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ΕΦΗΜΕΡΙΣ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ

ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

ΤΕΥΧΟΣ ΠΡΩΤΟ

Αρ. Φύλλου 90

14 Απριλίου 2003

ΝΟΜΟΣ ΥΠ' ΑΡΙΘ. 3137

Κύρωση της Σύμβασης για το εφαρμοστέο δίκαιο στις 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 για το εφαρμοστέο δίκαιο στις υποχρεώσεις διατροφής που υπογράφηκε στη Χάγη στις 2 Οκτωβρίου 1973, της οποίας το κείμενο σε πρωτότυπο στην αγγλική γλώσσα και σε μετάφραση στην ελληνική έχει ως εξής:

HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW
CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVI

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FULL TEXT OF CONVENTION # 24

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CONVENTION ON THE LAW APPLICABLE TO MAINTENANCE OBLIGATIONS

(Concluded October 2nd, 1973)

The States signatory to this Convention.

Desiring to establish common provisions concerning the law applicable to maintenance obligations in respect of adults,

Desiring to coordinate these provisions and those of the Convention of the 24th of October 1956 on the Law Applicable 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 CONVENTION

Article 1

This Convention shall apply to maintenance obligations arising from a family relationship, parentage, marriage or affinity, including a maintenance obligation in respect of a child who is not legitimate.

Article 2

This Convention shall govern only conflicts of laws in respect of maintenance obligations.

Decisions rendered in application of this Convention shall be without prejudice to the existence of any of the relationships referred to in Article 1.

Article 3

The law designated by this Convention shall apply irrespective of any requirement of reciprocity and whether or not it is the law of a Contracting State.

CHAPTER II – APPLICABLE LAW

Article 4

The internal law of the habitual residence of the maintenance creditor shall govern the maintenance obligations referred to in Article 1.

In the case of a change in the habitual residence of the creditor, the internal law of the new habitual residence shall apply as from the moment when the change occurs.

Article 5

If the creditor is unable, by virtue of the law referred to in Article 4, to obtain maintenance from the debtor, the law of their common nationality shall apply.

Article 6

If the creditor is unable, by virtue of the laws referred to in Articles 4 and 5, to obtain maintenance from the debtor, the internal law of the authority seized shall apply.

Article 7

In the case of a maintenance obligation between persons related collaterally or by affinity, the debtor may contest a request from the creditor on the ground that there is no such obligation under the law of their common nationality or, in the absence of a common nationality, under the internal law of the debtor's habitual residence.

Article 8

Notwithstanding the provisions of Articles 4 to 6, the law applied to a divorce shall, in a Contracting State in which the divorce is granted or recognised, govern the maintenance obligations between the divorced spouses and the revision of decisions relating to these obligations.

The preceding paragraph shall apply also in the case of a legal separation and in the case of a marriage which has been declared void or annulled.

Article 9

The right of a public body to obtain reimbursement of benefits provided for the maintenance creditor shall be governed by the law to which the body is subject.

Article 10

The law applicable to a maintenance obligation shall determine *inter alia* –

- (1) whether, to what extent and from whom a creditor may claim maintenance;
- (2) who is entitled to institute maintenance proceedings and the time limits for their institution;
- (3) the extent of the obligation of a maintenance debtor, where a public body seeks reimbursement of benefits provided for a creditor.

Article 11

The application of the law designated by this Convention may be refused only if it is manifestly incompatible with public policy ("ordre public").

However, even if the applicable law provides otherwise, the needs of the creditor and the resources of the debtor shall be taken into account in determining the amount of maintenance.

CHAPTER III – MISCELLANEOUS PROVISIONS

Article 12

This Convention shall not apply to maintenance claimed in a Contracting State relating to a period prior to its entry into force in that State.

Article 13

Any Contracting State may, in accordance with Article 24, reserve the right to apply this Convention only to maintenance obligations –

- (1) between spouses and former spouses;
- (2) in respect of a person who has not attained the age of twenty-one years and has not been married.

Article 14

Any Contracting State may, in accordance with Article 24, reserve the right not to apply this Convention to maintenance obligations –

- (1) between persons related collaterally;
- (2) between persons related by affinity;
- (3) between divorced or legally separated spouses or spouses whose marriage has been declared void or annulled if the decree of divorce, legal separation, nullity or annulment has been rendered by default in a State in which the defaulting party did not have his habitual residence.

Article 15

Any Contracting State may, in accordance with Article 24, make a reservation to the effect that its authorities shall apply its internal law if the creditor and the debtor are both nationals of that State and if the debtor has his habitual residence there.

Article 16

Where the law of a State, having in matters of maintenance obligations two or more systems of law of territorial or personal application, must be taken into consideration - as may be the case if a reference is made to the law of the habitual residence of the creditor or the debtor or to the law of common nationality, reference shall be made to the system designated by the rules in force in that State or, if there are no such rules, to the system with which the persons concerned are most closely connected.

Article 17

A Contracting State within which different territorial units have their own rules of law in matters of maintenance obligations is not bound to apply this Convention to conflicts of law concerned solely with its territorial units.

Article 18

This Convention shall replace, in the relations between the States who are Parties to it, the Convention on the Law Applicable to Maintenance Obligations in Respect of Children, concluded at The Hague, the 24th of October 1956.

However, the preceding paragraph shall not apply to a State which, by virtue of the reservation provided for in Article 13, has excluded the application of this Convention to maintenance obligations in respect of a person who has not attained the age of twenty-one years and has not been married.

Article 19

This Convention shall not affect any other international instrument containing provisions on matters