

OBLIGATIONS ALIMENTAIRES  
MAINTENANCE OBLIGATIONS

Juin / June 2004



**Esquisse de dispositions portant sur la Loi Applicable**

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**Sketch of provisions on Applicable Law**

*Article S*      *Scope of application*

*Article A*

The internal law of the State of the habitual residence of the person whose needs are the subject of the claim ("the creditor") shall govern the maintenance obligations referred to in Article S.

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

*Article B*

*Alternative 1:*

If the creditor is unable, by virtue of the law referred to in Article A, to obtain maintenance from the debtor, the internal law of the State of the authority seized shall apply.

*Alternative 2:*

Notwithstanding Article A, the creditor may designate the internal law of the State of the authority seized.

*Article C*

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 –

*Alternative 1:*

under the law of the State of their common nationality or, in the absence of a common nationality, under the internal law of the State of the debtor's habitual residence.

*Alternative 2:*

under the internal law of the State of the debtor's habitual residence.

*Article D*

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 E*

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 F*

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.]

*Article Z*

These provisions shall not apply to maintenance claimed in a Contracting State relating to a period prior to their entry into force in that State.