



## **Experts' Group on international transfer of maintenance funds The Hague, 16-18 September 2019**

### **Conclusions and Recommendations**

#### **Introduction**

At its meeting from 5 to 8 March 2019, the Council on General Affairs and Policy (CGAP) of the Hague Conference on Private International Law (HCCH) approved the establishment of an Experts' Group (EG) on international transfer of maintenance funds (see Conclusion & Recommendation No 30 of CGAP 2019).

The meeting of the EG took place from 16 to 18 September 2019 at the Permanent Bureau of the HCCH in The Hague. It was attended by experts from Australia (via teleconference), Brazil, Canada, the European Union, France, Germany, the Netherlands, Norway, Poland, Portugal, Switzerland and the United States of America. Experts from the Deutsche Bundesbank, National Child Support Enforcement Association, TransferWise and ING also attended.

The EG benefitted from written contributions that were submitted prior to the meeting by Australia, Bulgaria, Canada, Croatia, Estonia, Finland, Norway, Poland, the Slovak Republic, Switzerland, the United Kingdom and the United States of America to prepare a Background Note for the purpose of the meeting.

The EG elected Mr Arnaldo José Alves Silveira, General Coordinator for International Legal Cooperation at the Ministry of Justice and Public Security in Brazil, as Chairperson.

#### **Background to the discussions**

A. Members of the EG came together to learn from each other and identify good practices regarding the cross-border transfer of funds. Members of the EG also discussed different ways to facilitate the cross-border transfer of funds with a view to identifying possible solutions that are low cost, cost-effective, transparent, prompt, efficient and accessible.

B. The EG acknowledged the diversity of models for child support recovery such as direct transfers from the debtor to the creditor, transfers through an institution in the requested State (*e.g.*, bailiff and other enforcement authorities, court and / or Central Authorities) and sometimes through an institution in the requesting State (*e.g.*, public body and / or Central Authorities). It was recognised that the involvement of Central Authorities and the degree of centralisation of payments vary according to different legal systems, domestic and regional banking systems and available means.

C. In that context, the EG discussed the implementation and operation of Articles 6(2)(d)-(f), 8, 35 and 43 of the *HCCH Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (hereafter the 2007 HCCH Child Support Convention).

D. It was recognised that large amounts of child support are currently transferred internationally but also that difficulties persist related to high and non-transparent bank fees and / or currency conversion costs, loss of payment data between different payment formats, occasional communication problems between Central Authorities and lack of payments monitoring. In particular, it was underlined that the use of cheques is a major problem.

E. It was noted that the solutions and good practices discussed in the context of the 2007 HCCH Child Support Convention are equally relevant to the *United Nations Convention of 1956 on the Recovery Abroad of Maintenance Obligations*, Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, other regional or bilateral instruments.

F. It was underlined that effectively implementing the 2007 HCCH Child Support Convention would help States reach the United Nations Sustainable Development Goal No 16.3 (Rule of Law) as it assists parents with meeting their child support obligations in a cross-border context.

**The EG agreed by consensus on the following Conclusions and Recommendations:**

**Cheques**

1. Experts acknowledged that eliminating the use of cheques was a worthwhile goal, after an appropriate transition period, considering that certain States can no longer receive cheques or are under time constraints to stop using them.

**Transfer costs**

2. All participants agreed that there is a need to find solutions for the international transfer of funds which would result in increased transparency and cost reduction. Creditors should not bear the costs related to the transfer of funds. Consideration should be given to explore a future solution where the institution(s) facilitating the transfer of funds could cover the costs of such transfers by withholding the amounts for a few days.

3. A good practice is for the requested Central Authority to have arrangements with their bank to cover the fees (“details of charges: OUR”) and for the requested Central Authority to obtain confirmation from the requesting Central Authority that the amount received is the same as the amount sent and, where applicable, information on the reasons for any difference.

**Centralised point for international transfers**

4. Consideration should be given by each Contracting State to establish a centralised point for international transfers dedicated to both incoming and outgoing transfer of funds. Such centralised point could be as basic as a bank account. When possible, this bank account could be held with a public institution such as a central bank.

5. The value of such centralised point was underlined as it could:

- help with the standardisation of the international transfer of funds;
- increase transparency with regard to the costs of such transfers;

- reduce the costs associated with such transfers;
- assist the Central Authority in the monitoring of payments;
- simplify and accelerate the transfer of funds where payments are limited or need to be screened for regulatory purposes.

Consideration should be given to providing payment transfer services to any debtors transferring payments within the scope of the 2007 HCCH Child Support Convention.

### **Monitoring of payments**

6. The monitoring of payments could:

- ensure an accurate payment record;
- assist with the enforcement of payments;
- support communication between Central Authorities to reconcile the amounts sent and received;
- help establish statistical reports, *e.g.*, to measure efficiency and increase understanding about money flows.

### **Data accompanying the transfer**

7. Consideration should be given to using unique case references, known to both the requesting and requested State, attached to each transfer of funds. Such unique case references would link the transfer to an existing case. Consideration should be given, where possible, to use the iSupport case reference.

### **Currency conversion**

8. Reference was made to the *Practical Handbook for Caseworkers under the 2007 Child Support Convention* (hereinafter *Caseworkers Practical Handbook*)<sup>1</sup> in which it is stated that the good practice is where the currency conversion of payments be done by the relevant authority in the requested State at the time of transfer.

9. Reference was also made to the *Caseworkers Practical Handbook* in which it is stated that the maintenance debt is paid in full only if the full amount owed in the currency set out in the original maintenance decision has been paid.

10. A good practice should be to promote transparency of currency conversion costs.

### **Bundled payments**

11. It was noted that bundled payments do result in savings on transfer costs, but may involve some delay resulting from processing time. It was noted that automation can alleviate these delays and could require fewer resources.

### **Existing solutions**

12. The EG was grateful to the experts from TransferWise and ING for their useful presentations, explanations of their business models, and responses to questions on the use of blockchain and other payment transfer solutions. The EG welcomed the offer made by the experts from TransferWise and

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<sup>1</sup> Permanent Bureau of the Hague Conference on Private International Law, *Practical Handbook for Caseworkers under the 2007 Child Support Convention*, 1st ed., The Hague, 2013, at p. 174. Available at < [www.hcch.net](http://www.hcch.net) > under "Child Support Section", then "HCCH publications".

ING to provide assistance to the EG in their consideration of different international transfer of funds models. The EG agreed to develop different scenarios involving bundled payments and individual payments that would be reviewed by TransferWise and ING to compare, among other things, the cost implications.

#### **Follow-up**

13. It was recommended that the EG continue its work and meet on a regular basis through video and / or teleconference to share good practices, experiences implementing the above good practices and solutions and to continue the exploration and implementation of additional solutions.

14. States Parties to the 2007 HCCH Child Support Convention should ensure that their Country Profile is up to date in relation to payment information (Part V, 1.) and their implementation of Article 6(2)(d)-(f) (Part I, 6.).

15. The membership of the EG remains open. Any contributions or proposals from States which have not yet participated in the work of the EG are always welcome.

16. The Permanent Bureau will continue to monitor innovations in this area.