

Title	Possible Questionnaire on the HCCH 1970 Divorce Convention
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Mandate(s)	N/A
Objective	To include the development of a Questionnaire on the 1970 Divorce Convention to the work programme of the HCCH
Action to be Taken	For Decision <input checked="" type="checkbox"/> For Approval <input type="checkbox"/> For Discussion <input type="checkbox"/> For Action/Completion <input type="checkbox"/> For Information <input type="checkbox"/>
Annex	N/A
Related Documents	N/A

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Possible Questionnaire on the HCCH 1970 Divorce Convention

I. Introduction

- 1 The *Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations* (1970 Divorce Convention) is among the HCCH Conventions which the Permanent Bureau has not been able to promote or monitor actively for many years, due to lack of resources and other priorities in the work programme of the Organisation. The Convention currently has 20 Contracting Parties, with Albania's accession in 2013 being the most recent development.¹
- 2 In the course of 2020, the Secretary General initiated a reorganisation of the Diplomat Lawyers' portfolios of HCCH Conventions. As part of this reorganisation, and considering the practical importance of the subject matter addressed by the 1970 Divorce Convention, the latter was co-assigned to two Diplomat Lawyers who (in addition to their other duties) now share the primary responsibility for this Convention.² This will hopefully enable the Permanent Bureau to conduct (some) relevant post-Convention work on this Convention and develop a better understanding of the actual "status" of the Convention, including its practical operation and the potential benefit of increased promotion of the Convention.
- 3 In light of the above, the Permanent Bureau proposes that the development of a short Questionnaire on the 1970 Divorce Convention be added to its 2021-2022 work programme.

II. Drafting of a Questionnaire

- 4 Subject to the views of Members, the Questionnaire could be in two parts: one set of questions would be addressed to Contracting Parties, another set of questions to Members that are non-Contracting Parties.
- 5 The set of questions addressed to Contracting Parties would include statistical questions on the number of cases in which the Convention has been used (to the extent such information is available), how effective the operation of the Convention has been over the years, and if there have been any specific challenges in implementing and/or operating the Convention. Contracting Parties could also be invited to share with the Permanent Bureau any relevant case law.
- 6 The set of questions addressed to Members of the HCCH that are non-Contracting Parties (*i.e.*, the vast majority of HCCH Member States) could include questions as to whether or not States have considered joining the Convention, including their reasons for either not having considered it or deciding not to join. Non-Contracting Parties could also be asked, where relevant, to share any applicable PIL provisions in this matter and case law.
- 7 Subject to the views of Members, CGAP is invited to suggest any other relevant questions that could be included in the Questionnaire.
- 8 The Questionnaire could be developed and sent out relatively soon after the CGAP 2021 meeting and a brief analysis of the responses could then be submitted to CGAP for its 2022 meeting. This work should not require major resources and is not expected to impact the priorities of the work programme of the HCCH.

¹ Albania, Australia, China (People's Republic) – for the Special Administrative Region of Hong Kong only, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland.

² First Secretary Philippe Lortie and Secretary Laura Martínez-Mora. For similar reasons, the *Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions* (HCCH 1961 Form of Wills Convention) was also included in this reorganisation and primary responsibility for this Convention is now shared by them, too.

III. Conclusion & Recommendation

- 9 CGAP is invited to consider the proposal that the Permanent Bureau develop a short Questionnaire on the 1970 Divorce Convention.