

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE PORTUGUESE REPUBLIC FOR THE RECOVERY OF MAINTENANCE

The Government of the United States of America

And

The Government of Portugal (hereinafter referred to as the Contracting States),

Believing in the need to pursue a policy of cooperation that strengthens increasingly friendly ties, and

Recognizing the impact of increasing contacts between nationals and residents of both countries and the subsequent establishment of family relationships which may include children whose parents did not marry and common-law spouses, and

Understanding the importance the recovery of maintenance may have for the individuals involved in such relationships, and

Recognizing the common interest and the advantages of establishing a uniform and effective system for the recovery of maintenance, for the recognition and enforcement of decisions based on these maintenance obligations, and for the taking of appropriate steps for the determination of maternity and paternity where necessary,

Have agreed as follows:

Article 1

Objective

The objective of the agreement is to provide for:

a. The recovery of maintenance or the reimbursement of maintenance to which a maintenance creditor or a public body having provided benefits for a maintenance creditor in one Contracting State (hereinafter referred to as the claimant) is entitled from a maintenance debtor who is subject to the jurisdiction of the other Contracting State (hereinafter referred to as the respondent), when the maintenance obligation is provided for by law;

b. The recognition and enforcement of maintenance orders, reimbursement orders and settlements (hereinafter referred to as maintenance decisions) made or recognized in either Contracting State ; and

c. The institution of and assistance in proceedings for the determination of maternity and paternity as may be required for the establishment of the maintenance obligation.

Article 2

Scope

1. This Agreement shall apply to maintenance obligations, as provided by the law, and arising from a family relationship of parents and children, a relationship between spouses and former spouses or, where recognized by law, common-law spouses and former common-law spouses, and including a maintenance obligation towards a child whose parents did not marry. In any case where there are no children, a maintenance obligation towards a spouse or former spouse of common-law spouse or former common-law spouse will be enforced in

the United States under this Agreement only in those states and other jurisdictions of the United States that elect to do so.

2. This Agreement applies to the collection of payment arrears on a valid maintenance obligation and any applicable interest on arrears and to the modifications, variations or other official change in amounts due under an existing maintenance decision.

3. The remedies provided for in this Agreement are not exclusive and do not affect the availability of any other remedies for the enforcement of a valid maintenance obligation under the law of either Contracting State nor do they preclude the Contracting States from entering into international Agreements addressing these issues.

Article 3

Central Authorities

1. Each Contracting State shall designate a public body as Central Authority, which shall facilitate compliance with the provisions of this Agreement.

2. The Central Authority for Portugal shall be the Directorate General of Judiciary Services.

3. The Central Authority for the United States shall be the Office of Child Support Enforcement in the Department of Health and Human Services, as authorized by Title IV-D of the Social Security Act.

4. The Contracting States may designate additional public bodies to carry out any of the provisions of this Agreement in coordination with the Central Authority.

5. Any changes in the designation of the Central Authority or other public bodies by one Contracting State shall be communicated immediately to the Central Authority or other public body of the other Contracting State as designated by that Contracting State .

6. Communications shall be addressed by the Central Authority or other public body of one Contracting State directly to the Central Authority or other responsible public body of the other Contracting State as designated by that Contracting State .

Article 4

Applications and Transmission of Documents

1. An application for the recovery or reimbursement of maintenance from a respondent subject to the jurisdiction of the Contracting States (hereinafter the Requested State) shall be made by the Central Authority or other designated public body of the other Contracting State (hereinafter the Requesting State), in accordance with the applicable procedures of the Requesting State .

2. The application shall be made on a standard bilingual form to be agreed upon by the Central Authorities of both Contracting States, and shall be accompanied by all relevant documents. All documents shall be translated in the language of the Requested State .

3. The Central Authority or other designated public body of the Requesting State shall transmit the documents referred to in numbers 2 and 5 of this Article to the Central Authority or other designated public body of the Requested State .

4. Before transmitting the documents to the Requested State , the Central Authority or other designated public body of the Requesting State shall satisfy itself that they comply with the law of the Requesting State and the requirements of this Agreement.

5. When the application is based on or the documents include a decision issued by a competent court or agency establishing maternity and paternity or for the payment of maintenance:

a. The Central Authority of the Requesting State shall transmit a copy of the decision certified or verified in accordance with the requirements of the Requested State ;

b. The decision shall be accompanied by a statement of finality or, if not final, a statement of enforceability and by evidence that the respondent has appeared in the proceedings or has been given notice and an opportunity to appear;

c. The Central Authority or other designated public body of the Requesting State shall notify the Central Authority or other designated public body of the Requested State of any subsequent change by operation of law in any amount required to be enforced under the decisions.

6. In carrying out their tasks under this Agreement, the Contracting States shall provide each other assistance and information within the limits of their respective laws, and consistent with any treaties related to judicial assistance in force between the Contracting States.

7. All documents transmitted under this Agreement shall be exempt from legalization.

Article 5

Functions of the Central Authority of the Requested State

The Central Authority or other designated public body of the Requested State shall take on behalf of the claimant all appropriate steps for the recovery or reimbursement of maintenance, including the institution and prosecution of proceedings for maintenance, the determination of maternity and paternity where necessary, the execution of any judicial or administrative decision and the collection and distribution of payments collected.

Article 6

Cost of services

All procedures described in this Agreement, including services of the Central Authority, and necessary legal and administrative assistance, shall be provided by the Requested State without cost to the claimant. The costs of testing blood or tissue for maternity and paternity determinations shall be borne by the Contracting State in which the proceeding takes place. A Contracting State may assess costs against the respondent appearing in that jurisdiction.

Article 7

Recognition and Enforcement of Maintenance Decisions

1. Maintenance decisions, including maintenance decisions arising from a determination of maternity and paternity, from one Contracting State shall be recognized and enforced in the other Contracting State to the extent that the facts in the case support recognition and enforcement under the applicable laws and procedures of the latter Contracting State .

2. Maintenance decisions made after the failure of the respondent to appear in the proceedings shall be considered as decisions under number 1 if it is demonstrated that notice had been given and the opportunity to be heard had been afforded in a way to satisfy the standards of the Requested State .

Article 8

Applicable law

1. All actions and proceedings under this Agreement by either Contracting State shall be carried out pursuant to the domestic law, including choice of law provisions, and procedures of that Contracting State .
2. The physical presence of the child or custodial parent shall not be required under this Agreement in proceedings in the Requested State .

Article 9

Geographical applicability

1. For Portugal , this Agreement shall apply to all national territory.
2. For the United States, this Agreement shall apply to the fifty states, American Samoa, the district of Colombia, Guam , Puerto Rico, the United States Virgin Islands, and any other jurisdiction of the United States participating in Title IV-D of the Social Security Act.

Article 10

Entry into force

1. This Agreement shall enter into force 30 days after the later of the dates on which each Contracting State has been notified in writing

through the diplomatic channel that the legal requirements under domestic law for entry into force have been fulfilled.

2. This Agreement shall apply to any outstanding maintenance decision, or payment accrued under such decision, regardless of the date of that decision.

Article 11

Final Provisions

1. Either Contracting State may terminate this Agreement by a notification in writing addressed to the other Contracting State through the diplomatic channel.

2. The termination shall take effect on the first day of the third month following the receipt of the notification.

3. In the event that the domestic legal authority of either Contracting State to carry out its obligations under this Agreement ceases, in whole or in part, either contracting State may suspend application of the Agreement, or with the Agreement of the other Contracting State, any part of the Agreement. In that event, the Contracting States will seek, to the fullest extent practicable in accordance with domestic law, to minimize unfavorable effects on the continuing recognition and enforcement of maintenance obligations covered by this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Lisbon, Portugal, in duplicate, in the English and Portuguese languages both of which are equally authentic, on this 30th day of May, 2000.

FOR THE
GOVERNMENT OF
THE UNITED STATES
OF
AMERICA:

FOR THE GOVERNMENT
OF THE PORTUGUESE
REPUBLIC:

/s/

/s/

Madeleine K. Albright
Secretary of State

Jaime Gama
Ministry of Foreign Affairs