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ΕΦΗΜΕΡΙΣ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ

ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

ΤΕΥΧΟΣ ΠΡΩΤΟ

Αρ. Φύλλου 192

29 Ιουλίου 2003

ΝΟΜΟΣ ΥΠ' ΑΡΙΘ. 3171

*Κύρωση της Σύμβασης για την αναγνώριση και εκτέλεση
αποφάσεων σχετικών με υποχρεώσεις διατροφής.*

**Ο ΠΡΟΕΔΡΟΣ
ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ**

Εκδίδομε τον ακόλουθο νόμο που ψήφισε η Βουλή:

Άρθρο πρώτο

Κυρώνεται και έχει την ισχύ, που ορίζει το άρθρο 28 παρ. 1 του Συντάγματος, η Σύμβαση σχετικά με την αναγνώριση και εκτέλεση αποφάσεων σχετικών με υποχρεώσεις διατροφής που υπογράφηκε στη Χάγη στις 2 Οκτωβρίου 1973, της οποίας το κείμενο σε πρωτότυπο στην αγγλική και σε μετάφραση στην ελληνική έχει ως εξής:

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF DECISIONS RELATING TO MAINTENANCE OBLIGATIONS

The States signatory to this Convention,

Desiring to establish common provisions to govern the reciprocal recognition and enforcement of decisions relating to maintenance obligations in respect of adults,

Desiring to coordinate these provisions and those of the Convention of the 15th of April 1958 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations in Respect of Children,

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

CHAPTER I – SCOPE OF THE CONVENTION

Article 1

This Convention shall apply to a decision rendered by a judicial or administrative authority in a Contracting State in respect of a maintenance obligation arising from a family relationship, parentage, marriage or affinity, including a maintenance obligation towards an infant who is not legitimate, between –

- (1) a maintenance creditor and a maintenance debtor; or
- (2) a maintenance debtor and a public body which claims reimbursement of benefits given to a maintenance creditor.

It shall also apply to a settlement made by or before such an authority ("transaction") in respect of the said obligations and between the same parties (hereafter referred to as a "settlement").

Article 2

This Convention shall apply to a decision or settlement however described.

It shall also apply to a decision or settlement modifying a previous decision or settlement, even in the case where this originates from a non-Contracting State.

It shall apply irrespective of the international or internal character of the maintenance claim and whatever may be the nationality or habitual residence of the parties.

Article 3

If a decision or settlement does not relate solely to a maintenance obligation, the effect of the Convention is limited to the parts of the decision or settlement which concern maintenance obligations.

CHAPTER II – CONDITIONS FOR RECOGNITION AND ENFORCEMENT OF DECISIONS

Article 4

A decision rendered in a Contracting State shall be recognised or enforced in another Contracting State –

- (1) if it was rendered by an authority considered to have jurisdiction under Article 7 or 8; and
- (2) if it is no longer subject to ordinary forms of review in the State of origin.

Provisionally enforceable decisions and provisional measures shall, although subject to ordinary forms of review, be recognised or enforced in the State addressed if similar decisions may be rendered and enforced in that State.

Article 5

Recognition or enforcement of a decision may, however, be refused –

- (1) if recognition or enforcement of the decision is manifestly incompatible with the public policy ("ordre public") of the State addressed; or
- (2) if the decision was obtained by fraud in connection with a matter of procedure; or
- (3) if proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted; or
- (4) if the decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed.

Article 6

Without prejudice to the provisions of Article 5, a decision rendered by default shall be recognised or enforced only if notice of the institution of the proceedings, including notice of the substance of the claim, has been served on the defaulting party in accordance with the law of the State of origin and if, having regard to the circumstances, that party has had sufficient time to enable him to defend the proceedings.

Article 7

An authority in the State of origin shall be considered to have jurisdiction for the purposes of this Convention –

- (1) if either the maintenance debtor or the maintenance creditor had his habitual residence in the State of origin at the time when the proceedings were instituted; or
- (2) if the maintenance debtor and the maintenance creditor were nationals of the State of origin at the time when the proceedings were instituted; or
- (3) if the defendant had submitted to the jurisdiction of the authority, either expressly or by defending on the merits of the case without objecting to the jurisdiction.

Article 8

Without prejudice to the provisions of Article 7, the authority of a Contracting State which has given judgment on a maintenance claim shall be considered to have jurisdiction for the purposes of this Convention if the maintenance is due by reason of a divorce or a legal separation, or a declaration that a marriage is void or annulled, obtained from an authority of that State recognised as having jurisdiction in that matter, according to the law of the State addressed.

Article 9

The authority of the State addressed shall be bound by the findings of fact on which the authority of the State of origin based its jurisdiction.

Article 10

If a decision deals with several issues in an application for maintenance and if recognition or enforcement cannot be granted for the whole of the decision, the authority of the State addressed shall apply this Convention to that part of the decision which can be recognised or enforced.

Article 11

If a decision provided for the periodical payment of maintenance, enforcement shall be granted in respect of payments already due and in respect of future payments.

Article 12

There shall be no review by the authority of the State addressed of the merits of a decision, unless this Convention otherwise provides.

CHAPTER III – PROCEDURE FOR RECOGNITION AND ENFORCEMENT OF DECISIONS

Article 13

The procedure for the recognition or enforcement of a decision shall be governed by the law of the State addressed, unless this Convention otherwise provides.

Article 14

Partial recognition or enforcement of a decision can always be applied for.

Article 15

A maintenance creditor, who, in the State of origin, has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in any proceedings for recognition or enforcement, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

Article 16

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the proceedings to which the Convention refers.

Article 17

The party seeking recognition or applying for enforcement of a decision shall furnish –

- (1) a complete and true copy of the decision;
- (2) any document necessary to prove that the decision is no longer subject to the ordinary forms of