoptee or that of the adopter (or adopters) shall, at the option of the petitioner, have jurisdiction.

Article 18

The authorities of a State Party may refuse to apply the law declared applicable under this Convention when the law is manifestly contrary to its public policy (order public).

Article 19

The terms of this Convention and the laws applicable under it shall be interpreted consistently and in favor of the validity of the adoption and the best interests of the adoptee.

Article 20

A State Party may at any time declare that this Convention applies to adoptions of minors habitually resident in it by persons also habitually resident in it when, in the opinion of the authority concerned, the circumstances of a given case indicate that the adopter (or adopters) plans to establish his domicile in another State Party after the adoption has been granted.

Article 21

This Convention shall be open for signature by the Member States of the Organization of American States.

Article 22

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 23

This Convention shall remain open for accession by any other State. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 24

Each State may, at the time of signature, ratification or accession, make reservations to this Convention, provided that each reservation concerns one or more specific provisions.

Article 25

Adoptions granted according to domestic law when the adoptee and the adopter (or adopters) have their domicile or habitual residence in the same State Party shall produce their effects unconditionally in the other States Parties, without prejudice to their being governed by the law of the new domicile of the adopter (or adopters).

Article 26

This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 27

If a State Party has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or to only one or more of them.

Such declaration may be modified by subsequent declarations, which shall expressly indicate the territorial unit or units to which the Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

Article 28

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

Article 29

The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of its Charter. The General Secretariat of the Organization of American States shall notify the Member States of that Organization and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession and denunciation as well as of reservations, if any. It shall also transmit the declarations provided for in Articles 2, 20, and 27 of this Convention.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE AT LA PAZ, Republic of Bolivia, this twenty-fourth day of May, and one thousand nine hundred and eighty-four.

Source: <http://www.oas.org/juridico/english/treaties/b-48.html>