

Title	<i>Questionnaire relating to the Convention of 25 October 1980 on International Access to Justice (Access to Justice Convention)</i>
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Author	PB
Agenda Item	TBD
Mandate(s)	C&D No 36 of CGAP 2021 C&D No 32 of CGAP 2022
Objective	To seek information to assist the PB in its ongoing monitoring of the Access to Justice Convention and define key issues to be addressed at the 2023 meeting of the Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions
Action to be Taken	For Action/Completion <input type="checkbox"/> For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Action / Completion <input checked="" type="checkbox"/> For Information <input type="checkbox"/>
Annexes	N/A
Related Documents	N/A

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Questionnaire relating to the Convention of 25 October 1980 on International Access to Justice (Access to Justice Convention)

I. About this Questionnaire

With a view to preparing for a meeting of the Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions, scheduled to be held in November 2023, the Permanent Bureau (PB) has drawn up the following Questionnaire (separate questionnaires have been prepared for the 1965 Service and 1970 Evidence Conventions). Responses to this Questionnaire will assist the PB in its ongoing monitoring of the practical operation of the Access to Justice Convention. Importantly, the information and views provided in the responses will also assist in defining the key issues to be addressed at the meeting of the Special Commission. With a view to facilitating discussions at this meeting, the PB will prepare a document collating the responses and summarising the findings.

Respondents are kindly asked to submit their completed Questionnaire by Friday 31 March 2023.

II. Instructions for Completion

Authorities should respond to each question by:

- indicating an answer from the options provided (where applicable, more than one option may be selected); and / or
- entering text in the field provided.

Contracting Parties to the Access to Justice Convention are kindly requested to submit a single response that accounts for all designated Central Authorities and territorial units in which the Access to Justice Convention applies. This may include different practices among Central Authorities or among territorial units.

Non-Contracting Parties are kindly requested to submit a single response.

At the end of the Questionnaire, you will have the option of uploading additional information / supporting documentation to your response (in PDF format only). Please ensure you prepare the relevant files to be uploaded.

Information collected in these responses will be **published** on the Access to Justice Section of the HCCH website, unless the PB is expressly asked not to do so, or the question provides otherwise. Please clearly identify any responses which you do not want to be made publicly available.

Please note:

- You can save your response to this Questionnaire at any time by pressing the “resume later” button at the top of your screen. You will be asked to create a name and password which you will then need to re-enter when you wish to resume your response.
- If you wish to return to a previous question when completing this Questionnaire, you should press the “previous” button at the bottom of the page and not the back button in your web browser.

Please do not hesitate to address any questions you may have to secretariat@hcch.net.

Questionnaire for non-Contracting Parties / States

This Questionnaire is for States that are *not* Party to the Access to Justice Convention. If your State is a Party to the Access to Justice Convention, please complete the Questionnaire for Contracting Parties.

Contact Information	
Name of your State:	
<i>The following contact information will not be published as part of the Questionnaire response.</i>	
Name of the contact person:	
Title of contact person:	
Name of authority / office	
Telephone number:	
Email address:	
Names of additional authorities / offices consulted in completing this Questionnaire (if relevant):	
General Information	
<p>The Access to Justice Convention basically seeks to ensure that nationals or residents of a Contracting Party have access to justice within other Contracting Parties on a non-discriminatory basis. This extends to matters including legal aid and the provision of legal advice, security for costs, physical detention and safe-conduct. The Convention does not seek to alter State domestic laws. However, it ensures that a person's status as a foreign national or their absence of residence or domicile in that State (a Contracting Party to the Convention) are not grounds for discrimination.</p> <p>Globally, there are 28 Contracting Parties to the Convention.</p> <p>Key features of the Access to Justice Convention can be found at: Access to Justice Convention Outline.</p>	
1. Is the Access to Justice Convention and its benefits widely known by relevant authorities in your State?	(a) Yes. (b) No. (c) Unsure.
2. Please provide information regarding why your State is not a Party to the Access to Justice Convention. <i>More than one answer is possible.</i>	(a) The question of becoming a Party to the Convention has not been examined in detail. (b) Your State relies on other mechanisms (e.g., internal law or bilateral arrangements) to provide access to justice on a non-discriminatory basis for foreign nationals and non-residents – <i>please specify</i> . [insert answer] (c) Your State has not encountered any problems in providing access to justice on a non-discriminatory basis to foreign nationals and non-residents. (d) There are legal or policy reasons in your State that prevent your State from becoming a Party to the Convention – <i>if</i>

	<p><i>possible, please specify.</i> [insert answer]</p> <p>(e) There are operational obstacles (e.g., resources or competing priorities) that prevent your State from becoming a Party to the Convention – <i>please specify.</i> [insert answer]</p> <p>(f) The authorities of your State do not see any added value in the Convention (e.g., compared to regimes established under other judicial cooperation treaties) – <i>please specify</i> (including a description of these other regimes). [insert answer]</p> <p>(g) There are other specific issues arising out of the Convention that prevent your State from becoming a Party – <i>please specify.</i> [insert answer]</p> <p>(h) The number of persons involved in cross-border litigation (e.g., nationals and habitual residents of your State involved in litigation in a foreign State or foreign nationals and habitual residents involved in litigation in your State) who would benefit from non-discrimination with regard to the matters covered by the Convention have so far been limited and has not required your State to participate in a global Convention – <i>please specify.</i> [insert answer]</p> <p>(i) Other – <i>please specify.</i> [insert answer]</p>
<p>3. Is your State currently studying / does your State intend to study the Access to Justice Convention, with a view to becoming a Party in the future?</p>	<p>(a) Yes, your State is currently studying it – <i>please specify the current status and, if known, a timetable for accession.</i> [insert answer]</p> <p>(b) Yes, your State intends to study it in the future.</p> <p>(c) No.</p>
<p><i>If the answer to Q3 above is “yes”:</i> 3.1 Is there anything the PB could assist with to facilitate your State becoming a Party to the Convention (e.g., in the form of webinars or providing additional information)?</p>	<p>(a) Yes – <i>please specify.</i> [insert answer]</p> <p>(b) No.</p>
<p>4. In judicial proceedings before the courts of your State, does the law or practice of your State impose any security, bond or deposit upon certain categories of persons such as foreign nationals or persons who are not resident or domiciled in your State?</p>	<p>(a) Yes – <i>if possible, please provide citation or link to text online, as well as a summary of the legal regime (including any qualifications or exceptions).</i> [insert answer]</p> <p>(b) No</p>
<p>5. Have persons in your State transmitted applications for legal aid to the Competent Authority of a Contracting Party under Article 1(2) of the</p>	<p>(a) Yes – <i>please explain / specify.</i> [insert answer]</p> <p>(b) No.</p> <p>(c) No information available.</p>

<p>Convention?</p> <p>This could apply in circumstances where a person in your State was formerly a habitual resident of a Contracting Party to the Convention and where court proceedings are or will be commenced in that jurisdiction.</p> <p>If possible, please indicate whether or not legal aid was granted in the Contracting Party; if legal aid was not (fully) granted, please explain what the reasons were.</p> <p>(Art. 1(2) of the Access to Justice Convention provides that persons who formerly had their habitual residence in a Contracting Party in which court proceedings are to be or have been commenced shall be entitled to legal aid as provided in Art. 1(1) if the cause of action arose out of their former habitual residence in that State (e.g., tenancy, wrongful termination or social security claims arising from employment contracts performed in that State)).</p>	
<p>6. Is your State a party to any bilateral or regional instruments that regulate transmitting or processing requests of legal aid in cross-border situations?</p>	<p>(a) Yes – <i>please specify</i>. [insert answer]</p> <p>(b) No.</p>
<p>2023 Meeting of the Special Commission & Monitoring</p> <p>The 2023 meeting of the Special Commission provides a unique opportunity for non-Contracting Parties to attend, observe discussions and learn about the practical operation of the Access to Justice Convention (in addition to the Service and Evidence Conventions).</p>	
<p>7. If your State is not a Member of the HCCH, would it be interested in attending the 2023 Special Commission meeting as an Observer?</p> <p><i>Members will automatically receive an invitation to attend the meeting of the Special Commission.</i></p>	<p>(a) Yes. (b) No. (c) Not applicable – <i>your State is a Member of the HCCH and will be invited to attend.</i></p>
<p>8. Are there any specific topics or practical issues related to the Access to Justice Convention that your State would like discussed at the 2023 meeting of the Special Commission?</p>	<p>1. [insert answer] 2. [insert answer] 3. [insert answer]</p>
<p>8.1 Please indicate whether the information provided in Q8 above may be published.</p>	<p>(a) Yes. (b) No.</p>

Additional Information & Supporting Documents

<p>Additional Documents</p>	
<p>Please provide links to and / or any additional</p>	<p><i>Please include links.</i></p>

<p>information or documentation to support your response. This may include:</p> <ul style="list-style-type: none"> ⇒ feasibility studies considering the Access to Justice Convention; ⇒ books, articles, or other published work; and case law; ⇒ information about practices in existing Contracting Parties that would assist your State in considering the Access to Justice Convention. 	<p><i>Please upload documents.</i></p>
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Publication of responses

<p>Please confirm whether your responses to this questionnaire can be published on the HCCH website.</p>	<ul style="list-style-type: none"> (a) Yes. (b) No.
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User Experience

<p>The format for this questionnaire has changed from the usual MS Word fillable form to an online form. The PB is keen to hear about your experience completing the online form.</p>	<ul style="list-style-type: none"> (a) The online form was easy to use. (b) I had challenges using the online form – <i>please specify.</i> <p><i>[insert answer]</i> Please provide any additional comments you have on the form so that the PB can improve the user experience.</p>
<p>If you have previously completed an MS Word fillable form questionnaire from the PB, we would be interested to hear whether the online form is an improvement.</p>	<ul style="list-style-type: none"> (a) I prefer the MS Word fillable form used in earlier questionnaires. (b) I prefer the online form used in this questionnaire. (c) I have no comment.
<p>Thank you for taking the time to complete this questionnaire.</p>	

Questionnaire for Contracting Parties

This Questionnaire is for States that are Party to the Access to Justice Convention. If your State is *not* a Party to the Access to Justice Convention, please complete the Questionnaire for non-Contracting Parties.

Contact Information	
Name of Contracting Party:	
<i>The following contact information will not be published as part of the Questionnaire response.</i>	
Name of contact person:	
Title of contact person:	
Name of authority / office:	
Telephone number:	
E-mail address:	
Names of additional authorities / offices consulted in completing this Questionnaire (if relevant):	
General Feedback	
1. How does your State rate the general operation of the Access to Justice Convention?	(a) Excellent. (b) Good. (c) Satisfactory. (d) Requires improvement – <i>please explain</i> . [insert answer]
2. How does your State rate the operation of the Model Forms?	(a) Good. (b) Requires improvement – <i>please explain issues</i> . [insert answer]
3. In your State’s opinion, should the PB develop further guidance or explanatory material on the operation of the Access to Justice Convention?	(a) Yes – <i>please specify what would assist</i> . [insert answer] (b) No.
Operation of the Convention	
4. Has your State, as a requesting or as a requested State, experienced any difficulties in the application of any of the chapters of the Access to Justice Convention?	(a) Yes. (<i>More than one answer is possible</i>) (i) Legal aid (Arts 1-13). (ii) Security for costs and enforceability of orders for costs (Arts 14-17). (iii) Copies of entries and decisions (Art. 18). (iv) Physical detention and safe conduct (Arts 19-20) [Please provide additional information about any of the above] (b) No.

<p>5. Has the concept of habitual residence, as used in the Access to Justice Convention, led to any difficulties of interpretation or application in your State?</p>	<p>(a) Yes – <i>please explain.</i> [insert answer]</p> <p>(b) No.</p>
<p>6. Has your State granted legal aid to legal persons (as opposed to “natural” persons) under Chapter I of the Convention (noting comments in the Explanatory Report by Gustaf Möller, which excludes legal persons from Chapter 1).</p>	<p>(a) Yes – <i>please explain.</i> [insert answer]</p> <p>(b) No.</p>
<p>7. If your State has made a reservation under Article 28(1), please indicate whether your State has exercised the power granted by that Reservation.</p> <p>(Art. 28(1) allows a Contracting Party to exclude the obligation of Article 1 of the Convention:</p> <p>(1) in the case of persons who are not nationals of a Contracting Party, but who have their habitual residence in a Contracting Party other than the reserving State, and / or</p> <p>(2) in the case of persons who formerly had their habitual residence in the reserving State, if, in either of these cases, there is no reciprocity of treatment between the reserving State and the State of nationality of the applicant.)</p>	<p>(a) Yes – <i>please explain.</i> [insert answer]</p> <p>(b) No.</p>
<p>8. In your State, is legal aid made available only in civil and commercial matters, or also in administrative, social or fiscal matters? (Art. 1(3))</p>	<p>(a) Civil and commercial – <i>please explain.</i> [insert answer]</p> <p>(b) Administrative, social or fiscal – <i>please explain.</i> [insert answer]</p>
<p>9. In judicial proceedings before the courts of your State, does the law or practice of your State impose any security, bond or deposit upon certain categories of persons such as foreign nationals or persons who are not resident or domiciled in your State?</p>	<p>(a) Yes – <i>please provide citation or link to text online, as well as a summary of the legal regime (including any qualifications or exceptions).</i> [insert answer]</p> <p>(b) No.</p>
<p>10. Is your State able to provide the PB with an example or case of the Convention operating effectively in practice?</p>	<p>(a) Yes – <i>please explain or upload information.</i> [insert answer]</p> <p>(b) No.</p>

<p>Use of Information Technology</p> <p>The questions below seek information from Contracting Parties on the use of technology and in light of the COVID-19 pandemic.</p>	
<p>11. Has your State taken any steps (including through legislation) to enable or increase the use of technology or electronic means to facilitate the transmission or processing of applications for legal aid under the Convention, including in response to the COVID-19 pandemic?</p>	<p>(a) Yes – <i>please explain any steps taken or ongoing projects.</i> [insert answer]</p> <p>(b) No.</p>
<p>12. In the past five years, has your State received any applications using electronic means?</p>	<p>(a) Yes – <i>please select the means. (More than one answer is possible.)</i></p> <ul style="list-style-type: none"> (i) E-mail (regular). (ii) E-mail (secured / encrypted). (iii) Electronic transmission via online platform administered by the government. (iv) Electronic transmission via online platform administered by a private service provider. (v) Electronic transmission using distributed ledger technology (DLT). (vi) Other – <i>please specify.</i> [insert answer] <p>(b) No.</p>
<p>12.1. If no, please provide further information about why this is not yet possible.</p>	<p>[insert answer]</p>
<p>13. In the past five years, has your State sent any applications using electronic means?</p>	<p>(a) Yes – <i>please select the means. (More than one answer is possible.)</i></p> <ul style="list-style-type: none"> (i) E-mail (regular). (ii) E-mail (secured / encrypted). (iii) Electronic transmission via online platform administered by the government. (iv) Electronic transmission via online platform administered by a private service provider. (v) Electronic transmission using DLT. (vi) Other – <i>please specify.</i> [insert answer] <p>(b) No.</p>
<p>13.1. If no, please provide further information about why this is not yet possible.</p>	<p>[insert answer]</p>
<p>14. What challenges, if any, has your State faced regarding the use of information technology under the Access to Justice Convention? <i>More than one answer is possible.</i></p>	<ul style="list-style-type: none"> (a) None. (b) Internal law limitations. (c) Judicial or administrative structures. (d) Implementation challenges (e.g., lack of resources, lack of infrastructure). (e) Cost. (f) System interoperability / compatibility. (g) Security concerns.

	(h) Other – <i>please specify</i> . [insert answer]
15. In addition to the Access to Justice Convention, is your State a party to any bilateral, regional, or multilateral agreements that provide rules for access to justice in a cross-border context?	(a) Yes – <i>please specify</i> . [insert answer] (b) No.
<i>For Parties that answered yes to Q15 above:</i> 15.1 Do any of these agreements provide for the use of electronic means (e.g., e-mail) to transmit or process applications for access to justice?	(a) Yes – <i>please specify</i> . [insert answer] (b) No.
2023 Meeting of the Special Commission & Monitoring	
16. What are the three key topics or practical issues related to the Access to Justice Convention that your State would like discussed at the 2023 meeting of the Special Commission?	1. [insert answer] 2. [insert answer] 3. [insert answer]
16.1. Please indicate whether the information provided in Q16 above may be published.	(a) Yes. (b) No.
17. Does your State have any suggestions that could assist in the promotion, implementation, or operation of the Access to Justice Convention?	(a) Yes – <i>please specify</i> . [insert answer] (b) No.
17.1 If the answer to Q17 above is “yes”, please indicate whether the information provided may be published.	(a) Yes. (b) No.

Data & Statistics for Contracting Parties

General Application						
1. Please indicate, by numbering from 1 to 4, the Access to Justice Convention chapters which have been most frequently applied in your State (1 representing the highest, 4 the lowest)	<input type="checkbox"/>	Legal aid, including legal advice (Arts 1-13)				
	<input type="checkbox"/>	Security for costs and enforceability of orders for costs (Arts 14-17)				
	<input type="checkbox"/>	Copies of entries and decisions (Art. 18)				
	<input type="checkbox"/>	Physical detention and safe-conduct (Arts 19-20)				
Application for Legal Aid						
Chapter 1 – Legal Aid						
Incoming Requests						
2. How many incoming applications for legal aid has your State received and granted?	Year	Number of requests received			Number of requests granted	
	2017	Insert answer.			Insert answer.	
	2018	Insert answer.			Insert answer.	
	2019	Insert answer.			Insert answer.	
	2020	Insert answer.			Insert answer.	
	2021	Insert answer.			Insert answer.	
	2022	Insert answer- if data available.			Insert answer- if data available.	
Unknown – <i>please explain</i> . Insert answer						
3. Which three States made the most requests?	Requesting State			Number		
	Insert answer.			Insert answer.		
	Insert answer.			Insert answer.		
	Insert answer.			Insert answer.		
4. If possible, please provide a breakdown of how long (in months) it took to execute incoming requests.		< 1	1-3	3-6	6-12	> 12
	2017					
	2018					
	2019					
	2020					
	2021					
	2022 (if data available)					

	Unknown – <i>please explain.</i> Insert answer.		
<p>5. Please select the categories of persons that have been granted legal aid in your State (as a requested State) in the past five years under the Convention.</p> <p><i>Please also indicate the total number of persons in each category.</i></p>	Category	Number granted	Total Number
	Nationals of a Contracting Party (Art. 1(1))	Insert answer.	Insert answer.
	Persons habitually resident in a Contracting Party (Art. 1(1))	Insert answer.	Insert answer.
	Persons who formerly had habitual residence in your State	Insert answer.	Insert answer.
	Persons seeking the recognition and enforcement of a decision in circumstances of Article 13.2	Insert answer.	Insert answer.
	Unknown – <i>please explain.</i> Insert answer.		
Outgoing Requests			
<p>6. How many outgoing applications for legal aid has your State sent?</p>	Year	Number of requests sent	
	2017	Insert answer.	
	2018	Insert answer.	
	2019	Insert answer.	
	2020	Insert answer.	
	2021	Insert answer.	
	2022	Insert answer– if data available.	
	Unknown – <i>please explain.</i> Insert answer		
<p>7. To which three States did your State send the most requests?</p>	Requested State	Number	
	Insert answer.	Insert answer.	
	Insert answer.	Insert answer.	

	Insert answer.			Insert answer.		
8. If possible, please provide a breakdown of how long (in months) it took to have outgoing requests executed.	Year	< 1	1-3	3-6	6-12	> 12
	2017					
	2018					
	2019					
	2020					
	2021					
	2022 (if data available)					
	Unknown – please explain. Insert answer.					
9. Please indicate the categories of persons in your State (as the requesting State) that have been granted legal aid abroad in the past five years and indicate the number in each category.	Year	Nation als of your State	Habitual residents of your State	Seeking recognition or enforcement of a decision (Art. 13(2))		
	2017	Insert answer.	Insert answer.	Insert answer.		
	2018	Insert answer.	Insert answer.	Insert answer.		
	2019	Insert answer.	Insert answer.	Insert answer.		
	2020	Insert answer.	Insert answer.	Insert answer.		
	2021	Insert answer.	Insert answer.	Insert answer.		
	2022 (if data available)	Insert answer.	Insert answer.	Insert answer.		
	Unknown – please explain. Insert answer.					
Chapter II – Security for Costs and Enforceability of Orders for Costs						
Incoming Applications						
This question applies if your State has not excluded the application of Chapter II.						
10. Please indicate how many applications for the	Year	Number of applications				
	2017	Insert answer.				

enforcement of orders for costs and expenses (“Article 15 Applications”) have been received annually by the Central Authority(ies) of your State, in the past five years?	2018	Insert answer.				
	2019	Insert answer.				
	2020	Insert answer.				
	2021	Insert answer.				
	2022	Insert answer- if data available.				
Unknown – <i>please explain</i> . Insert answer						
11. Which three States made the most requests?	Requesting State			Number		
	Insert answer.			Insert answer.		
	Insert answer.			Insert answer.		
	Insert answer.			Insert answer.		
12. If possible, please provide a breakdown of how long (in months) it took to have incoming requests executed.	Year	< 1	1-3	3-6	6-12	> 12
	2017					
	2018					
	2019					
	2020					
	2021					
	2022 (if available)					
Unknown – <i>please explain</i> . Insert answer						
Outgoing applications						
This question applies if your State has not excluded the application of Chapter II.						
13. Please indicate how many applications for the enforcement of orders for costs and expenses (“Article 15 Applications”), have been sent annually by the authorities of your State to the Central Authorities of other Contracting Parties in the past five years?	Year	Number of requests				
	2017	Insert answer.				
	2018	Insert answer.				
	2019	Insert answer.				
	2020	Insert answer.				
	2021	Insert answer.				
	2022	Insert answer- if data available.				
Unknown – <i>please explain</i> . Insert answer						
14. To which three States has your State sent most requests?	Requested State			Number		
	Insert answer.			Insert answer.		
	Insert answer.			Insert answer.		

15. If possible, please provide a breakdown of how long (in months) it took to have outgoing requests executed.	Insert answer.			Insert answer.		
	Year	< 1	1-3	3-6	6-12	> 12
	2017					
	2018					
	2019					
	2020					
	2021					
	2022 (if available)					
	Unknown - <i>please explain.</i> Insert answer					

Case Law, Additional Information & Supporting Documents

Case Law	
Please list all your State’s judicial decisions that have considered the Access to Justice Convention since 2014 and provide a link to or upload the decisions (in PDF format only).	Please list judicial decisions, including links. <i>Please upload documents.</i>
Additional Documents	
Please provide links to and / or any additional information or documentation to support your response (in PDF format only). This may include: <ul style="list-style-type: none"> ⇒ resources for the general public or guidelines for Central or other Authorities’ staff; ⇒ implementation legislations, recent legislative developments; or ⇒ books, articles, or other published work. 	Please list judicial decisions, including links. <i>Please upload documents.</i>

Publication of responses

Please confirm whether your responses to this questionnaire can be published on the HCCH website.	(a) Yes. (b) No.
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User Experience

The format for this questionnaire has changed from the usual MS Word fillable form to an online form. The PB is keen to hear about your experience completing the online form.	(a) The online form was easy to use. (b) I had challenges using the online form – <i>please specify.</i> [insert answer] Please provide any additional comments you have on the form so that the PB can improve the user experience.
If you have previously completed an MS Word fillable form questionnaire from the PB, we would be interested to hear whether the online form is an improvement.	(a) I prefer the MS Word fillable form used in earlier questionnaires. (b) I prefer the online form used in this questionnaire. (c) I have no comment.
Thank you for taking the time to complete this questionnaire.	