



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 (5) – 9 February 2015 Meeting

Report of Meeting n° 5

List of Participants

Experts	iSupport Team
Natasha BUTLER (France) - substituted Cameron COWPER (Canada) - excused Daphne De WIT (The Netherlands) Paulo GONCALVES (Portugal) 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) Marielle RICHERT (France) - substitute Siri RISNES (Norway) Hannah ROOTS (NCSEA)	Philippe LORTIE Brigitte VOERMAN Juliane HIRSCH (Chair) Marie VAUTRAVERS

1. Introduction

1. Philippe Lortie, First Secretary, welcomed the participants to the fifth meeting of the Functional Requirements Working Group and opened the meeting with a roll-call.

2. Follow-up – Last Meeting

2. Philippe Lortie indicated that written comments submitted by the expert from the United States of America, as announced last week, had been shared with members of the Working Group. Furthermore, he mentioned that the iSupport team had sent an e-mail to members of the Working Group with regard to Annex VI of the Regulation and the application of Regulation rules to Central Authority co-operation in relation to the recognition and enforcement of decisions from third States. He indicated that the note attached to the e-mail summarised the thinking of the iSupport team on the breadth of the issues that will have to be taken into consideration when developing the iSupport system

in relation to Annex VI. He also remarked that the note could be useful to those attending the meeting that will take place in Brussels on 12 February at which the guidance for filling in Annexes VI and VII will be discussed.

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 indicated that they have concerns with regard to the possibility to search a case in iSupport when a name has special characters such as “accent grave” and “accent aigu”. Juliane Hirsch explained that, as far as she understood, the system would be language neutral meaning that it would be possible to include special characters from any languages. She noted that some names could be written in the database differently depending on the availability of special characters in the Central Authorities concerned. She referred to the use of alias in this context. Brigitte Voerman, iSupport Project Director, explained, subject to verifications with the developer, that it could be possible to use a wild card to facilitate the search of names with special characters. For example, the use of a question mark can replace a letter in a name so that any letter or special character can replace the question mark. An expert from Estonia asked whether a wild card could replace a set of letters. An expert from the public body of Finland indicated that in many systems it is possible to use an asterisk as a wild card for the combination of any two characters or more instead of a question mark which is limited to only one character. Brigitte Voerman remarked that this was indeed possible but that the system could sometimes be slow to respond to these complex queries. The expert from the public body of Finland explained their current practice which consists of writing the names with the basic letters without the special characters with a view to facilitating searches. Juliane Hirsch recalled that the system could also do combined searches, as discussed the previous week, which would provide some assistance. She took note of these issues with a view to finding proper solutions.

3. Items for discussion / decision – Continuation of the discussion of the implementation of Regulation and Convention forms in iSupport

Discussions of Regulation Annex VI

5. Juliane Hirsch resumed the discussion of Annex VI. She suggested to start the discussion with Part B where it was left at the last meeting. She recalled in relation to points 6.1. and 6.2. that it is possible to tick both boxes at the same time. She indicated that the new version of the commented form will so indicate. She mentioned that the information under point 7. is a mandatory requirement. In relation to the applicant, she explained that there is a reference for natural persons under point 8.1. and another one for public bodies under point 8.2. She mentioned that either one would need to be filled in. She noted that the minimum requirements under point 8.1. would be the surname, the given name(s) and the date of birth. She indicated that the place of birth is not a minimum requirement according to Article 57 of the Regulation. She indicated further that points 8.1.3. to 8.1.6. are not mandatory requirements for the purpose of the Regulation. Therefore, iSupport would not block the sending of a form if this information was missing. She indicated that the asterisk at the end of point 8.1.3. signals that the identity number or the social security number should be transmitted if available.

6. An expert from Norway indicated that to be able to register a case in their national system they would need to know the nationality. It was explained that if they do not obtain this information through the form they would ask the parties directly. Juliane Hirsch explained that under both the Regulation and the Convention nationality is not a minimum requirement. Philippe Lortie explained that the issue was discussed in the forms committee at the time of the negotiation of the Convention. He indicated that the work around this situation would be for Central Authorities to follow-up by e-mails or by messages if they were both using iSupport. He noted that the form could not be rejected because an indication of the nationality is missing. Juliane Hirsch mentioned that if information were

available in the system in relation to the fields marked by a yellow arrow that the system would fill in these fields automatically. Therefore, if nationality appears in the system of the requesting State then this information would appear in the form.

7. An expert from the Netherlands referred to an example, where child maintenance was requested through a public body. The name of the mother of the child receiving the payment would figure nowhere in the form when the public body was listed as applicant under point 8.2. and nothing was entered under point 8.1. She asked whether it would be possible to provide at least for the name of the mother under point 8.1. They would not need the date and place of birth. An expert from the public body in Finland confirmed that when they send applications they only provide information under point 8.2 and not point 8.1. but if necessary, as indicated by the expert from the Netherlands, they could provide the name of the mother. The expert from Finland further explained that in the case of applications to certain States they include the name of the child under point 8.1. with a view to obtaining legal aid because the public body is not entitled to it. The discussion revealed that there was a wish from some States to be able to provide information under both points 8.1. and 8.2. at the same time. Philippe Lortie explained that if both points 8.1. and 8.2. are filled in, one would not know who is the “applicant” between the two. He further explained that in the context of the Regulation it is difficult for requesting States to know about other non-mandatory requirements of requested States. Over time, States will know that the Netherlands requires the name of the mother and will hopefully provide this information in a separate document in order not to confuse the forms. Finally, he recalled that the system will provide a fair number of alternative solutions by using notes and messages between Central Authorities to exchange information which is not always available through the forms. In summary, Juliane Hirsch indicated that the iSupport team will pay close attention to the result of the work undertaken in Brussels with regard to the guidance to fill in the forms as it would be very useful when programming iSupport..

8. An expert from NCSEA indicated that in relation to all the very useful points made that it was important to consult the States’ Country Profiles to know what additional information should be provided to the requested State. She also suggested adding notes to screens to remind the caseworker for example that the nationality of the applicant should be provided in the case applications transmitted to Norway. She agreed with the alternative solutions mentioned by Philippe Lortie but indicated that where possible caseworkers should provide the needed information in the first instance to avoid back and forth exchange of information. She suggested in cases where the public body is the applicant that the information concerning the name of the persons concerned with the case could automatically default into a note field attached to the application.

9. An expert from the Netherlands asked whether there would be two applications or only one application in the case where the public body was the creditor for a certain period of time and then the mother was the creditor for another period of time. She wondered if that was handled in a single application whether one could fill in both points 8.1. and 8.2. at the same time. Experts from Estonia and from the public body of Finland explained that in their respective practices they would need two different application forms since a fair amount of information would be different between the two forms such as the amount of arrears, bank account numbers, reference numbers, etc. In the case of Finland, it was explained that if there would be two applications, one from the creditor and one from the public body, the application from the creditor would be handled by the Finnish Central Authority and the public body would send directly its own application regarding the debt which is owed to the public body. The expert from Estonia asked whether there would be only one case number in iSupport in this kind of situation. An expert from the Netherlands gave the example of a case where the custody of a child went from the grandmother to the mother and back to the grandmother. She also wondered whether this would be considered a single case or different cases under iSupport. Juliane Hirsch indicated that this question would be looked into during a later call when revisiting the definition of a case. Philippe Lortie mentioned that these very interesting questions will be discussed in the light of the paper of the United States of America distributed earlier that day.

10. An expert from the Czech Republic indicated that in relation to the public body being the applicant, that information appearing under point 11 of the form with respect to the person for whom maintenance is sought, could be useful to resolve the status of the mother in relation to the public body. Juliane Hirsch indicated that applicable law will determine who is the claimant.

11. Juliane Hirsch continued the discussion of the form in relation to points 8.1.7. and 8.1.8. She mentioned that in the case of domestic violence that a "care / of" address will be entered under point 8.1.7.1. and that the relevant sensitive information will be filtered. She explained that the information about legal aid should be provided if available but should not stop the application from being sent if the information is not available. She then reviewed the information under point 8.2. and pointed out that the telephone / fax / e-mail would be useful information to have but that information is not required by the text of the law. Philippe Lortie added that if the two States involved were using iSupport the indication of an e-mail address would not be necessary since the two States involved would be sending each other messages using the iSupport system. On the other hand, he mentioned that if the requested State was not using iSupport the indication of an e-mail address would be necessary. An expert from NCSEA indicated that it would be very useful information to include when, for example, documents need to be faxed. It was decided to leave the information marked under point 8.2.3. as necessary information on the basis that that not providing the information would not block the form from being sent.

12. Juliane Hirsch then turned to the information listed under points 8.2.4. and 8.2.5. which requires the provision of the name of the person representing the public body and to the name of a person in the public body who is responsible for following up the application. Juliane Hirsch explained that this information is necessary when the public body is not acting as a Central Authority because otherwise the information concerning contact persons for the application would be provided under point 2. of the form. She indicated that the application would not be blocked from being sent if this information was not provided but that it would be good practice to include it.

13. Juliane Hirsch continued the discussion of the form by providing explanations with regard to the information appearing under point 9. She highlighted that the name of the defendant was required information but that the rest of the information listed should be provided only if available. That is why it was marked with a yellow arrow. She explained that the date of birth could be necessary to distinguish two persons bearing the same name. Thus, as this is rather important information, it is recommended to include a tick box where the caseworker would indicate that this information is unknown in the screens dealing with this information. This would make certain that this crucial but not mandatory information is not overlooked. An expert from the Netherlands indicated that in her country it is impossible to search for a defendant without a date of birth. She indicated that without the date of birth for the defendant it was difficult to find the person in the Netherlands and that the missing date of birth could eventually lead to the rejection of the application. An expert from Estonia indicated that other information apart from the date of birth such as the identity number (which sometimes includes the date of birth) could be useful to locate the defendant. An expert from the United States of American indicated that the date of birth and the social security number would be critical information for the purpose of locating the defendant. She suggested that this information be highlighted somehow to show that it is critical to have with a view to ensuring successful cases.

14. Philippe Lortie provided a word of caution to the effect that practice in this context should not lead to stronger requirements than what the text of the Regulation and Convention provide. He recalled the point he made earlier about the use of alternative solutions in these situations such as the use of the messaging system included in iSupport. He also recalled the point made by the expert from NCSEA about the use of the Country Profile under the Convention for which regrettably there is no equivalent under the Regulation. Finally, he indicated that the last thing we should do is to make this information mandatory in the form where the text of the Regulation and of the Convention does not provide for such. It was decided to somehow highlight this information in the system (*i.e.*,

defendant's date of birth, ID number, social security number and address) as critical but not mandatory and to include, as suggested earlier, the "unknown information" tick boxes for the relevant fields.

15. Juliane Hirsch then turned to the issue highlighted in the form where the defendant could be the person for whom maintenance is sought. This would apply for example when the debtor, as applicant, seeks the suspension of the enforcement of a maintenance decision. She explained that in the case of domestic violence the information concerning the defendant would need to be filtered. She explained that because this person would be identified as a victim of domestic violence in the "person screen" that relevant sensitive data would be filtered everywhere in all of the forms.

16. An expert from Estonia asked in relation to point 10. whether information captured in iSupport such as the name of the employer or phone number and address of the defendant would be automatically filled in. Juliane Hirsch explained that all information concerning the defendant (debtor) captured in specific boxes in the system corresponding to specific fields under point 9. would be automatically populated in the form. Furthermore, there would be a free text field in the system where it would be possible to enter information necessary to fill in point 10. She also indicated that other specific information about the defendant (debtor) captured in iSupport that does not correspond to specific fields under point 9. could be automatically filled in under point 10. separated by comas.

17. Juliane Hirsch then moved to point 11. which deals with persons for whom maintenance is sought. She explained the use of points 11.1. and 11.2., which is the same system as under the Convention forms, where the contact details of these persons are already provided under points 8. and 9. However, she explained that if the person for whom maintenance is sought is neither the applicant nor the defendant it would be necessary to provide information about this person under point 11.3.1. She remarked that it was possible to provide the names of three persons in the form and if more than three were necessary iSupport will provide an attachment to the form with the additional names and related information.

An expert from the Netherlands mentioned an example where the date of birth was rather important. She reported a case in which the children resulting from two different marriages involving the same man had the same names. Juliane Hirsch noted that the red arrow marking in the form may be confusing. She explained that it was meant to indicate that the date of birth is required information but not the place of birth which is not provided for in the text of the law.

18. An expert from Estonia remarked in relation to points 11.1. to 11.3. that public bodies usually leave those tick boxes empty because they do not have custody rights with regard to the persons for whom maintenance is sought. An expert from the public body in Finland explained that for the last year they have been ticking point 11.3. "the applicant" as the representative of the person(s) for whom maintenance is sought but with the understanding that they are not the person with parental responsibility per se or the guardian of a protected adult. He explained that they did not tick this box in the past but that they have now changed their practice. He further explained that the dynamic pdf forms developed by the EU require this information. Further to a question from Philippe Lortie, the expert from Finland explained the validation system built into the pdf dynamic forms. He indicated that if some mandatory information is missing in one page it would not be possible to go to the next page. Philippe Lortie asked members of the Working Group whether the Central Authorities designated under the 2009 Regulation were consulted with regard to these validations. An expert from Finland indicated that the EU had asked them for comments. An expert from Estonia indicated that they were not consulted. Juliane Hirsch thanked the expert from Finland for bringing to our attention the validation system built in the EU pdf dynamic forms. She indicated that whatever validation found in these forms should be replicated in the iSupport system as well as any guidance that can be derived concerning these forms. In the interest of saving time with regard to the discussion of the EU forms, Philippe Lortie suggested to the experts to send the iSupport team written

comments in which they could indicate if they have different views than the EU with regard to specific validations that have been included in the EU pdf dynamic forms.

19. Juliane Hirsch continued the discussion of Annex VI under point 12. with regard to the debtor. She explained that the same system of tick boxes as for the “person for whom maintenance is sought” was provided for the debtor. She indicated that the date of birth of the debtor was not mandatory information but, as previously suggested, a note in the system would indicate that this information is crucial and a “unknown information” tick box would be included in the system for this information.

20. Juliane Hirsch then moved to point 13. which deals with information regarding payment if the application is made by the creditor. She recalled, as suggested by the expert from Portugal a week earlier, that payment details should be filtered in cases of domestic violence. She explained that either point 13.1. or point 13.2. should be filled in. Finally, she remarked that additional information could be provided in a free text field to be displayed under point 14.

21. An expert from Estonia suggested that reference numbers from public bodies such as the one in Finland be included under point 14. She specified that the reference number for the case may not be the same as for the reference number for the purpose of bank transfers. An expert from the public body in Finland indicated that when they use this form they fill in Part A as an applicant which allows for the inclusion of a reference number. He indicated that this discussion could be useful in the case of public bodies not acting as applicants. He pointed out that in the case of Finland the case number is used as the reference number for the purpose of bank transfers. Juliane Hirsch took note that the reference number for the purpose of bank transfers could be included under point 14.

22. An expert from Latvia explained that her Central Authority also acts as a public body. She explained that they usually include their reference numbers (*i.e.*, case reference number and public body reference number) under point 2.6. Further to questions from Juliane Hirsch and Philippe Lortie the expert from Latvia confirmed that the two numbers would refer to the same application and that the public body reference number would be a cross-reference number associated with the case reference number. It was concluded that the public body reference number would be identified as such as a cross-reference number.

23. Juliane Hirsch invited experts to make comments in relation to any point under Annex VI. An expert from France asked a question in relation to point 7. of the form with regard to an application for recognition and enforcement for which there would be more than one decision. She asked whether there would be enough space to make reference to all these decisions. She specified that there could be an initial decision and then an appeal modifying the initial decision. An expert from Estonia elaborated further by indicating that in addition to the example given by France there could be as many initial decisions as there would be children covered by the application as well as modified decisions and appealed decisions; she gave an example of a case with nine relevant decisions, three decisions for each of the three children. Further to a question from Juliane Hirsch the expert from Estonia confirmed that the current EU dynamic pdf forms would have enough space to provide all this information. Philippe Lortie recalled that this matter had been discussed in the Form Committee of the Convention. It was understood that in the example given by the expert from Estonia that it would be possible to either make separate applications for each child or to lump all these decisions into a single application. He indicated that under the Convention Abstract of a decision form it was possible to include different decisions in relation to different children. With regard to the question from the expert from France, Philippe Lortie explained that under the Convention it is possible to enforce a decision even if it is subject to an appeal. He remarked that the appeal decision once decided would then be part of the same case. Further to clarifications, experts from France and Portugal indicated their concerns with regard to including both the recognition and enforcement of first instance as well as consecutive decisions modifying an earlier decision. On this point, in addition to taking into consideration the guidance that will be developed by the EU, Juliane Hirsch suggested listing the different decisions under point 7. in chronological order. Brigitte Voerman confirmed this would be possible but then she indicated that the amount

of arrears and the amounts to be enforced could be different from one decision to another. On this issue, an expert from Finland indicated that what matters most in fact is not the information found in Annex VI but rather the information contained in the extract of a decision. Philippe Lortie confirmed that whether the latest modified decision contains all the necessary information to proceed with the enforcement or whether one needs to read the initial decision in combination with all the subsequent modifying decisions to obtain the overall enforcement picture, all this information will be captured in an extract or several extracts of decisions which is a mandatory form in the context of the EU.

24. Juliane Hirsch indicated that the question as to whether there should be different applications, as a good practice, when different children are involved, would need to be discussed again. An expert from the public body in Finland indicated that in his country it is common practice to have one maintenance arrangement per child (see Art. 3 e) of the 2007 Convention). In Finland, 85% of the maintenance obligations are established by way of maintenance arrangements. He confirmed that the practice is to list in chronological order all these different decisions relating to different children in a single Annex VI and to attach all the different extracts of decisions to that Annex VI. He confirmed that all these decisions would be considered as a single case.

Discussions of Regulation Annex VII

25. Before the closure of the meeting, Juliane Hirsch invited the experts to make comments on Annex VII which she briefly explained. An expert from Estonia asked whether iSupport would automatically calculate the total for the income and other sources of revenue that are referred to under point 11. of Annex VII with regard to financial information. Brigitte Voerman confirmed that if all the necessary information is captured in the system that this calculation should be possible and the results would be filled in automatically into the form. No other comments were made in relation to Annex VII.

26. Juliane Hirsch summarised the discussion of the forms by indicating that even though only two Regulation forms were looked at, extremely valuable clarifications, comments and suggestions were made during the meetings which will be very useful when implementing other Regulation forms and the Convention forms into iSupport. She indicated that due to the limited time available in the work plan there would be no more opportunities to discuss and examine in detail the balance of the forms. Philippe Lortie highlighted again that for the implementation of the EU Regulation forms in iSupport the EU validation policy of the dynamic pdf forms as well as the guidance currently being developed by the EU will be taken into consideration. Again he invited the experts to bring to the attention of the iSupport team any concerns they may have with regard to some of these validations. If any concerns were raised, Philippe Lortie indicated that they would be discussed with the European Commission. Experts were also invited to share comments in relation to the Convention forms with the iSupport team.

4. Other items for discussion

27. Juliane Hirsch referred to the Regulation specific requests form that we would like to amend and adopt for the purpose of the Convention. She indicated that proposals for amendments were marked in purple. She also referred to the status reports forms of the Convention that we would like to amend and adopt for the purpose of the Regulation. She indicated that in this case the proposals for amendments were marked in green. Juliane Hirsch invited the experts to provide the iSupport team with any comments they may have with regard to both proposals for amendments.

28. Juliane Hirsch concluded the discussion by indicating that it was the wish of the iSupport team to have an as detailed as possible invitation to tender but that there would be no harm if not every detail of the validation of forms was described in detail before the call for tender since there would be opportunities to discuss these details before or during the programming phase.

5. Next videoconference – 23 February 2015, 15h00 UTC (16h00 ETC)

29. Philippe Lortie reminded the experts that the next meeting will take place on 23 February at 15h00 UTC (16h00 ETC). He thanked all the experts for their very useful contributions and comments and wished those taking time off a happy winter holiday. He closed the meeting at 17h40 ETC.

