



OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

DECLARATION OF RECIPROCITY

Pursuant to s. 88.0405, F.S., and for the reasons set forth in the attached opinion, I hereby declare Austria to be a reciprocating state for the purposes of Ch. 88, F.S., the Revised Uniform Reciprocal Enforcement of Support Act (1968), commencing June 19, 1992.

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL



STATE OF FLORIDA

OFFICE OF ATTORNEY GENERAL

ROBERT A. BUTTERWORTH

June 19, 1992

Mr. Robert B. Williams
Secretary, Department of Health
and Rehabilitative Services
1317 Winewood Boulevard
Tallahassee, Florida 32399-0700

Dear Secretary Williams:

This is in response to your request that this office declare Austria to be a reciprocating state for purposes of Ch. 88, F.S., the Revised Uniform Reciprocal Enforcement of Support Act (1968).

Section 88.0405(1), F.S., provides that the Attorney General may declare a foreign nation or state of a foreign nation to be a reciprocating state for purposes of Ch. 88, F.S. Such a declaration is dependent upon a finding by the Attorney General that reciprocal provisions are available in the foreign nation or state for the enforcement of support orders issued in the State of Florida.¹

You have furnished this office with a copy of the Austrian Foreign Maintenance Act of 1990.² The purpose of the act is to provide for reciprocal enforcement of maintenance orders with foreign states.³ I find, based on my examination of the Austrian Foreign Maintenance Act, that reciprocal provisions are available in Austria for the enforcement of support orders issued in the State of Florida, and therefore, under the provisions of s. 88.0405, F.S., Austria may be declared a reciprocating state.⁴

Pursuant to s. 1, Part I, of the Austrian Foreign Maintenance Act, maintenance to which a claimant is entitled from a respondent may be recovered in accordance with the provisions of the act if the claimant is in Austria and the respondent is subject to the jurisdiction of the reciprocating state. Similarly, if the claimant is in the reciprocating state and the respondent is subject to Austrian jurisdiction, the act provides for the reciprocal enforcement of maintenance orders. Under provisions

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of the act, the Federal Ministry of Justice is responsible for taking appropriate steps for the recovery of maintenance and the enforcement of any order or other act.⁵ The act provides that in cases where an enforceable maintenance order of an Austrian court or another enforceable act exists, the claimant may seek the registration of the Austrian order in the requested state and, likewise, a foreign order may be registered in Austria. Such a foreign order must be accompanied by a certified copy of the order verifying that it is final and enforceable.⁶

Therefore, it appears that reciprocal provisions for the enforcement of support orders issued in the State of Florida are available under Austria's Foreign Maintenance Act, and that the State of Florida has been declared to be a reciprocating state.⁷ In light of such reciprocal provisions under the Austrian Act, I am of the opinion that Austria may be declared to be a reciprocating state pursuant to s. 88.0405, F.S.

Sincerely,



Robert A. Butterworth
Attorney General

RAB/tgk

¹ See also, s. 88.031(18), F.S., defining "State" for purposes of Ch. 88, F.S., to include "any foreign nation or state of a foreign nation declared pursuant to s. 88.0405 to have similar reciprocal provisions."

² Act of 1 March 1990 on the Recovery abroad of Maintenance in Relations with Foreign States (Foreign Maintenance Act).

³ Section 1, Part I, Austrian Foreign Maintenance Act of 1990.

⁴ Pursuant to the Declaration of 29 June 1990 by the Federal Minister of Justice according to Art. 1 para. 3 of the Foreign Maintenance Act, "[f]ull reciprocity, including the enforcement of enforceable court orders and other enforceable legal acts, is guaranteed in respect of the following states and territories of the United States of America: . . . Florida"

⁵ Section 9, 2., Part III, Austrian Foreign Maintenance Act of 1990.

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⁶ Section 7, Part II, Austrian Foreign Maintenance Act.

⁷ See, Declaration of 29 June 1990 by the Federal Minister of Justice according to Art. 1 para. 3 of the Foreign Maintenance Act, declaring full reciprocity, including the enforcement of enforceable court orders and other enforceable legal acts with Florida.