

BACKGROUND NOTE

**FIRST MEETING OF THE EXPERTS' GROUP ON
INTERNATIONAL TRANSFER OF MAINTENANCE FUNDS**

proposed by the Permanent Bureau

*Document for the attention of the Experts' Group on
international transfer of maintenance funds
(meeting of 16 -18 September 2019)*

Background note

I. Introduction

1. The HCCH *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (2007 Convention) put in place rules for recognition and enforcement of decisions as well a system of administrative cooperation using a network of Central Authorities to provide assistance with applications for the international recovery of child support and other forms of family maintenance. Today, 41 Contracting Parties are bound by this Convention. It contains specific provisions related to maintenance payments. Article 6 (2) (f) of the Convention states that, in relation to the applications they receive, Central Authorities shall take appropriate measures “to facilitate the collection and expeditious transfer of maintenance payments”. In addition, Article 35 “Transfer of funds” states:

“(1) Contracting States are encouraged to promote, including by means of international agreements, the use of the most cost-effective and efficient methods available to transfer funds payable as maintenance.

“(2) A Contracting State, under whose law the transfer of funds is restricted, shall accord the highest priority to the transfer of funds payable under this Convention.”

2. In March 2018, the Council on General Affairs and policy (CGAP) of the HCCCH instructed the Permanent Bureau (PB) to update existing research on international transfers of maintenance funds. This followed a request from a Member, which remarked that an increasing number of authorities were no longer able to accept cheques as child support payments.

3. This resulted in the draft by the PB of Preliminary Document No 11¹ (Prel. Doc. No 11), which presented the experience of Central Authorities in relation to international payments before providing updated material on means of international transfers of funds and suggesting some possible directions for an Experts’ Group. Prel. Doc. No 11 emphasised the diversity of models for the recovery and disbursement of maintenance funds. It also remarked that regulation has made it easier to transfer funds abroad, at least within the European Union. However, the document also highlighted that it can remain expensive to transfer small amounts of money abroad, even though increased competition and new technology hopefully point to savings for customers.

4. The 2019 CGAP approved the establishment of an Experts’ Group on international transfers of maintenance funds, with the primary task to produce an inventory of good practices. In preparation for the September 2019 meeting of this group, the PB invited HCCH Members to submit descriptions of solutions that they already have in place to facilitate the transfer of international maintenance.

5. The purpose of this background note is to assist the discussion at the September 2019 meeting, as a complement to Prel. Doc. No 11. It presents recent developments in international payments as well as responses that were received from Members. Finally, the document provides an update to the possible topics for discussion that were suggested in Prel. Doc. No 11. A revised version of this note, taking into account the discussions of the Experts’ group could be provided for the purpose of CGAP 2020.

¹ “Research in advance of a possible Experts’ Group on international transfers of maintenance funds”, Prel. Doc. No 11 of December 2018 for the attention of the Council on General Affairs and Policy, available on the HCCH website < www.hcch.net > under the Governance section then Council on General Affairs and Policy.

II. Recent developments in international payments

6. In the European Union (and EEA), Regulation 2019/518² now enables payers to be better informed when it comes to currency conversions: payment service providers must clearly inform the payer of the estimated charges for currency conversion services applicable to a credit transfer. Payment service providers must also clearly communicate to the payer the estimated total amount of the credit transfer in the currency of the payer's account, including any transaction fee and any currency conversion charges. They must also communicate the estimated amount to be transferred to the payee in the currency used by the payee. These provisions will apply from 16 April 2020.

7. In the USA, the Federal Reserve announced on 5 August 2019 that it would build a real-time interbank payment system, "FedNow", to be rolled out from 2023. This is meant to cover all banks in the USA, in addition to another system, The Clearing House (tch), which is owned by 25 large banks.³

8. Much press was devoted to the announcement by Facebook on 18 June 2019 that it would launch a digital currency within a year. The currency, called Libra, would allow individuals to spend and transfer money cross-border with close to zero transaction fees. Libra is therefore partly targeted at the \$ 613 billion market for cross-border remittances.⁴ So far, the project has received backing from 28 prospective founding members including financial firms, online services, cryptocurrency wallets, venture capitalists and charities, but no banks.⁵ It remains to be seen whether Libra will get off the ground, as regulators in several countries have voiced concerns that it would allow a private company to set up the equivalent of a national currency. At the time of writing, three founding backers were considering withdrawal from the project in the face of increased scrutiny from State authorities.

9. Initiatives using blockchain such as Ripple (see Prel. Doc. No 11) have also continued to receive attention and to display their ambitions.⁶ However, doubts are still raised by traditional stakeholders of the international payment system. For instance, the German Bundesbank concluded after a trial project using blockchain to transfer and settle securities and cash that it proved more costly and less speedy than the traditional way.⁷

10. As described in Prel. Doc. No 11, new entrants are offering solutions to transfer money across borders more cheaply than banks, which face the increasing costs of compliance with anti-money laundering rules. They are therefore trying to increase their oversight by reducing their network of correspondent banks, which support most international payments.⁸ The number of active correspondent relationships between banks fell by 16% in the six years to 2018.⁹ Banks are therefore faced with regulatory pressure and competition but remain, however, the most trusted type of company to securely manage their clients' data,¹⁰ in comparison with other payment providers, mobile network operators, retailers, internet providers and social media.

² Regulation (EU) 2019/518 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the Union and currency conversion charges. Prel. Doc. No 11 already mentioned Regulation No 924/2009, which raised the threshold up to which banks must apply the same charges for domestic and cross-border electronic payment transactions in euros to € 50,000. States outside the euro area may also extend the application of this Regulation to their national currency.

³ "Overdue", *The Economist*, 10 August 2019.

⁴ MURPHY Anna, "What is Libra, Facebook's new digital coin", *Financial Times*, 18 June 2019.

⁵ "Coin flip", *The Economist*, 20 June 2019.

⁶ <https://www.bloomberg.com/news/articles/2018-11-13/ripple-is-destined-to-overtake-swift-banking-network-ceo-says> (13 November 2019).

⁷ <https://ftalphaville.ft.com/2019/05/29/1559146404000/Blockchain-officially-confirmed-as-slower-and-more-expensive/> (29 May 2019).

⁸ See Prel. Doc. No 11, paragraph 21.

⁹ "Special FX", *The Economist*, 11 April 2019.

¹⁰ Poll quoted in WOLF Martin "Facebook enters dangerous waters with Libra cryptocurrency", *Financial Times*, 26 June 2019.

III. Summary of responses to 2019 survey

11. Prel. Doc. No 11 identified two major models when it comes to international payments of maintenance:

- A decentralised model, with payment directly from an enforcement authority or the debtor to the creditor or a representative. This method is the prevailing model among Contracting Parties to the 2007 Convention which have filled in a country profile.
- A centralised model, with funds going through the requesting Central Authority(ies) or another public body. This is the case in the USA with the State Disbursement Units and in Norway with the Collection Agency of the Labour and Welfare Administration.

Some countries also have a hybrid model, with payments made either through the requesting Central Authority or directly to the creditor. This is the case in the Czech Republic. In fact, this model may, in practice, be more widespread as some countries with a decentralised model may nevertheless allow payments to be made directly to a public body which is subrogated to the creditor. The best practices and possible solutions discussed by the group must be relevant to all models.

12. Responses in reply to the PB's request were received from the following countries, representing the two main models highlighted above: Bulgaria, Canada, Croatia, Estonia, Finland, Norway, the Slovak Republic, Switzerland, the United Kingdom and the United States of America (USA). In its reply, the Slovak Republic notes the following benefits for the transfer of funds through the requesting Central Authority: the capacity to monitor the regularity and amount of payments as well as the bank fees and exchange rates. The requesting Central Authority is also better placed than the parties to interact with foreign correspondents in case of problems.

A. Use of cheques

13. Several respondents (Estonia, Finland, the Slovak Republic and Switzerland) mention the high cost of cheques or indicate that their banks no longer accept them. Finland indicates receiving 800 cheques per year (mostly from the USA and Australia) and highlights the costs of processing and the risks that cheques may be lost in transit. For Canada, cheque is still the most common international payment method: a cheque may cost C\$ 5 to produce, whereas a bank transfer may cost up to C\$ 15-25. In the USA, most states send child support payments to other countries by cheque only. Very few states in the USA can receive incoming international bank transfers. Finally, some countries also restrict the receipt of cheques in certain currencies, as Norway reports that it cannot issue cheques in Norwegian kroner to a few countries.

B. Reported issues

14. Two main types of difficulties are reported by respondents: those that are of an organisational nature and those that are linked to the international payment system. Among the latter, in addition to the high cost of cross-border bank transfers, is that relevant information is often missing from foreign payments. Three respondents also mention instances where transfers are stopped by banks while they check for compliance with sanctions and anti-money laundering rules. In this respect, the USA notes that its child support programmes are required by financial institutions to provide additional specific information about any international recipient of a payment. Such specific information on individual recipients is not contained in automated American child support systems and the necessary modifications have so far only been undertaken by one state in the USA. In addition, maintaining additional personal information raises concerns in terms of ensuring the accuracy of the information over time. In contrast to payments to an individual, child support payment to a foreign Central Authority should not require screening and can therefore be more easily managed.

15. Organisational difficulties include obtaining the bank details of applicants. The Slovak Republic reports that it can be difficult, time consuming or even impossible. Norway also reports that it can be difficult to know whom to contact in case of questions about a specific payment, particularly in relation to payments from public authorities. The same communication issues also affect the ability to know in which currency to effect a transfer (in case the creditor has several accounts) and the capacity to use the correct address to send information about bundled payments (see below 19).

c. Solutions put in place by respondents and suggested best practices

16. Confronted with the challenges of the transfer of money abroad, national authorities have come up with a number of pragmatic solutions. The first obvious solution, as highlighted by several respondents, is to be able to rely on national points of contact when in need of information. Among Central Authorities that handle payments, several have established relationships with banks or payment providers in their own country. Figures shared by one respondent, although they cannot be published, indicate that the cost of sending and receiving payments in foreign currencies is not negligible (over € 30,000 per year for under 19,000 child support payments per year).

17. Switzerland, which has experience with several pragmatic solutions, highlights that, while international bank transfers can involve considerable fees, they remain the least costly option in comparison with more time-consuming solutions. In two instances, Switzerland has involved its National Bank with receiving payments from abroad. The first involves Swiss embassies in the USA and Canada, where payments are received and treated before being sent to the National Bank account of the Swiss Central Authority. Instructions can then be given to transfer the individual amount to the individual case. The other instance concerns payments received from Australia, which are directly sent to the Swiss National Bank and then despatched according to instructions from the Swiss Central Authority. As with the issue of debit cards to creditors, Switzerland emphasises that these are all temporary, resource-intensive solutions.

18. Several respondents report having opened bank accounts abroad, although Sweden closed its accounts in Germany and the United Kingdom and now only refers debtors to an account in Sweden and an account in Finland. Norway points out that opening an account in the USA has led to reduced costs and to custodial parents receiving payments more quickly. Noting the positive experience of the Netherlands and Norway, the USA is offering to assist other countries in opening US bank accounts.

19. Bundling several individual payments into one larger payment is also one solution experienced by several respondents. Information detailing the individual payments is sent separately. Finland has put in place such a system with Australia. Norway has a similar arrangement with Australia and Denmark. They exchange the list of payments through a website. Switzerland remarks that such bundled payments must occur with sufficient frequency in order not to inconvenience recipients. They can therefore only be put in place between countries where there is a certain number of cases, so that regular payments are economical.

20. If the amount of information that needs to be attached to a payment, such as debtor or case number, varies among countries, Sweden has put in place a solution that helps to match a payment with a case, for debtors who have a Swedish bank account. Bankgiro is a communication system for processing payment assignments via the Internet, directly to and from an accounting system. In this respect Finland also suggests that payments should be made as account-to-account transfers using SWIFT and BIC and quoting a reference whenever possible, with each payment made for a specific purpose and client.

21. One long-term solution is mentioned by the USA, which has completed a feasibility study on a central international payment solution. Such a facility would eliminate the need for states in the USA to make changes to their automated child support case management systems (see above 14). It would also facilitate the negotiation of lower fees and better currency conversion rates with banks, as well as the provision of multiple payment options.

22. Only two respondents wrote about their experience with currency conversions. In this respect one can wonder whether the use of bank transfers, by providing for a shorter time between the emission, the processing and the reception of a payment, has alleviated the risk of currency fluctuations. However, Sweden points the need for a dynamic system where the exchange rate of the home currency is adjusted to account for fluctuations of the debtor's currency over the course of a case.

IV. Possible topics for discussion by the Experts' Group

23. Market pressure, regulatory developments and technological change all contribute to progressively making it easier to transfer funds abroad. In the field of remittances, this is recognised by United Nations Sustainable Development Goal 10C: *“by 2030, reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent”*.¹¹

24. However, as evidenced by the respondents' replies, organisational and technical obstacles remain when it comes to ensuring the smooth transfer of international maintenance funds. In the light of their experience and requests, the following topics could be discussed by the Experts' Group:

- The role of Central Authorities or other public institutions in the international transfer of funds (including transfers as part of amicable solutions);
- Mapping of issues that occur at each level on centralised models (between debtor and Central Authority / enforcement authority, between the latter and the creditor) and on hybrid and decentralised models;
- Provision of up-to-date information (Country Profiles and contact points);
- Suggestion of a minimum data set for reference data accompanying international transfers;
- Guidelines for the proper allocation of fees charged for international transfers and how to account for those fees in the case balance;
- Information provided to debtors and creditors concerning transfer of fund processes;
- Possibility to offer an exception to the non-acceptance of cheques for countries which have few international cases or are unable to adopt electronic bank transfers;
- Interoperability between transfer systems (including intermediaries and correspondent banks);
- Currency fluctuations and frequency of adjustments;
- Experience of users of foreign bank accounts, in particular when it comes to the reconciliation of accounts;
- Use of a single entry point for international transfers;

¹¹ The World Bank has a specific project on this issue (<https://remittanceprices.worldbank.org/en>), in partnership with the Bank for International Settlements (BIS). Both the World Bank and the BIS were unsuccessfully contacted by the PB.

- Possible experience that participants have had with non-traditional banks and other platforms;
- Compliance with international money laundering and terrorism financing regulations;
- Dialogue with banks and other institutions to reduce fees for child maintenance transfers (including the possibility to extend EU Regulation 924/2009 to non-euro countries in the EU and EEA) and ensure there is no loss of information.