

Ο περί της Ευρωπαϊκής Συμβάσεως περί Αναγνώρισεως και Εκτελέσεως Αποφάσεων Αφορωσών εις Κηδεμονίαν Ανηλίκων και εις Αποκατάστασιν Κηδεμονίας Ανηλίκων (Κυρωτικός) Νόμος του 1986 εκδίδεται με δημοσίευση στην επίσημη εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 36 του 1986

ΝΟΜΟΣ ΚΥΡΩΝ ΤΗΝ ΕΥΡΩΠΑΪΚΗΝ ΣΥΜΒΑΣΙΝ ΠΕΡΙ ΑΝΑΓΝΩΡΙΣΕΩΣ ΚΑΙ ΕΚΤΕΛΕΣΕΩΣ ΑΠΟΦΑΣΕΩΝ ΑΦΟΡΩΣΩΝ ΕΙΣ ΚΗΔΕΜΟΝΙΑΝ ΑΝΗΛΙΚΩΝ ΚΑΙ ΕΙΣ ΑΠΟΚΑΤΑΣΤΑΣΙΝ ΚΗΔΕΜΟΝΙΑΣ ΑΝΗΛΙΚΩΝ.

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:—

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Ευρωπαϊκής Συμβάσεως περί Αναγνώρισεως και Εκτελέσεως Αποφάσεων Αφορωσών εις Κηδεμονίαν Ανηλίκων και εις Αποκατάστασιν Κηδεμονίας Ανηλίκων (Κυρωτικός) Νόμος του 1986.

Συνοπτικός  
τίτλος.

2. Εν τω παρόντι Νόμω, εκτός εάν εκ του κειμένου προκύπτει διάφορος έννοια—

Ερμηνεία.

«Σύμβασις» σημαίνει την Ευρωπαϊκήν Σύμβασιν περί Αναγνώρισεως και Εκτελέσεως Αποφάσεων Αφορωσών εις Κηδεμονίαν Ανηλίκων και εις Αποκατάστασιν Κηδεμονίας Ανηλίκων της οποίας το κείμενον εν τω αγγλικώ πρωτοτύπω εκτίθεται εις το Πρώτον Μέρος του Πίνακος και εν μεταφράσει εις την ελληνικήν εις το Δεύτερον Μέρος του Πίνακος:

Πίναξ.

Νοείται ότι εν περιπτώσει αντιθέσεως μεταξύ των δύο κειμένων υπερισχύει το εις το Πρώτον Μέρος του Πίνακος εκτιθέμενον κείμενον.

Μέρος Ι  
Μέρος ΙΙ.

3. Η Σύμβασις, εις την οποίαν η προσχώρησις της Κυπριακής Δημοκρατίας απεφασίσθη διά της υπ' αριθμόν 19.086 και ημερομηνίας 9, 13 και 15 Μαΐου, 1980 Αποφάσεως του Υπουργικού Συμβουλίου, διά του παρόντος κυρούται.

Κύρωσις  
Συμβάσεως.

4. Κατ' εφαρμογήν του Άρθρου 2 της Συμβάσεως, ο Υπουργός Δικαιοσύνης ορίζεται ως κεντρική αρχή εν τη Κυπριακή Δημοκρατία διά να ασκή απάσας τας εξουσίας και αρμοδιότητας τας προβλεπομένας υπό της Συμβάσεως διά την τοιαύτην αρχήν.

Ορισμός  
κεντρικής  
αρχής.

Δικαστική  
διαδικασία.

5. Οιαδήποτε δικαστική διαδικασία συμφώνως προς τας διατάξεις της Συμβάσεως θα άρχεται διά καταχωρίσεως αιτήσεως διά κλήσεως, υποστηριζομένης δι' ενόρκου δηλώσεως, συμφώνως προς τας διατάξεις του περί Πολιτικής Δικονομίας Διαδικαστικού Κανονισμού, τηρουμένων των αναλογιών.

Δ.Ν.  
Τόμος II  
σελίς 120  
Εφημερίς  
Κυβερνήσεως,  
Παράρτημα  
Τρίτον:  
20.5.1954  
21.6.1956  
8.5.1958  
Επίσημος  
εφημερίς,  
Παράρτημα  
Δεύτερον:  
14.10.1965  
23.12.1965  
29. 1.1969  
24.10.1969  
6.10.1972  
18. 1.1974  
4. 6.1976  
3. 2.1978  
23. 5.1980  
3. 9.1982.

## ΜΕΡΟΣ I

### EUROPEAN CONVENTION

#### ON RECOGNITION AND ENFORCEMENT OF DECISIONS CONCERNING CUSTODY OF CHILDREN AND ON RESTORATION OF CUSTODY OF CHILDREN

The member States of the Council of Europe, signatory hereto,

Recognising that in the member States of the Council of Europe the welfare of the child is of overriding importance in reaching decisions concerning his custody;

Considering that the making of arrangements to ensure that decisions concerning the custody of a child can be more widely recognised and enforced will provide greater protection of the welfare of children;

Considering it desirable, with this end in view, to emphasise that the right of access of parents is a normal corollary to the right of custody;

Noting the increasing number of cases where children have been improperly removed across an international frontier and the difficulties of securing adequate solutions to the problems caused by such cases;

Desirous of making suitable provision to enable the custody of children which has been arbitrarily interrupted to be restored;

Convinced of the desirability of making arrangements for this purpose answering to different needs and different circumstances;

Desiring to establish legal co-operation between their authorities,

Have agreed as follows:

#### Article 1

For the purposes of this Convention:

- (a) "child" means a person of any nationality, so long as he under 16 years of age and has not the right to decide on his own place of residence under the law of his habitual residence, the law of his nationality or the internal law of the State addressed;

- (b) "authority" means a judicial or administrative authority;
- (c) "decision relating to custody" means a decision of an authority in so far as it relates to the care of the person of the child, including the right to decide on the place of his residence, or to the right of access to him;
- (d) "improper removal" means the removal of a child across an international frontier in breach of a decision relating to his custody which has been given in a Contracting State and which is enforceable in such a State; improper removal also includes:
  - (i) the failure to return a child across an international frontier at the end of a period of the exercise of the right of access to this child or at the end of any other temporary stay in a territory other than that where the custody is exercised;
  - (ii) a removal which is subsequently declared unlawful within the meaning of Article 12.

## PART I Central authorities

### Article 2

1. Each Contracting State shall appoint a central authority to carry out the functions provided for by this Convention.
2. Federal States and States with more than one legal system shall be free to appoint more than one central authority and shall determine the extent of their competence.
3. The Secretary General of the Council of Europe shall be notified of any appointment under this Article.

### Article 3

1. The central authorities of the Contracting States shall co-operate with each other and promote co-operation between the competent authorities in their respective countries. They shall act with all necessary despatch.
2. With a view to facilitating the operation of this Convention, the central authorities of the Contracting States:
  - (a) shall secure the transmission of requests for information coming from competent authorities and relating to legal or factual matters concerning pending proceedings;
  - (b) shall provide each other on request with information about their law relating to the custody of children and any changes in that law;
  - (c) shall keep each other informed of any difficulties likely to arise in applying the Convention and, as far as possible, eliminate obstacles to its application.

### Article 4

1. Any person who has obtained in a Contracting State a decision relating to the custody of a child and who wishes to have that decision recognised or enforced in another Contracting State may submit an application for this purpose to the central authority in any Contracting State.

2. The application shall be accompanied by the documents mentioned in Article 13.

3. The central authority receiving the application, if it is not the central authority in the State addressed, shall send the documents directly and without delay to that central authority.

4. The central authority receiving the application may refuse to intervene where it is manifestly clear that the conditions laid down by this Convention are not satisfied.

5. The central authority receiving the application shall keep the applicant informed without delay of the progress of his application.

#### Article 5

1. The central authority in the State addressed shall take or cause to be taken without delay all steps which it considers to be appropriate, if necessary by instituting proceedings before its competent authorities, in order:

- (a) to discover the whereabouts of the child;
- (b) to avoid, in particular by any necessary provisional measures, prejudice to the interests of the child or of the applicant;
- (c) to secure the recognition or enforcement of the decision;
- (d) to secure the delivery of the child to the applicant where enforcement is granted;
- (e) to inform the requesting authority of the measures taken and their results.

2. Where the central authority in the State addressed has reason to believe that the child is in the territory of another Contracting State it shall send the documents directly and without delay to the central authority of that State.

3. With the exception of the cost of repatriation, each Contracting State undertakes not to claim any payment from an applicant in respect of any measures taken under paragraph 1 of this Article by the central authority of that State on the applicant's behalf, including the costs of proceedings and, where applicable, the costs incurred by the assistance of a lawyer.

4. If recognition or enforcement is refused, and if the central authority of the State addressed considers that it should comply with a request by the applicant to bring in that State proceedings concerning the substance of the case, that authority shall use its best endeavours to secure the representation of the applicant in the proceedings under conditions no less favourable than those available to a person who is resident in and a national of that State and for this purpose it may, in particular, institute proceedings before its competent authorities.

#### Article 6

1. Subject to any special agreements made between the central authorities concerned and to the provisions of paragraph 3 of this Article:

- (a) communications to the central authority of the State addressed shall be made in the official language or in one of the official languages of that State or be accompanied by a translation into that language;

(b) the central authority of the State addressed shall nevertheless accept communications made in English or in French or accompanied by a translation into one of these languages.

2. Communications coming from the central authority of the State addressed, including the results of enquiries carried out, may be made in the official language or one of the official languages of that State or in English or French.

3. A Contracting State may exclude wholly or partly the provisions of paragraph 1(b) of this Article. When a Contracting State has made this reservation any other Contracting State may also apply the reservation in respect of that State.

## PART II

### Recognition and enforcement of decisions and restoration of custody of children

#### Article 7

A decision relating to custody given in a Contracting State shall be recognised and, where it is enforceable in the State of origin, made enforceable in every other Contracting State.

#### Article 8

1. In the case of an improper removal the central authority of the State addressed shall cause steps to be taken forthwith to restore the custody of the child where:

(a) at the time of the institution of the proceedings in the State where the decision was given or at the time of the improper removal, if earlier, the child and his parents had as their sole nationality the nationality of that State and the child had his habitual residence in the territory of that State, and

(b) a request for the restoration was made to a central authority within a period of six months from the date of the improper removal.

2. If, in accordance with the law of the State addressed, the requirements of paragraph 1 of this Article cannot be complied with without recourse to a judicial authority, none of the grounds of refusal specified in this Convention shall apply to the judicial proceedings.

3. Where there is an agreement officially confirmed by a competent authority between the person having the custody of the child and another person to allow the other person a right of access, and the child, having been taken abroad, has not been restored at the end of the agreed period to the person having the custody, custody of the child shall be restored in accordance with paragraphs 1(b) and 2 of this Article. The same shall apply in the case of a decision of the competent authority granting such a right to a person who has not the custody of the child.

#### Article 9

1. In cases of improper removal, other than those dealt with in Article 8, in which an application has been made to a central authority within a period of six months from the date of the removal, recognition and enforcement may be refused only if: