

**SUMMARY OF RESPONSES TO THE QUESTIONNAIRES ON
THE USE OF INFORMATION TECHNOLOGY IN THE OPERATION OF THE
HCCH SERVICE AND EVIDENCE CONVENTIONS**

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INTRODUCTION

1. In September 2019, the Permanent Bureau (PB), pursuant to the mandate of the Council on General Affairs and Policy (CGAP)¹ circulated two questionnaires on the use of information technology (IT), in relation to the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (HCCH Service Convention) and the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (HCCH Evidence Convention), respectively.
2. The questionnaires covered a variety of topics, including the status of the use and implementation of IT solutions in both the transmission and execution of requests under the HCCH Service and Evidence Conventions, legal and technological challenges, and views about future progress. The questionnaires were sent to Central Authorities of Contracting Parties to both Conventions, as well as to National and Contact Organs of Members, with an initial deadline of 29 November 2019 for submission, which was subsequently extended to 31 December 2019.
3. This document synthesises the responses received to both the *Questionnaire on the Use of Information Technology in the Operation of the Service Convention* (Service Questionnaire) and the *Questionnaire on the Use of Information Technology in the Operation of the Evidence Convention* (Evidence Questionnaire).

¹ See “Conclusions & Recommendations adopted by Council (5-8 March 2019)”, C&R No 40, available on the HCCH website at < www.hcch.net > under “Governance” then “Council on General Affairs and Policy”.

PART 1: USE OF TECHNOLOGY UNDER THE HCCH SERVICE AND EVIDENCE CONVENTIONS

I. GENERAL TRENDS

4. The HCCH Service Convention has 78 Contracting Parties to date, and the PB received responses to the Service Questionnaire from 34 Contracting Parties,² yielding a response rate of 44%. In turn, the HCCH Evidence Convention has 63 Contracting Parties, and the PB received responses to the Evidence Questionnaire from 30 Contracting Parties³ and one non-Contracting Party,⁴ yielding a response rate of 48%.

5. The responses received to both questionnaires show that a large majority of responding parties⁵ rate favourably the general operation of the HCCH Service Convention (91%)⁶ and the HCCH Evidence Convention (93%),⁷ respectively.

6. With respect to the **electronic transmission of requests**, over half of the responding parties to the Service Questionnaire (58%) reported that it is possible to transmit by electronic means requests for service under their internal law.⁸ Similarly, half of the responding parties to the Evidence Questionnaire (50%) reported that the transmission of requests for the taking of evidence by electronic means is possible under their internal law.⁹

7. With respect to the **electronic execution of requests**, half of the responding parties to the Service Questionnaire (50%) reported that it is possible to execute by electronic means requests for service under their internal law,¹⁰ and close to half of the responding parties to the Evidence Questionnaire (48%) reported that it is possible to execute requests for the taking of evidence by electronic means under their internal law.¹¹

8. About one third of the responding parties to the Service Questionnaire (29%) are also a party to a bilateral or multilateral agreement (other than the HCCH Service Convention) which provides for the use of electronic means in the transmission or execution of requests for service.¹² Similarly, about one quarter of the responding parties to the Evidence Questionnaire (23%) are also a party to a bilateral or multilateral agreement (other than the HCCH Evidence Convention) which provides for the use of electronic means in the transmission or execution of requests for the taking of evidence.¹³

² Argentina, Armenia, Australia (responses received from Queensland and New South Wales), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, People's Republic of China, Colombia, Czech Republic, Estonia, France, Germany, Greece, Hungary, Israel, Japan, Latvia, Malta, Mexico, Moldova, Montenegro, Nicaragua, Portugal, Serbia, Slovak Republic, Slovenia, Sweden, Switzerland, Turkey, Ukraine, United States of America (USA), Venezuela and Viet Nam.

³ Argentina, Armenia, Australia (responses received from Queensland and New South Wales), Bosnia and Herzegovina, Brazil, Bulgaria, People's Republic of China, Colombia, Czech Republic, Estonia, France, Germany, Greece, Hungary, Israel, Latvia, Montenegro, Nicaragua, Portugal, Serbia, Singapore, Slovak Republic, Slovenia, Sweden, Switzerland, Turkey, Ukraine, USA, Venezuela and Viet Nam.

⁴ Japan.

⁵ All percentages that follow in this document are in reference to the number of responses received. In those instances in which a Party failed to provide an answer to a specific question, that Party was not considered for the purposes of calculating the percentages specific to that question.

⁶ Service Questionnaire, Question 2.1.

⁷ Evidence Questionnaire, Question 2.1.

⁸ Service Questionnaire, Question 1.2. Based on the information provided by Contracting Parties, it remains unclear whether, notwithstanding the possibility to transmit requests electronically, the subsequent transmission of hard copies of the "original documents" is still required.

⁹ Evidence Questionnaire, Question 1.2.

¹⁰ Service Questionnaire, Question 1.3.

¹¹ Evidence Questionnaire, Question 1.3.

¹² Service Questionnaire, Question 1.4.

¹³ Evidence Questionnaire, Question 1.4.

9. Close to two thirds of the responding parties to the Service Questionnaire (64%) reported having encountered challenges regarding the use of IT to facilitate the operation of the HCCH Service Convention,¹⁴ while just under half of the responding parties to the Evidence Questionnaire (46%) have encountered challenges in the use of IT to facilitate the operation of the HCCH Evidence Convention.¹⁵

10. In respect to the above, the main challenges encountered by responding parties to the Service Questionnaire are associated with: ¹⁶

- implementation (e.g., lack of resources) (32%)
- internal law limitations (26%)
- judicial or administrative structures (26%)
- costs (26%)
- system interoperability / compatibility (26%)
- security concerns (26%)
- cooperation with other Contracting Parties (21%)
- selection of the appropriate technology (15%)
- other (12%).

11. In turn, the main challenges encountered in relation to the use of IT to facilitate the operation of the HCCH Evidence Convention concern the following:¹⁷

- internal law limitations (23%)
- judicial or administrative structures (16%)
- implementation challenges (e.g., due to a lack of resources) (16%)
- system interoperability / compatibility (16%)
- security concerns (16%)
- selection of the appropriate technology (13%)
- cooperation with other Contracting Parties (13%)
- costs (10%)
- other (6%).

12. Furthermore, close to two thirds of the responding parties to the Service Questionnaire (64%) favour the use, by all Contracting Parties, of a common electronic platform in the operation of the HCCH Service Convention.¹⁸ Likewise, approximately three fifths of responding parties to the Evidence Questionnaire (59%) are in favour of a common electronic platform to be used by all Contracting Parties for the operation of the HCCH Evidence Convention.¹⁹

13. In this respect, responding parties to the Service Questionnaire envisage the following challenges in relation to the possible implementation of a common electronic platform to be used by all Contracting Parties in the operation of the HCCH Service Convention:²⁰

- implementation challenges (e.g., lack of resources) (68%)
- system interoperability / compatibility (59%)
- costs (56%)
- selection of the appropriate technology (50%)
- internal law limitations (47%)
- security concerns (47%)
- judicial and administrative structures (44%)

¹⁴ Service Questionnaire, Question 1.5.

¹⁵ Evidence Questionnaire, Question 1.5.

¹⁶ Service Questionnaire, Question 1.5.

¹⁷ Evidence Questionnaire, Question 1.5.

¹⁸ Service Questionnaire, Question 1.6.

¹⁹ Evidence Questionnaire, Question 1.6.

²⁰ Service Questionnaire, Question 1.7.

- cooperation with other Contracting Parties (29%)
- other (15%).

14. Responding parties to the Evidence Questionnaire foresee the following challenges in relation to the possible implementation of a common electronic platform to be used by all Contracting Parties in the operation of the HCCH Evidence Convention:²¹

- system interoperability / compatibility (65%)
- implementation challenges (e.g., lack of resources) (58%)
- costs (55%)
- judicial or administrative structures (52%)
- security concerns (48%)
- internal law limitations (42%)
- selection of the appropriate technology (42%)
- cooperation with other Contracting Parties (19%)
- other (16%).

II. REQUESTS UNDER THE HCCH SERVICE CONVENTION

A. Transmission of Requests

15. Approximately one fifth of the responding parties to the Service Questionnaire (18%) have used IT, or are in the process of implementing IT solutions, for the transmission of requests for service under the main channel, *i.e.*, to the Central Authority of the Contracting Party addressed (Art. 5(1)(a)).²²

16. Regarding the use of IT for the transmission of requests for service under Article 10, *i.e.*, through alternative channels, responding parties reported to have used IT, or are in the process of implementing IT solutions, for the transmission of requests for service:²³

- under Article 10(a) (15%)
- under Article 10(b) (12%)
- under Article 10(c) (9%).

17. Concretely, responding parties use, or would consider using, the following types of electronic means of transmission for requests for service under the main channel:²⁴

- electronic transmission platform administered by a public / State authority (44%)
- regular e-mail (38%)
- secured / encrypted e-mail (32%)
- electronic transmission platform administered by a private service provider (12%)
- electronic transmission using distributed ledger technology (9%)
- other options (9%).

18. One third of the responding parties to the Service Questionnaire (33%) have fully implemented, or are in the process of implementing, an electronic case management system for handling incoming and outgoing requests for service issued pursuant to the HCCH Service Convention.²⁵

19. In regard to the type of case management system, responding parties to the Service Questionnaire use, or would consider using, the following:²⁶

²¹ Evidence Questionnaire, Question 1.7.

²² Service Questionnaire, Question 1.8.

²³ *Ibid.*, Question 1.9.

²⁴ *Ibid.*, Question 1.10.

²⁵ *Ibid.*, Question 1.14.

²⁶ *Ibid.*, Question 1.15.

- a system administered by a public / State authority (64%)
- a system that uses DLT (11%)
- a system administered by a private service provider (7%)
- another type of system, without specifying which one (18%).

B. Execution of Requests

20. Responding parties to the Service Questionnaire reported that they would accept requests of foreign forwarding authorities seeking service to be performed by the following methods (under Art. 5(1)(b)):²⁷

- electronic service by public / State-administered e-mail account (30%)
- service by electronic platform of a public / State authority (27%)
- electronic service by private e-mail (18%)
- service by electronic platform of a private provider (8%)
- electronic service by a private social media account (7%)
- service using DLT (7%).

21. Responding parties to the Service Questionnaire reported that the reasons for refusing requests from other Contracting Parties to use IT in performing service on their territory are the following:²⁸

- the use of technology is not provided for in internal law (41%)
- the use of technology is not possible as there is no compatible system in their State (26%)
- the authority lacks familiarity with the use of the requested technology (15%)
- the use of technology is prohibited by internal law (6%)
- the use of technology is too resource-intensive (3%)
- other (29%).

22. Responding parties to the Service Questionnaire reported using the following type of IT when performing service electronically:²⁹

- electronic platform of a public / State authority (29%)
- private e-mail (15%)
- private social media account (6%)
- public / State-administered e-mail account (12%)
- other (3%).

23. Responding parties to the Service Questionnaire also reported that other Contracting Parties have refused their requests for service seeking the use of IT for the following reasons:³⁰

- the use of technology is not provided for in internal law (12%)
- the use of technology is prohibited by internal law (6%)
- the use of technology is not possible as there is no compatible system in their State (6%)
- the authority lacks familiarity with the use of the requested technology (6%)
- the use of technology is too resource-intensive (3%)
- other (29%).

²⁷ *Ibid.*, Question 1.20.

²⁸ *Ibid.*, Question 1.21.

²⁹ *Ibid.*, Question 1.22.

³⁰ *Ibid.*, Question 1.24.

III. REQUESTS UNDER THE HCCH EVIDENCE CONVENTION

A. Transmission of Letters of Request under Chapter I

24. Around one fourth of the responding parties to the Evidence Questionnaire (28%) have used IT, or are in the process of implementing IT solutions, to transmit Letters of Request under the HCCH Evidence Convention.³¹

25. Responding parties to the Evidence Questionnaire would use or consider using for the electronic transmission of Letters of Request under the HCCH Evidence Convention the following:³²

- an electronic transmission platform administered by a public / State authority (52%)
- regular e-mail (39%)
- secured / encrypted e-mail (32%)
- an electronic transmission platform administered by a private service provider (13%)
- electronic transmission using distributed ledger technology (23%)
- other options (10%).

26. Around one fourth of the responding parties to the Evidence Questionnaire (26%) have implemented, or are in the process of implementing, an electronic case management system for incoming and outgoing Letters of Request issued pursuant to the HCCH Evidence Convention.³³

27. Just over two thirds of the responding parties to the Evidence Questionnaire (69%) use, or would consider using, an electronic case management system administered by a public / State authority for incoming and outgoing Letters of Request issued pursuant to the HCCH Evidence Convention.³⁴

28. However, currently only 7% of the responding parties to the Evidence Questionnaire use a fully electronic case management system (*i.e.*, Letters of Request are stored electronically, the progress of the forwarded or received Letter of Request is displayed electronically, etc.) for incoming and outgoing Letters of Request issued pursuant to the HCCH Evidence Convention.³⁵

B. Execution of Letters of Request under Chapter I

29. Responding parties to the Evidence Questionnaire would accept Letters of Request under the HCCH Evidence Convention seeking the use of IT in the following instances:³⁶

- videoconferencing / video-link (64%)
- electronic transmission of digital evidence (46%)
- teleconferencing / audio-link (44%)
- presenting physical evidence by electronic means (37%).

³¹ Evidence Questionnaire, Question 1.8.

³² *Ibid.*, Question 1.9.

³³ *Ibid.*, Question 1.13.

³⁴ *Ibid.*, Question 1.14.

³⁵ *Ibid.*, Question 1.15.

³⁶ *Ibid.*, Question 1.19.

30. Responding parties to the Evidence Questionnaire reported refusing requests from other Contracting Parties to use IT in the taking of evidence within their territory due to the following reasons:³⁷

- the use of technology is not possible as there is no compatible system in their State (32%)
- the use of technology is not provided for in their internal law (26%)
- the authority lacks familiarity with the use of the requested technology (19%)
- the use of technology is too resource-intensive (6%)
- the use of technology is prohibited by their internal law (3%).

31. Responding parties to the Evidence Questionnaire reported the use of the following type of IT in the taking of evidence:³⁸

- videoconferencing / video-link (65%)
- teleconferencing / audio-link (45%)
- electronic transmission of digital evidence (35%)
- presenting physical evidence by electronic means (35%)
- other (6%).

32. Responding parties to the Evidence Questionnaire reported that Letters of Request submitted by them seeking the use of technology have sometimes been refused by other Contracting Parties for the following reasons:³⁹

- the use of technology is not possible as there is no compatible system in the State (19%)
- the use of technology is not provided for in their internal law (13%)
- the use of technology is prohibited by their internal law (10%)
- the use of technology is too resource-intensive (10%)
- the authority lacks familiarity with the use of the requested technology (10%)
- other (16%).

³⁷ *Ibid.*, Question 1.20.

³⁸ *Ibid.*, Question 1.21.

³⁹ *Ibid.*, Question 1.23.

PART 2: OVERALL EFFICIENCY OF THE HCCH SERVICE AND EVIDENCE CONVENTIONS

I. Procedure outside of the framework of the HCCH Service and Evidence Conventions

33. With respect to requests for service of documents made outside of the framework of the HCCH Service Convention, responding parties to the Service Questionnaire reported that if an interested person from another jurisdiction wishes to perform service on someone located in their territory the applicable procedure is that provided by:⁴⁰

- the internal law of the Requested State (62%)
- bilateral agreement(s) (59%)
- multilateral agreement(s) (41%)
- other procedure (such as consular channels) (41%).

34. With respect to requests for the taking of evidence made outside of the framework of the HCCH Evidence Convention, responding parties to the Evidence Questionnaire reported that the applicable procedure for those seeking to obtain assistance in the taking of evidence located in the territory of another State is the procedure provided by:⁴¹

- the internal law of the Requested State (68%)
- bilateral agreement(s) (58%)
- multilateral agreement(s) (39%)
- other procedure (such as consular channels) (35%).

II. Metrics

Number of incoming requests for service of documents under the main channel (Art. 5(1))⁴²

STATE	2013	2014	2015	2016	2017	2018
Armenia			15	24		
Australia	320	278	334	330	362	600
Bulgaria	178	216	260	238	231	216
China, People's Republic of	1570	1277	1203	1259	1244	1398
Czech Republic		10	66	52	65	
France	725	672	499	707	675	731
Greece	80	75	48	58	66	76
Israel						909
Japan	1040	1107	1119	1082	952	878
Latvia	10	35	30	29	19	
Malta	26	29	5	19	35	53
Portugal	80	94	110	138	116	147
Serbia	10	379	230	229	286	292
Sweden		2360	2040	2148	2054	3398
Turkey				3130	2237	2347
United States of America	6394	6828	6409	5548	6946	7509
Venezuela			173	171	274	1514
Viet Nam					142	247
Total	10433	13360	12541	15162	15704	20315

⁴⁰ Service Questionnaire, Question 2.2.

⁴¹ Evidence Questionnaire, Question 2.2.

⁴² Service Questionnaire, Question 2.3.1.

Number of outgoing requests for service of documents under the main channel (Art. 5(1))⁴³

STATE	2013	2014	2015	2016	2017	2018
Armenia					1	
Australia	5	4	3	2	10	22
Bulgaria	61	84	80	79	94	99
China, People's Republic of	865	940	659	526	804	357
Greece	500	750	680	820	700	635
Israel						57
Japan				212	218	163
Latvia	274	286	339	266	248	
Malta					5	9
Portugal	96	97	75	48	82	51
Turkey				10821	10026	12340
Venezuela			16	1	5	8
Viet Nam					886	1326
Total	1801	2161	1852	12775	13079	15067

Number of incoming requests for the taking of evidence under Chapter I⁴⁴

STATE	2013	2014	2015	2016	2017	2018
Australia	29	26	32	49	35	31
Bulgaria	5		4	4	20	28
Czech Republic			2	2	5	5
Estonia						1
France	117	110	111	53	112	138
Greece	5	6	8	6	4	3
Israel	119	57	62	45	51	76
Latvia	1	1	1	1	1	
Portugal	14	30	28	25	52	45
Republic of Armenia						2
Serbia	7	65	14	5	12	19
Singapore	3	1	10	6	8	11
Turkey	224	212	190	174	159	167
United States of America	439	495	461	369	369	340
Venezuela			1	10	6	7
Total	963	1003	924	749	834	873

⁴³ *Ibid.*, Question 2.3.1.

⁴⁴ Evidence Questionnaire, Question 2.3.1.

Number of outgoing requests for the taking of evidence under Chapter I⁴⁵

STATE	2013	2014	2015	2016	2017	2018
Australia			1	2	1	
Bulgaria	10	13	5	4	12	1
France	7	8	5	2	5	3
Greece	8	4	6	3	4	3
Israel	2	2	1	3	1	4
Latvia	6	16	14	10	7	
Portugal	166	148	113	92	103	96
Singapore	1	2				
Turkey	1606	1614	1443	1453	2273	2015
Venezuela			5	10	5	8
Total	1806	1807	1593	1579	2411	2130