



Project co-funded by the
CIVIL JUSTICE PROGRAMME
of the EUROPEAN UNION

iSupport

cross-border recovery
of maintenance obligations
*pour le recouvrement
transfrontière des
obligations alimentaires*

iSupport Functional Requirements Working Group (1) – Meeting (2) – 22 January 2015 Meeting

Report of Meeting n°2

List of Participants

Experts	iSupport Team
Natasha BUTLER (France) Cameron COWPER (Canada) Daphne De WIT (The Netherland) Alisha GRIFFIN (United States of America) Arnaldo JOSÉ ALVES SILVEIRA (Brazil) Pietari KORTEKANGAS (Finland) Haldi KOIT (Estonia) Tanja Niemi (Finland) Marketa NOVAKOVA (Czech Republic) Inese PLONE (Latvia) Tobias PLUM (Germany) Siri RISNES (Norway) Hannah ROOTS (NCSEA)	Philippe LORTIE Brigitte VOERMAN Juliane HIRSCH (Chair) Marie VAUTRAVERS

I. OPENING OF THE MEETING

Introduction

1. Philippe Lortie, First Secretary, opened the meeting. He welcomed the participants to the Functional Requirements Working Group Meeting and highlighted that two further experts from Finland had joined the Working Group, one from the Central Authority and the other one from the Public Body. He stated that the draft report of the first Functional Requirement Working Group meeting had been circulated to the Group and he asked the participants to hand in any comments they may have by Wednesday, 28 January 2015.
2. The new participants briefly introduced themselves.
3. Juliane Hirsch, Legal Consultant to the iSupport Project, asked the Working Group experts whether there were, at this stage, any additional remarks concerning the topics dealt with at the last meeting.
4. An expert from the Netherlands stated that in discussing the topic of logging changes in iSupport with her colleagues at the Dutch Central Authority the question arose as to whether what had been decided at the last meeting would have any implications on the

language in which changes would be made, *i.e.* will changes be possible in Dutch or would the text have to be entered in English or French?

5. Juliane Hirsch advised that States could operate iSupport in a language other than English or French even though the necessary translation would have to be undertaken by the individual State. She explained that when a language other than English or French is used in the case management system all the data would be recorded in that other language. She noted that the reason why an audit trail of modifications in the system is kept is for data protection and security reasons; there is no need to limit the audit trail to text in English or French.

II. FUNCTIONALITY RELATED TOPICS FOR DISCUSSION

1. Definition of a “case”

6. Juliane Hirsch explained that an iSupport case number would be allocated to each “case” and that for this reason the definition of a “case” would have to be found for the purpose of iSupport. She stated that the iSupport team would propose a definition: every application is a separate case. She specified that also a request for a specific measure (in the sense of Art. 53 of the Regulation or Art. 7 of the Convention) would be considered a separate case. For example, if an applicant initiated a request for a specific measure concerning an address search and later made an application for recognition and enforcement to the same requested State concerning the same parties, this would be counted as two separate cases in iSupport with two different iSupport numbers.

7. The Working Group agreed with the proposed approach. Some experts, including an expert from Finland, drew attention to the fact that they would currently not use the same approach in their system, but did not see this as an obstacle to iSupport using the suggested case definition. The expert specified that, for example, a request for a specific measure and a following application for recognition and enforcement would be counted as one case in her national system. An expert from Brazil noted that in their system different follow-up applications between the same parties would be registered under one case number but sub-categories would allow the tracking of specific applications for statistical purposes.

8. Philippe Lortie clarified that when defining an application as a case, it was understood that all different measures to be fulfilled in connection with this application would be handled under the same case number. For example, an application for enforcement might first require the confirmation of the address of the debtor etc.

9. An expert from Estonia asked how the situation would be dealt with where in the course of an application for recognition and enforcement a modification of the decision in the requesting State would change the monthly maintenance amount owed. She mentioned that in her system this would be considered one case. An expert from Norway compared this situation to the indexation of a decision while the enforcement was ongoing, which would be treated as one and the same case in Norway. An expert from the United States of America stated that the latter would also be true for their electronic case management system. The iSupport team noted that the described indexation situation would equally be considered “one case” in iSupport in accordance with the suggested case definition. As for the Estonian example, the iSupport team stated that probably also this would be considered “one case”, but that some further thinking would have to be done on the matter.

10. Juliane Hirsch noted that a detailed description of what is considered a “case” in iSupport will have to be drawn up including a number of examples, to give clear guidelines to the caseworkers.

2. iSupport case number

Composition for the functional iSupport case number

11. Juliane Hirsch explained that the iSupport case number is a unique case reference number automatically allocated by the iSupport system. What will be visible in the case management system is the functional iSupport case number (as opposed to the technical iSupport case number used in the back-end). The functional iSupport number is suggested to be composed of: (1) two characters for the requesting State abbreviation, (2) two characters for the requested State abbreviation, (3) four characters for the year of the application and (4) a sequential number of seven characters starting with 0000001 each calendar year.

12. Juliane Hirsch asked the experts whether they had any concerns regarding the proposed composition of the functional iSupport case number and in particular whether part (2) of the number, *i.e.* the abbreviation of the requested State could pose difficulties in practice. She noted that a functional iSupport number with this composition would presuppose that the caseworker knows the requested State when opening the case. She asked the experts whether a situation was possible where the requested State was unknown.

13. The Working Group welcomed the proposed composition of the functional iSupport case number, however, a few concerns were raised concerning the inclusion of the abbreviations for the requested State.

14. An expert from Estonia referred to cases where the debtor might have his new residence in either State A or State B. In such cases the request for a specific measure (finding the debtor) would be addressed to two requesting States. Juliane Hirsch noted that in iSupport each of these requests for a specific measure would be treated as a separate case; each of them addressed to one requested State only.

15. An expert from the United States of America stated that she would foresee problems should the functional iSupport number contain an abbreviation of the requested State. She recalled that the United States of America had not yet in detail decided how to implement the 2007 Convention. In particular it is still unclear whether there would be a Federal Central Authority forwarding applications to the relevant local state authorities or whether applications would have to be made directly to the territorial units of the United States. Assuming applications would be sent directly to the US state authorities, she noted that internal referrals from one US state to another could pose problems, should the requested State abbreviation contain also an abbreviation of the territorial sub-unit. For example, a case sent by the requesting State to California having US(CA) as part of the functional iSupport number, when internally referred to Nevada, would never have a "NV" reference in the iSupport number.

16. Philippe Lortie noted that for Canada the situation as concerns territorial sub-units was similar but that Canada was likely to use the system of a Federal Central Authority directing cases to the local central authorities only when the location of the debtor in Canada is not known to the requesting State. He advised that the way the unique iSupport number reference to States with territorial sub-units had originally been thought of was to include also an abbreviation for the territorial sub-unit.

17. Further discussions revealed that it is not always easy for a requesting State to determine the competent territorial sub-unit in the requested State. The question arose whether the functional iSupport number could be modified later. Brigitte Voermann, Project Director iSupport, confirmed that from a technical point of view, modification of a part of the functional iSupport number would be possible, if this part is not a part of the technical iSupport number. She noted that it would not be necessary to make the requested State abbreviation part of the technical iSupport number. She added that the requested State and its sub-unit could be prominently marked alongside the functional iSupport number in the case management system. An expert from Brazil made two suggestions: (1) the functional iSupport number could contain a customisable part or (2) the abbreviation contained for the requested State could simply refer to the "Contracting State" as such and not to its territorial sub-units.

18. In the discussions that followed, it was noted that it might be better to not allow customisability and later modification in the interest of keeping the functional iSupport case number unique and recognisable reference.

19. Juliane Hirsch asked the Working Group experts whether the suggestion from Brazil to make reference to the country name only and not the territorial sub-unit would be an option. An expert from the United States had concerns with regard to the distribution of cases inside the United States, when following this approach. Juliane Hirsch reassured States with territorial sub-units that the composition of the functional iSupport number would not be the decisive factor in the system in determining the destination of a request sent through iSupport.

20. The iSupport team took note of the fact that, at this stage, whether and how the requested State abbreviation would be included in the functional iSupport number could not be concluded. There was general agreement in the Working Group that the functional iSupport case number could be composed without a reference to the "requested State" should the inclusion of the latter cause too many difficulties. That is to say the above mentioned components (1), (3) and (4) have been accepted as a "Must" in accordance with the MoSCoW" rules by the Working Group, whereas the component (2) is considered a "Should" or "Could".

Space for internal reference numbers

21. Juliane Hirsch explained that iSupport will offer Central Authorities the possibility of entering their internal reference number for the iSupport case. She specified that there will be space to enter an internal reference number given to the case by the requesting State but also the internal reference number that the requested State allocates to the case. As a result, where Central Authorities continue to allocate internal reference numbers, an iSupport case will have three reference numbers: the functional iSupport case number, the internal reference number of the requesting and that of the requested State. Providing space for the internal reference numbers is considered a "Must".

22. The Working Group welcomed the suggested approach. Several experts, such as experts from Canada, Estonia and Latvia highlighted the importance of the internal reference number for their Central Authority's work. An expert from Estonia inquired whether the internal reference number could be modified later. She specified that in Estonia, each pending case is given a new internal reference number per Calendar year. The iSupport team confirmed that the field in which the internal reference number would be entered could be edited.

When will the iSupport number be allocated?

23. Juliane Hirsch explained that the iSupport number (functional and technical) will be allocated, when the caseworker "opens" a new case in the system. She noted that the iSupport number would always be allocated in the requesting State if that State uses iSupport. Thus, all applications received through iSupport in the requested Central Authority will already have this number. However, where the requesting State does not yet use iSupport, the system will provide for the possibility to create the iSupport case number in the requested State.

24. The Working Group supported the suggested approach. An expert from Canada asked to what extent details would have to be known about the type of application when wanting to open the case and thus to obtain the iSupport number. Juliane Hirsch clarified that the allocation of the iSupport number would be the first step. The caseworker would press "open" or "new" and the case number would automatically be generated. The only information that would have to be entered, should the functional iSupport number contain an abbreviation for the requested State, would indeed be the requested State.

3. Status of a case

Limited number of statuses with a clear definition

25. Juliane Hirsch reported that the fact-finding missions as well as the questionnaire responses had shown that States currently use very different case statuses. She noted that when listed all together, it was a long list of statuses. She explained that the Advisory Board had suggested that iSupport should contain a limited list of essential statuses. The Advisory Board had further noted the importance of a clear definition of the statuses to favour their consistent use. The details had been left to the Functional Requirements Working Group to decide.

26. Juliane Hirsch stated that the iSupport team suggests the following five statuses: (1) Open, (2) Rejected, (3) On hold/ Inactive, (4) Closed and (5) Archived.

Status of a case – managed separately by each CA

27. Juliane Hirsch explained that in iSupport, in line with the current practice, identifying the status of a case will be a matter of falling within the discretion of each Central Authority, *i.e.* a case can be open in one State and closed in another. iSupport can give recommendations on the choice of statuses in the help text besides the status field, but will not interfere with the Central Authority's discretion.

Status "open"

28. Juliane Hirsch noted that the fact-finding missions had shown that Central Authorities follow slightly different practices when it comes to deciding when a case should be "opened". Central Authorities regularly make an initial check of whether the application received and the materials provided by the applicant are sufficient to "open" the case. Juliane Hirsch emphasised that the same kind of discretion could be used in the case management with iSupport. However, the moment the case data is entered and a new case is created in iSupport, the first available case status would be the status "open".

29. Several experts reported on the practice in their Central Authorities. An expert from France noted that in the French Central Authority, a case would only be opened when the application was complete and all documents had been received from the applicant, *i.e.* when the application was ready to be sent to the requested State. She indicated that the French Central Authority could however be flexible and that she would not oppose the suggestion made for iSupport. Similarly, an expert from Latvia noted that in their Central Authority a case would only be considered open when all documents had been received. She also indicated flexibility as to the iSupport status suggestion. An expert from Czech Republic ask whether in iSupport a case could be created without it having to be sent to the requested State (right away). This was confirmed.

30. An expert from the United States of America suggested the introduction of an "inactive" status for iSupport to mark cases that were not yet ready to be processed. Experts from France and Canada agreed. Juliane Hirsch asked, whether in the interest of keeping the number of available statuses in iSupport limited, it would be an option to create a sub-category for the status "open" which could be called "incomplete". The Working Group agreed with this suggestion.

31. An expert from Germany noted that the German Central Authority receives the applications not directly from the applicant but pre-checked from the courts. The courts fill in the Regulation forms Annex VI and VII (part B) and send them to the Central Authority. He referred to the discussions, which took place during the first Working Group meeting regarding the external access of competent authorities. He noted that it should be possible to enter data in relation to the case before the Central Authority "opens" the case. Juliane Hirsch clarified that whatever solution was found with regard to the access of external competent authorities, feeding in information on the case and saving the data in iSupport could be made possible prior to the Central Authority handling the case in iSupport. She

explained that the information could be saved under a temporary reference number until the Central Authority decides to open the case in iSupport and the system allocates the iSupport case number.

Status “rejected”

32. Juliane Hirsch explained that the status “rejected” was meant to be used when it is manifest that the requirements of the Regulation / Convention (or other instrument, if applicable) are not fulfilled. To use this status, the case would have to be opened first. This way, the case would have an iSupport number and could be traced in the system.

33. An expert from Brazil asked whether this status would make reference to applications the processing of which in accordance with the Convention can be “refused”. This was confirmed.

34. An expert from France explained that, in the current practice, when it is manifest that the requirements of the Regulation / Convention are not met, the case would never be opened. Juliane Hirsch noted that the suggestion made by the iSupport team for the “rejected” status was guided by the idea to give Central Authorities the possibility to keep track of “rejected/refused” cases. Opening the case would allocate an iSupport number. She added that if a Central Authority receives a misdirected application, which has nothing to do with international maintenance, and in the current practice would simply returning this mail to the sender, iSupport would not hinder the Central Authority to continue this practice.

35. An expert from Estonia asked whether a “rejected” case could be “re-opened”. Juliane Hirsch confirmed that the status could be changed to “open”.

36. An expert from the United States of America highlighted the importance of having very clear definitions for each of the statuses. She noted that having listened to the discussions on the status “rejected” she had the impression that there was a mixture of different categories of cases. She strongly recommended refining the status description before the tender was being finalised. The Working Group agreed with the need for further refinement of the definitions.

37. An expert from Canada added that the option of making the statuses extendable in the future should be considered. The iSupport team confirmed that in the course of the project development, including the piloting phase, the list of statuses could remain open to be revisited. It was noted, however, that, ideally, once the iSupport case management system would be finalised the “statuses” should not be modified, since that would *inter alia* affect the statistics.

38. An expert from Estonia asked whether a case in which the debtor moves from the requested State to a third State in the middle of the enforcement process would be considered “closed” or “rejected”. Juliane Hirsch confirmed that this case would in iSupport have the status “closed”.

Status “on hold / inactive”

39. Juliane Hirsch noted that the fact-finding missions had shown that some Central Authorities would close a case once no further active intervention from the Central Authority is needed and the creditor is receiving payments. Other Central Authorities tend to monitor payments for a certain period and some might even keep the case open for years until the debtor has made the last payment. Juliane Hirsch explained that separating open active cases from open inactive cases by giving the latter the status “on hold /inactive” may be very useful for the statistics and also as a management tool to better determine the work share between caseworkers.

40. A number of experts, including experts from Germany, the Netherlands and the United States of America considered such a status unnecessary. An expert from Estonia noted that they would currently close cases where no further activity was needed but that

they might make use of the status “inactive” in iSupport. An expert from Canada explained that the Central Authority in British Columbia currently uses such an interim status and that it would be good if iSupport could offer an equivalent.

41. Juliane Hirsch noted the different views on the necessity of this status and suggested to take the status “on hold / inactive” out of the list of main statuses and make it a sub-category of the status “open”. The Working Group agreed.

Status “closed”

42. Juliane Hirsch explained that the status “closed” in iSupport would be used for cases in which the Central Authority decides to no longer take any action. As a consequence of choosing this status in iSupport, the case will no longer be editable. However, all case data would remain in the system and could be viewed. Should the caseworker want to make changes or additions to the case, the case would have to be re-opened, *i.e.* the status will have to be changed to “open”. Juliane Hirsch recalled that it would remain the discretion of the Central Authority when to consider a case “closed”. She added that it was envisaged to create a list of reasons for the closure as sub-categories to the status “closed”.

43. The Working Group supported the suggestions.

44. An expert from Brazil noted that in their current practice they use an additional status, which would indicate that the Central Authority had done everything they could to conclude the case successfully but that the case could not, due to external reasons, be processed further. He stated that it would be important to include this option in iSupport, but indicated that it would be sufficient if there was a relevant sub-category under the status “closed” among the listed reasons for the closure.

45. Juliane Hirsch stated that the individual needs of States could indeed be met with corresponding sub-categories of the status “closed” as had been discussed earlier for the status “open”. She noted that it would be left to the individual Central Authorities whether they might make use of all or certain of these sub-categories in their daily work or whether they would solely use the mandatory main statuses. In any case clear definitions would assist in promoting a uniform use of the different statuses and sub-categories.

Status “archived”

46. Juliane Hirsch explained that the status “archived” would be chosen for cases, which have been closed for a while and whose data does no longer need to be immediately accessible. She noted that the consequence of choosing the status “archived” would be that the case data would be removed from iSupport to a separate database (national solutions). She emphasised that the data would be moved and not yet deleted. After how many years of storage, the data would in the end be deleted on the separate database will depend on the applicable archiving laws in each State concerned. She highlighted that all that would remain visible in iSupport of the archived case would be: the iSupport number, the date of archiving, full name of the debtor and the full name of creditor.

47. The Working Group agreed with the suggestions. An expert from the Netherlands noted that they would also keep the date of birth of the parties concerned in their system when archiving the case. An expert from Norway suggested that in addition the internal reference number should be kept not just the iSupport number. An expert from Canada explained that he would have to verify that the suggestions would comply with the internal privacy rules and promised to get back to the Group as soon as possible.

48. Before concluding the meeting, Juliane Hirsch asked whether the participants would see the need to add an additional status to the suggested list. An expert from the Netherlands stated that in the Netherlands a further status would be used to identify cases, which were ready for collection of maintenance. She added that it was valuable for the caseworker to know where the case stands and to be able to grasp immediately whether the case before her/him had just been opened or was waiting for an exequatur or for the

enforcement. Juliane Hirsch asked whether indicating this in the list of sub-statuses under the status “open” could be sufficient. The expert agreed.

49. Juliane Hirsch explained that the further items on the agenda would, due to a lack of time, be moved to the third meeting scheduled for 2 February 2015. She recalled that the participants are kindly asked to send any comments they might have on the draft report of the first meeting to Marie Vautravers (mv@hcch.nl) before Wednesday, 28 January 2015. She further repeated that any additional comments on topics dealt with, should internal discussions bring about new aspects, would be welcome. She stated that the draft report of the second meeting would be available in the following week.

50. Philippe Lortie thanked all the experts for their contributions and closed the meeting.

