

# ECONOMIC AND SOCIAL COUNCIL



GENERAL

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COUNCIL COMMITTEE ON  
NON-GOVERNMENTAL ORGANIZATIONS

## MUTUAL RECOGNITION OF JUDGMENTS IN DIVORCE AND NULLITY

Statement submitted by the International  
Law Association, a non-governmental  
organization granted consultative status  
in Category B.

The Secretary-General has received the following statement, which is circulated in accordance with paragraphs 22 and 23 of Council resolution 288 B (X):

Statement dated:

30 July 1951

Received:

31 July 1951.

At the conference of the International Law Association at Prague in 1947 a draft Convention was adopted for the mutual recognition of judgments or decrees of divorce or nullity of marriage between contracting states, subject to certain safeguards and conditions.

The main features of the draft Convention are:

1. Each contracting State will enact that any decree of nullity of marriage and of divorce a vinculo pronounced by a competent Court in each such State

shall, on the application of either spouse party to the suit, be recorded in the competent Court of the other contracting State, which shall declare the validity of such decree and give effect to it.

2. Such a decree must be a final one, pronounced by a competent Court of the State (a) in which either spouse is domiciled when the suit is commenced; or (b) of which, according to the lex fori either spouse is a national when the suit is commenced; or (c) in which either spouse has resided for at least one year of the eighteen months immediately preceding the commencement of the suit.

3. Where the lex fori so requires, but not otherwise, the domicile of a married woman shall be the same as that of her husband.

This draft convention, which was the result of over fifteen years' work by experts in the law of divorce who were members of the International Law Association, provides safeguards against abuse of the system by any State's setting up a divorce mart where a divorce may be had on too flimsy grounds, whatever may be the nature of the matrimonial differences.

The safeguards include (a) a minimum period of actual residence, in default of jurisdiction by reason of domicile, i.e. permanent settlement in a state, or by reason of nationality; and (b) a provision by which mutually contracting states will specify which Courts are competent Courts.

In the case of a decree of nullity founded on an informality invalidating the marriage ceremony according to the lex loci contractus or on an incapacity under that law to contract a valid marriage, none of the stipulations set out in paragraph 2 above need be fulfilled if the decree is pronounced by a competent Court of the state in which the marriage took place.