

Title	Draft Country Profile for the 1970 Evidence Convention
Document	Prel. Doc. No 10 of June 2024
Author	PB
Agenda Item	Agenda Item IX
Mandate(s)	C&D Nos 47 and 49 of CGAP 2024 C&D No 48 of CGAP 2023
Objective	To report on the progress of the Working Group established to review and refine updates to the draft Country Profile for the 1970 Evidence Convention
Action to be Taken	For Decision <input type="checkbox"/> For Approval <input checked="" type="checkbox"/> For Discussion <input checked="" type="checkbox"/> For Action / Completion <input type="checkbox"/> For Information <input type="checkbox"/>
Annexes	Annex I – Draft Country Profile for the 1970 Evidence Convention Annex II – Draft Agenda for Working Group on the Country Profiles for the Evidence and Service Conventions - meeting of 28 May 2024
Related Documents	Prel. Doc. No 12B of December 2023 – 1965 Service, 1970 Evidence, and 1980 Access to Justice Conventions: Plans for the next meeting of the Special Commission

Draft Country Profile for the 1970 Evidence Convention

I. Introduction

- 1 At its 2023 meeting, the Council on General Affairs and Policy (CGAP) welcomed the proposal to develop Country Profiles for a range of HCCH Conventions, including the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (Evidence Convention).¹ Accordingly, the Permanent Bureau (PB) prepared a draft Country Profile for the consideration of HCCH Members and Contracting Parties to the Evidence Convention. The development of this draft Country Profile was based on the existing Practical Information Chart, the 2017 Country Profiles,² and the Evidence Convention requirements. The draft Country Profile also contains fields for information relating to the use of Information Technology (IT), taking into account the importance of the use of IT in facilitating the operation of the Evidence Convention.
- 2 Pursuant to CGAP's mandate at its 2024 meeting,³ a Working Group (WG) was then established to review and refine the contents of the draft Country Profile. The mandate provides that the WG would be engaged online, in the lead up to, and following, the meeting of the Special Commission (SC).
- 3 Once finalised and approved, the Country Profile will be a standardised document that will be available to Contracting Parties to complete, view and update electronically. Integrating the Country Profile electronically⁴ will enable the information of a particular Contracting Party to be readily available to users of the Evidence Convention. It will therefore further enhance the practical operation of Evidence Convention. The Country Profile will replace the Practical Information Chart for Contracting Parties on the HCCH website.
- 4 This document describes the development of the draft Country Profile in Section II and provides proposals for the SC's consideration in Section III. The current draft Country Profile is enclosed in Annex I. The agenda for the WG meeting of 28 May 2024 is at Annex II.

II. Process

- 5 On 9 April 2024, the PB circulated the draft Country Profile to all HCCH Members and respective Central Authorities designated by Contracting Parties to the Evidence Convention for comment, with a consultation period of six weeks (Consultation).⁵ Fourteen Contracting Parties⁶ provided comments.
- 6 The PB revised the draft Country Profile in light of comments received and distributed the revised Country Profile for the consideration of the WG at its meeting on 28 May 2024.
- 7 Forty delegates from 21 Contracting Parties⁷ attended the first online WG meeting, with Ms Aldana Rohr (Argentina) as elected chair. The WG agreed that some suggestions received on the draft Country Profile would be addressed following the upcoming meeting of the SC. These matters include but are not limited to privacy and security considerations regarding the contact persons at

¹ See C&D No 48 of CGAP 2023, available on the HCCH website at www.hcch.net under "Governance" then "Council on General Affairs and Policy" then "Archive (2000-2023)".

² Currently, there is a Country Profile available for Contracting Parties which is intended to assist with the taking of evidence by video-link under Chapters I and II of the Evidence Convention only, in particular in determining whether video-link is possible in a given jurisdiction from a legal and practical perspective (2017 Country Profile). States individual responses to the 2017 Country Profiles are available on the HCCH website at www.hcch.net under "Evidence" then "Country Profiles".

³ See C&D No 47 of CGAP 2024.

⁴ At the time of writing, the technical features of the Country Profile is still being explored.

⁵ See Focused Circular No 31(24) available on the Secure Portal of the HCCH website at www.hcch.net.

⁶ Australia, Brazil, Canada, Czech Republic, France, Germany, Israel, Norway, People's Republic of China (China), Poland, Portugal, Singapore, Switzerland and the United States of America (USA).

⁷ Argentina, Australia, Belgium, Brazil, Canada, China, Costa Rica, European Union, Finland, France, Germany, India, Israel, Japan, Latvia, Mexico, Poland, Korea (Republic of), Russian Federation, the United Kingdom and USA.

various authorities; language and translations issues; the use of IT, and the option for some questions to be voluntary so as to shorten the length of the draft Country Profile, ensuring its successful completion.

- 8 The use of video-link generated considerable discussion. WG delegates will need to decide on the scope of video-link information included in the draft Country Profile and whether a separate segment on video-link is required. WG delegates agreed that it would be useful to resume consideration of this issue after the meeting of the SC.
- 9 Some of the feedback received through the Consultation suggested additional technical functionality for the online Country Profile. These suggestions will be considered at a later stage of the project and will need to align with the technical features and capabilities available for other HCCH Convention Country Profiles being developed.
- 10 All PB revisions that were made to the draft Country Profile in response to the Consultation, and approved by the WG, are incorporated into the draft Country Profile at Annex I. Additional amendments to the Country Profile, suggested during the first WG meeting, are yet to be incorporated.
- 11 The PB will draft further proposed amendments to the draft Country Profile to reflect the WG discussions at the first meeting and will circulate these changes to WG members following the meeting of the SC.
- 12 The WG will reconvene following the SC meeting to refine the Country Profile with a view to agreeing a final version.⁸
- 13 As decided by CGAP at its 2024 meeting,⁹ following the meeting of the SC, and upon finalisation by the WG, the draft Country Profile will be submitted to CGAP 2025 for approval. However, if the draft Country Profile is finalised well in advance of CGAP 2025, CGAP decided that it could be approved through a written procedure and, in the absence of any objection within one month after the circulation, would be taken to be approved. It was further decided that in the case of one or more objections, the PB would immediately notify Members of any objection and the draft Country Profile would be submitted to CGAP 2025.

III. Proposal for the SC

- 14 The SC is invited to note the work completed on the draft Country Profile. The SC is invited to note that the WG will reconvene online for a second meeting to further consider the draft Country Profile. At that meeting, the WG will assess whether additional meetings are required to settle the draft Country Profile before its submission for final approval.
- 15 The SC is also asked to recommend that CGAP approve the draft Country Profile.

⁸ A date for the second meeting has not been determined. However, the meeting is likely to take place in late August or early September 2024.

⁹ See C&D No 49 of CGAP 2024.

ANNEXES

Annex I: Draft Country Profile for the 1970 Evidence Convention

1970 Evidence Convention – Country Profile

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General remarks

In preparation for the 2024 Working Group Meeting on the Country Profile (CP) for the 1970 Evidence Conventions, taking place on 28 May 2024, the Permanent Bureau has prepared an updated version of the CP, consolidating all the Feedback provided by the Contracting Parties.

[...]

I. General information

Central and other Authorities	<input type="checkbox"/> [name of your State] has one Central Authority. <input type="checkbox"/> [name of your State] has more than one Central or other Authority(ies). Any comments if relevant:
Application of the Evidence Convention	Is the Evidence Convention considered to be mandatory in [name of your State] ? <input type="checkbox"/> Yes – A Contracting Party must have recourse to the Convention on each occasion that it intends to take evidence that is located in [name of your State] . <input type="checkbox"/> No
Blocking statutes	Does [name of your State] have a blocking statute (a law that prevents evidence from being taken in [name of your State] for use in foreign proceedings via instruments or means other than under the Evidence Convention)? <input type="checkbox"/> Yes (<i>please specify</i>): <input type="checkbox"/> No Any comments if relevant:
Status of the Evidence Convention	Information about the status of the Evidence Convention in [name of your State] : <ul style="list-style-type: none"> ▪ Entry into force, territorial applications of the Convention, declarations and reservations are available at HCCH #20 - Status table ▪ The acceptances of accessions are available at HCCH Publications Any comments if relevant:
Operation of Chapter II	Has [name of your State] excluded in whole the application of Chapter II by reservation? <input type="checkbox"/> Yes <input type="checkbox"/> No If not, the available Chapter II means to take evidence in [name of your State] are: <input type="checkbox"/> Article 15 (Consul takes evidence from own nationals), <i>please specify</i> :

	<input type="checkbox"/> Article 16 (Consul takes evidence from other nationals), <i>please specify</i> : <input type="checkbox"/> Article 17 (Commissioner), <i>please specify</i> : If any of the abovementioned Articles apply in [name of your State] , further information can be found in Section IV of this Country Profile. Additional information if relevant:
Conditions for the taking of evidence	Does [name of your State] permit the taking of evidence upon less restrictive conditions (Art. 27(1)(b))? For example, the direct taking of evidence from willing witnesses without sending a Letter of Request. <input type="checkbox"/> Yes (<i>please specify</i>): <input type="checkbox"/> No <input type="checkbox"/> Other information (<i>please specify</i>):
Preparation and transmission of Letters of Request under Chapter I– see Section III below	

II. Contact information for Central and other Authority(ies)

1. Central Authority (Art. 2)

Central Authority name	
Address	
Telephone	
Fax	
E-mail	
Website	
Contact person 1, if applicable	Direct contact details (including Name, Designation/Position and Office Address): Direct telephone: Fax: Direct e-mail: Language(s) of communication: Preferred method of communication: <input type="checkbox"/> Phone <input type="checkbox"/> Fax

	<input type="checkbox"/> E-mail <input type="checkbox"/> Other (<i>please specify</i>):
Contact person 2, if applicable	Direct contact details (including Name, Designation/Position and Office Address): Direct telephone: Fax: Direct e-mail: Language(s) of communication: Preferred method of communication: <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Other (<i>please specify</i>):
Last Update: [INSERT DATE] ¹	

2. Other designated Central Authorities in Federal States (Art. 24(2))²

Central Authority name	
Address	
Territorial and / or other extent of functions	
Telephone	
Fax	
E-mail	
Website	
Contact person 1, if applicable	Direct contact details (including Name, Designation/Position and Office Address): Direct telephone: Fax: Direct e-mail: Language(s) of communication:

¹ This will be filled in automatically in the electronic version of the Country Profile.

² This section will be expandable in order to allow for the inclusion of additional Central Authorities.

	<p>Preferred method of communication:</p> <p><input type="checkbox"/> Phone</p> <p><input type="checkbox"/> Fax</p> <p><input type="checkbox"/> E-mail</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
Contact person 2, if applicable	<p>Direct contact details (including Name, Designation/Position and Office Address):</p> <p>Direct telephone:</p> <p>Fax:</p> <p>Direct e-mail:</p> <p>Language(s) of communication:</p> <p>Preferred method of communication:</p> <p><input type="checkbox"/> Phone</p> <p><input type="checkbox"/> Fax</p> <p><input type="checkbox"/> E-mail</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
Last Update: [INSERT DATE] ³	

3. Other designated authorities (Art. 24(1))⁴

Other designated authority	<p>Has [name of your State] designated other authorities in addition to the Central Authority?</p> <p><input type="checkbox"/> Yes (<i>please complete the fields below</i>).</p> <p><input type="checkbox"/> No</p>
Designated authority name	
Address	
Territorial and / or other extent of functions, if applicable	
Telephone	
Fax	
E-mail	
Website	

³ This will be filled in automatically in the electronic version of the Country Profile.

⁴ This section will be expandable in order to allow for the inclusion of additional authorities.

Please describe the competence of each designated authority	
Contact person 1, if applicable	Direct contact details: Direct telephone: Fax: Direct e-mail: Language(s) of communication: Preferred method of communication: <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Other (<i>please specify</i>):
Contact person 2, if applicable	Direct contact details: Direct telephone: Fax: Direct e-mail: Language(s) of communication: Preferred method of communication: <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Other (<i>please specify</i>):
Last Update: [INSERT DATE] ⁵	

4. Receiving a Letter of Request

Transmission of Letters of Request directly to judicial authorities (Art. 27(a))	Has [name of your State] made a declaration to permit Letters of Request to be transmitted directly to judicial authorities through channels other than those provided for in Article 2? <input type="checkbox"/> Yes, [name of your State] permits the transmission of Letters of Request directly to judicial authorities. Any comments if relevant:
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⁵ This will be filled in automatically in the electronic version of the Country Profile.

	<input type="checkbox"/> No
Last Update: [INSERT DATE] ⁶	

III. Chapter I

1. Preparation, transmission, and execution of Letters of Request

<p>Language of the Letter of Request</p> <p>(Note: Letters of Request shall be accepted in English or French or a translation into English or French unless a Contracting Party has made an Article Art. 33 declaration which excludes this possibility.)</p>	<p>Please specify in which language(s) the Letter of Request must be written in or be accompanied by a translation into:</p>
<p>Article 33 declaration</p>	<p>Has [name of your State] made a declaration under Article 33(1), noting that it will not accept a Letter of Request written in or translated into either English or French?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes, it will not accept Letters of Request in French</p> <p><input type="checkbox"/> Yes, it will not accept Letters of Request in English</p> <p><input type="checkbox"/> Yes, it will not accept Letters of Request in either French or English</p>
<p>Declarations regarding language (Art. 4(3))</p>	<p>Has [name of your State] made a declaration for region-specific or other language requirements?</p> <p><input type="checkbox"/> Yes</p> <p><i>Please specify details (i.e., region: language):</i></p> <p><input type="checkbox"/> No</p>
<p>Translations</p>	<p>In [name of your State] a translated Letter of Request must be certified as correct by:</p> <p><input type="checkbox"/> A diplomatic officer</p> <p><input type="checkbox"/> A consular agent</p> <p><input type="checkbox"/> A sworn translator</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><i>If possible, please provide information (e.g., links, website) about certified translators in your State:</i></p>

⁶ This will be filled in automatically in the electronic version of the Country Profile.

Judicial officers present	<p>Can members of the judicial personnel from the requesting State be present during the execution of the Letter of Request under Article 8?</p> <p><input type="checkbox"/> Yes, [name of your State] has made a declaration to this effect.</p> <p style="padding-left: 40px;">If yes, is prior authorisation required?</p> <p style="padding-left: 80px;"><input type="checkbox"/> Yes, (<i>please specify</i>):</p> <p style="padding-left: 80px;"><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p>
Use of video-link	<p>Does [name of your State] allow the use of video-link in the taking of evidence (under this Convention)?</p> <p><input type="checkbox"/> Yes, for <u>direct</u> taking of evidence⁷</p> <p style="padding-left: 40px;"><input type="checkbox"/> permission is required to enable the presence and participation of judicial personnel from the requesting State.</p> <p style="padding-left: 40px;"><i>Please specify:</i></p> <p style="padding-left: 40px;"><input type="checkbox"/> permission is not required to enable the presence and participation of judicial personnel from the requesting State.</p> <p><input type="checkbox"/> Yes, for <u>indirect</u> taking of evidence⁸</p> <p style="padding-left: 40px;"><input type="checkbox"/> permission is required to enable the presence of judicial personnel from the requesting State.</p> <p style="padding-left: 40px;"><i>Please specify:</i></p> <p style="padding-left: 40px;"><input type="checkbox"/> permission is not required for the presence of judicial personnel from the requesting State.</p> <p><input type="checkbox"/> No, the use of video-link in taking evidence is not possible in [name of your State] .</p> <hr/> <p>If yes, does [name of your State] specify a person or department within the Central Authority, who / which assists in processing Letters of Request where the use of video-link has expressly been requested (e.g., to arrange the video-link or provide technical assistance)?</p>

⁷ The procedure of taking evidence whereby the authority in the Requesting State before which proceedings are pending conducts the witness / expert examination directly.

⁸ The procedure of taking evidence whereby an authority in the Requested State in whose territory the witness / expert is located conducts the witness / expert examination.

	<input type="checkbox"/> Yes (please complete the following contact person details) Direct contact details: Direct telephone: Fax: Direct e-mail: Preferred language(s) of communication: Preferred method of communication: <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Other (please specify): <input type="checkbox"/> No, contact persons in the relevant Central or designated Authority would assist in processing Letters of Request where the use of video-link has expressly been requested.
Pre-trial discovery of documents	<input type="checkbox"/> Pursuant to Article 23, [name of your State] has declared that it will not execute Letters of Request issued for the purpose of obtaining pre-trial discovery of documents. Please specify the terms of the declaration: Any comments if relevant:
Last Update: [INSERT DATE] ⁹	

2. Transmission of Letters of Request

Methods of transmission	Please indicate the accepted methods of transmission that can be used to transmit Letters of Request to [name of your State] . Please tick all the boxes that apply. <input type="checkbox"/> (1) Ordinary mail <input type="checkbox"/> (2) Registered mail with notification of receipt <input type="checkbox"/> (3) Express mail <input type="checkbox"/> (4) Private courier services, such as DHL, FedEx, UPS
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⁹ This will be filled in automatically in the electronic version of the Country Profile.

	<input type="checkbox"/> (5) Private person / Representative of the moving party <input type="checkbox"/> (6) By electronic means: <input type="checkbox"/> (a) Regular e-mail <input type="checkbox"/> (b) Secured or encrypted e-mail <input type="checkbox"/> (c) Online platform administered by the government <input type="checkbox"/> (d) Online platform administered by private sector providers <input type="checkbox"/> (7) Other (<i>please specify</i>): <i>* If necessary, please provide clarifications in relation to any of the options above and specify the number of the item of reference:</i> Any comments if relevant:
Last Update: [INSERT DATE] ¹⁰	

3. Obtaining the evidence / performing other judicial acts

Costs The execution of the Letter of Request shall not give rise to any reimbursement of taxes or costs of any nature. Nevertheless, [name of your State] may seek reimbursement of fees paid to experts and interpreters, and the costs occasioned by the use of a special procedure requested under Article 9(2).	If possible, please provide information for [name of your State] regarding costs, payment methods (<i>i.e.</i> , bank transfer, electronic payment facilities), and terms for the payment:
Authority responsible for informing of the time and place of the execution of the Letter of Request (Art. 7)	Please indicate which authority is responsible for informing of the time and place of the execution of the Letter of Request:
Average time for the execution of a request	Approximately how long does it take to obtain evidence in [name of your State] ?
Competent authorities	Please indicate which authorities in [name of your State] are competent to take evidence or perform other judicial acts:
Examiners to take evidence (Art. 14(3))	Does [name of your State] appoint Examiners to take evidence? <input type="checkbox"/> Yes (<i>please indicate whether there are costs involved</i>):

¹⁰ This will be filled in automatically in the electronic version of the Country Profile.

	<input type="checkbox"/> No
Judicial function	Please specify if there are any acts that do not fall within the functions of the judiciary:
For the relevant domestic laws governing the taking of evidence, see Section VI.1 below.	
Last Update: [INSERT DATE] ¹¹	

4. Testimony / other evidence

Privileges and duties Contracting Parties may declare that they will additionally respect privileges and duties existing under the law of States other than the State of Origin and the State of Execution to the extent specified in that declaration.	Has [name of your State] made a declaration under Article 11 regarding third State privileges and duties for witnesses? <input type="checkbox"/> Yes (<i>please specify</i>): <input type="checkbox"/> No
Oath or affirmation	In [name of your State] is an oath or affirmation generally administered to the witness? <input type="checkbox"/> Yes (<i>please specify domestic procedure</i>): <input type="checkbox"/> No <input type="checkbox"/> It depends (<i>please specify</i>):
Questions for the witnesses	Should Letters of Request contain specific questions for the witness? <input type="checkbox"/> Yes <input type="checkbox"/> No, but it is preferable. <input type="checkbox"/> No, a statement of subject matter is sufficient. <input type="checkbox"/> It depends (<i>please specify</i>):
	If yes, are the questions provided to the witness in advance? <input type="checkbox"/> Yes If yes, may the witness bring notes to the hearing to help him/her answer the questions? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> It depends (<i>please specify</i>):
Hearings	In [name of your State] , hearings are generally: <input type="checkbox"/> Private

¹¹ This will be filled in automatically in the electronic version of the Country Profile.

	<input type="checkbox"/> Public <input type="checkbox"/> It depends (<i>please specify</i>):
Testimony	<p>Is the testimony transcribed?</p> <input type="checkbox"/> Yes, <input type="checkbox"/> upon request. Method of transcription: <input type="checkbox"/> (a) Verbatim recording through audio <input type="checkbox"/> (b) Verbatim recording through written <input type="checkbox"/> (c) Summary minutes <input type="checkbox"/> (d) Written and signed testimony <input type="checkbox"/> (e) Other (<i>please specify</i>): <input type="checkbox"/> No <input type="checkbox"/> It depends (<i>please specify</i>):
Authentication of documents	<p>Under the laws of [name of your State] , are documents produced by a witness authenticated by the court?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> It depends (<i>please specify</i>):
Further examination / recall	<p>Under the domestic law of [name of your State] , can a witness be made subject to further examination / recall?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (<i>please specify</i>):
	<p>If yes, would this require a second Letter of Request to be sent?</p> <input type="checkbox"/> Yes (<i>please specify</i>): <input type="checkbox"/> No <input type="checkbox"/> It depends (<i>please specify</i>):
Additional information on the procedure for taking testimony	
Sanctions for non-appearance	Please specify the sanctions for non-appearance for a witness in the domestic law of your State:
Last Update: [INSERT DATE]¹²	

¹² This will be filled in automatically in the electronic version of the Country Profile.

5. Information for outgoing requests as requesting State

	<p>Which are the competent judicial authorities in [name of your State] that are permitted to forward a Letter of Request?</p> <p><input type="checkbox"/> Judges</p> <p><input type="checkbox"/> Magistrates</p> <p><input type="checkbox"/> Judicial officers</p> <p><input type="checkbox"/> Examiners</p> <p><input type="checkbox"/> Others (<i>please specify</i>):</p>
Requests forwarded by the Central Authority	<p>Will the Letter of Request be forwarded by the competent judicial authority to the Central Authority of [name of your State] for transmission to another Contracting Party?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
Last Update: [INSERT DATE] ¹³	

IV. Chapter II

1. Taking of evidence by Consular or Diplomatic officers from own nationals (Art. 15)

<p>A diplomatic officer or consular agent of a Contracting Party may, in the territory of [name of your State] and within the area where they exercise their functions, take the evidence without compulsion of nationals of a State which they represent in aid of proceedings commenced in the courts of a State which they represent.</p>	<p><input type="checkbox"/> Article 15 applies in [name of your State] .</p> <p><input type="checkbox"/> No, [name of your State] has made a reservation to exclude the application of Article 15.</p> <p><input type="checkbox"/> Any comments if relevant:</p> <hr/> <p>For the application of Article 15, does [name of your State] require permission?</p> <p><input type="checkbox"/> Yes, as declared in Article 15(2), the application for such a permission should be made by a diplomatic or consular agent or on their behalf to the appropriate authority designated by [name of your State] .</p> <p>The appropriate authority is:</p> <p><input type="checkbox"/> Central Authority (<i>see details provided at Section II.1</i>).</p> <p><input type="checkbox"/> a specific competent authority designated by [name of your State] (<i>please complete the fields below</i>)</p> <p><input type="checkbox"/> No</p>
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¹³ This will be filled in automatically in the electronic version of the Country Profile.

	<input type="checkbox"/> Any comments if relevant:
Designated authority name	
Address	
Telephone	
Fax	
E-mail	
Website	
Last Update: [INSERT DATE]¹⁴	

2. Taking of evidence by Consular or Diplomatic officers from other nationals (Art. 16)

<p>A diplomatic officer or consular agent of a Contracting Party may, in the territory of [name of your State] and within the area where they exercise their functions, take the evidence, without compulsion, of nationals of [name of your State] or of a third State, in aid of proceedings commenced in the courts of a State which they represent, if –</p> <p>a) a competent authority designated by [name of your State] has given its permission either generally or in the particular case, and</p> <p>b) they comply with the conditions which the competent authority has specified in the permission.</p>	<input type="checkbox"/> Article 16 applies in [name of your State] . <input type="checkbox"/> No, [name of your State] has made a reservation to exclude the application of Article 16. <input type="checkbox"/> Any comments if relevant:
	<p>For the application of Article 16, does [name of your State] require a prior permission?</p> <input type="checkbox"/> Yes, permission will be given by: <ul style="list-style-type: none"> <input type="checkbox"/> Central Authority (see details provided at Section II.1). <input type="checkbox"/> a competent authority designated by [name of your State] (please complete the fields below). <input type="checkbox"/> No, [name of your State] has made a declaration that evidence may be taken under this Article without its prior permission. <input type="checkbox"/> Any comments if relevant:
Designated authority name	
Address	
Territorial and / or other extent of functions, if applicable	
Telephone	
Fax	

¹⁴ This will be filled in automatically in the electronic version of the Country Profile.

E-mail	
Website	
Last Update: [INSERT DATE]¹⁵	

3. Commissioner (Art. 17)

<p>A person duly appointed as a Commissioner for this purpose may, without compulsion, take evidence in the territory of [name of your State] in aid of proceedings commenced in the courts of another Contracting Party if –</p> <p>a) a competent authority designated by [name of your State] has given its permission either generally or in the particular case; and</p> <p>b) they comply with the conditions which the competent authority has specified in the permission.</p>	<input type="checkbox"/> Article 17 applies in [name of your State] . <input type="checkbox"/> No, [name of your State] has made a reservation to exclude the application of Article 17. <input type="checkbox"/> Any comments if relevant:
	<p>For the application of Article 17, does [name of your State] require a prior permission?</p> <input type="checkbox"/> Yes, permission will be given by: <ul style="list-style-type: none"> <input type="checkbox"/> Central Authority (see details provided at Section II.1) <input type="checkbox"/> a competent authority designated by [name of your State] (please complete the fields below). <input type="checkbox"/> No, [name of your State] has made a declaration that evidence may be taken under this Article without its prior permission. <input type="checkbox"/> Any comments if relevant:
Designated authority name	
Address	
Territorial and / or other extent of functions, if applicable	
Telephone	
Fax	
E-mail	
Website	
Compliance with local laws	What local laws in [name of your State] as the Requested State does the Commissioner need to ensure compliance with?
Types of evidence available	What type of evidence can the Commissioner take in the territory of [name of your State] ?
Last Update: [INSERT DATE]¹⁶	

¹⁵ This will be filled in automatically in the electronic version of the Country Profile.

¹⁶ This will be filled in automatically in the electronic version of the Country Profile.

4. Compulsion (Art. 18)

A diplomatic officer, consular agent or commissioner authorised to take evidence under Article 15, 16 or 17, may apply to the competent authority designated by [name of your State] for appropriate assistance to obtain the evidence by compulsion.	<input type="checkbox"/> Article 18 applies in [name of your State] . <input type="checkbox"/> No, assistance to obtain evidence by compulsion under Chapter II is not available in [name of your State] .
	For the application of Article 18, the competent authority designated by [name of your State] is: <input type="checkbox"/> Central Authority (see details provided at Section II.1) <input type="checkbox"/> a specific competent authority (please complete the fields below).
Designated authority name	
Address	
Territorial and / or other extent of functions, if applicable	
Telephone	
Fax	
E-mail	
Website	
Last Update: [INSERT DATE]¹⁷	

5. Use of video-link

Does [name of your State] allow the use of video-link under Chapter II?	<input type="checkbox"/> Yes, <u>direct</u> taking of evidence. <input type="checkbox"/> No. Any comments if relevant:
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V. Derogatory channels

1. Other HCCH Conventions in the field of taking of evidence

1954 Civil Procedure Convention	Please indicate whether [name of your State] is a Contracting Party to the <i>Convention of 1 March 1954 on Civil Procedure</i> (1954 Civil Procedure Convention): <input type="checkbox"/> Yes, the 1954 Civil Procedure Convention entered into force for [name of your State] on:
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¹⁷ This will be filled in automatically in the electronic version of the Country Profile.

	<input type="checkbox"/> [name of your State] concluded supplementary agreements to the 1954 Civil Procedure Convention with (<i>please specify name(s) of the State(s)</i>) <input type="checkbox"/> No Any comments if relevant:
Last Update: [INSERT DATE] ¹⁸	

2. Other instruments on obtaining evidence

Multilateral agreements for the taking of evidence	Please indicate whether [name of your State] is a Party to other multilateral agreements which relate to the taking of evidence? <input type="checkbox"/> Yes (<i>please indicate key agreements</i>): <input type="checkbox"/> No
Bilateral agreements for the taking of evidence	Please indicate whether [name of your State] has concluded bilateral agreements which relate to the taking of evidence? <input type="checkbox"/> Yes (<i>please tick all the boxes that apply</i>): <input type="checkbox"/> Bilateral agreements (<i>please specify</i>): <input type="checkbox"/> Non-binding bilateral memoranda of understanding (<i>please specify</i>): <input type="checkbox"/> No
Last Update: [INSERT DATE] ¹⁹	

3. Other methods for the taking of evidence (Art. 27(1)(c))

Other methods for the taking of evidence	Does the law of [name of your State] permit methods of taking evidence other than those provided under the Evidence Convention? <input type="checkbox"/> Yes (<i>please elaborate briefly on these methods of taking of evidence</i>): <input type="checkbox"/> No
Last Update: [INSERT DATE] ²⁰	

¹⁸ This will be filled in automatically in the electronic version of the Country Profile.

¹⁹ This will be filled in automatically in the electronic version of the Country Profile.

²⁰ This will be filled in automatically in the electronic version of the Country Profile.

VI. Useful information

1. Domestic law governing the taking of evidence

Domestic legislation (including federal, state and local legislation)	Which legislation governs the taking of evidence in [name of your State] ? <i>Please specify the name of the legislation and the date of the entry into force:</i> <i>If applicable, please provide a web link to the legislation.</i>
Last Update: [INSERT DATE]²¹	

2. Resources

Please provide any additional links to relevant legislation, rules of private international law, guidelines or protocols regarding the taking of evidence and relevant websites (e.g., of courts and other competent authorities, public bodies, agencies, non-governmental organisations, associations), privileges and any other electronic resource pertinent to the taking of evidence.
Last Update: [INSERT DATE]²²

²¹ This will be filled in automatically in the electronic version of the Country Profile.

²² This will be filled in automatically in the electronic version of the Country Profile.

Annex II: Draft Agenda for Working Group on the Country Profiles for the Evidence and Service Conventions - meeting of 28 May 2024

Working Group on the Country Profiles for the Evidence and Service Conventions

Meeting of 28 May 2024

DRAFT AGENDA

At its 2024 meeting, the Council on General Affairs and Policy (CGAP) approved the establishment of a Working Group (WG) consisting of representatives from a variety of geographical regions to review and refine updates to the Practical Handbook and Country Profile relevant to the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (Service Convention) and the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (Evidence Convention) (C&D No 47 of CGAP 2024). The WG met online for the first time on Friday 17 May to discuss the Revised Draft Service Practical Handbook (Service Handbook), then on Tuesday 21 May to discuss the Revised Draft Evidence Practical Handbook (Evidence Handbook) and will meet on Tuesday 28 May to discuss the Draft Country Profiles for the Service and Evidence Conventions.

The session on Tuesday 28 May begins at 1.00 p.m. (CEST) and ends at 5.00 p.m., with a tea break from 2.00 to 2.15 p.m.

The WG has been provided with:

- (i) the revised version of the Service and Evidence Country Profiles, reflecting comments and suggestions made by Contracting Parties; and
- (ii) two tables of comments: one for the Service Convention Country Profile, the other for the Evidence Country Profile.

The key documents that will be used during the meeting are the agenda, the tables, and the updated versions of the Service and Evidence Country Profiles.

The WG will report on this meeting and on any recommendations for the Service and Evidence Country Profiles at the July 2024 meeting of the Special Commission (SC) on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions. Following the meeting of the SC, the WG will reconvene online to discuss further updates that may be needed to be made to the Service and Evidence Country Profiles. It is anticipated that this second meeting of the WG could be scheduled in late August / early September 2024.

Delegations may have other issues which they wish to address and, as such, this agenda will be treated with a degree of flexibility and may be modified in accordance with the requirements of the discussion.

Time			Item
The Hague	Buenos Aires	Hong Kong	
1.00 p.m.	8.00 a.m.	7.00 p.m.	<p>Opening remarks and administrative matters</p> <p>Adoption of the Agenda</p>
1.10 p.m.	8.10 a.m.	7.10 p.m.	<p>Evidence Country Profile</p> <p>Overview of comments that have been incorporated</p> <p>A) General comments (Items No 1 to 9)</p> <p>1) <u>The length of the Country Profile</u> Items Nos 2, 4 and 5, in response to suggestions made by Brazil and Israel respectively.</p> <p>2) <u>Mandatory v. voluntary items</u> Items No 2 and 8, in response to suggestions made by Brazil and Norway respectively.</p> <p>3) <u>Interpretation of “civil and commercial”</u> Item No 3, in response to a suggestion made by Brazil.</p> <p>B) General information (Items No 10 to 19)</p> <p>1) <u>Requesting examples or explanations in which a Letter of Rogatory would not be necessary</u> Item No 10, in response to a suggestion made by France.</p> <p>2) <u>Central and other Authorities – a “snapshot” of all authorities</u> Item No 13, in response to a suggestion made by Singapore.</p> <p>3) <u>Blocking statutes</u> Item No 16, in response to a suggestion made by Switzerland.</p> <p>C) Contact information for Central and other Authority(ies) (Items No 20 to 25)</p> <p>1) <u>Central Authority (Art. 2) – distinguishing contacts</u> Item No 20, in response to a suggestion made by Australia.</p> <p>2) <u>Central Authority (Art. 2) – dedicated contact/email</u> Item No 21, in response to a suggestion made by Switzerland.</p> <p>3) <u>Central Authority (Art. 2) – data protection</u> Item No 22, in response to a suggestion made by Germany.</p>

			<p>(PB note: for the Service Country Profiles, several suggestions were made to the details of the contact person).</p> <p>D) Chapter I & II (Items No 26 to 59)</p> <ol style="list-style-type: none"> 1) <u>Preparation, transmission, and execution of Letters of Request. Translation</u> Item No 28, in response to a suggestion made by Germany. 2) <u>Preparation, transmission, and execution of Letters of Request. Use of video-link – Direct evidence</u> Items Nos 32, 34 and 36, in response to suggestions made by France, Germany and Portugal respectively. 3) <u>Preparation, transmission, and execution of Letters of Request. Use of video-link – technology needed</u> Item No 33, in response to a suggestion made by Germany. 4) <u>Preparation, transmission, and execution of Letters of Request. Use of video-link – Direct evidence contact point</u> Item No 35, in response to a suggestion made by Germany. 5) <u>Preparation, transmission, and execution of Letters of Request. Use of video-link – outside the Convention</u> Items Nos 37, in response to suggestions made by Singapore. 6) <u>Preparation, transmission, and execution of Letters of Request. Use of video-link</u> Items Nos 38, 39 & 40 in response to suggestions made by Switzerland. 7) <u>Transmission of Letters of Request. Methods of transmission – electronic transmission & signatures / paper</u> Item No 41 & 43 in response to suggestions made by Brazil and Germany. 8) <u>Obtaining the evidence / Performing other judicial acts. Judicial function</u> Item No 45, in response to a suggestion made by Poland. 9) <u>Testimony / other evidence. Questions for witnesses</u> Item No 50, in response to a suggestion made by Switzerland. 10) <u>Chapter II. Video link for Commissioner</u> Item No 58, in response to a suggestion made by Germany. <p>E) Other comments</p>
2.00 p.m.	9.00 a.m	8.00 p.m.	Tea Break (15 min)
2.15 p.m.	9.15 a.m.	8.15 p.m.	Service Country Profile

			<p>Overview of comments that have been incorporated</p> <p>A) General structure (Items No 1 to 10)</p> <ol style="list-style-type: none"> 1) <u>The length of the Country Profile</u> Items No 2, 5 and 6, in response to suggestions made by Brazil and Israel respectively (<i>same suggestion for the Evidence Country Profile</i>). 2) <u>Mandatory v. voluntary items</u> Items No 2 and 9, in response to suggestions made by Brazil and Norway respectively (<i>same suggestion for the Evidence Country Profile</i>). 3) <u>Section on possible immunities</u> Item No 3, in response to a suggestion made by Brazil. 4) <u>Interpretation of “civil and commercial”</u> Item No 4, in response to a suggestion made by Brazil (<i>same suggestion for the Evidence Country Profile</i>). <p>B) General information (Items No 11 to 17)</p> <ol style="list-style-type: none"> 1) <u>Central and other Authorities a ‘snapshot’ of all authorities</u> Item No 12, in response to a suggestion made by Singapore (<i>same suggestion for the Evidence Country Profile</i>). <p>C) Contact information for Central and other Authority(ies) (Items No 18 to 26)</p> <ol style="list-style-type: none"> 1) <u>Central Authority (Art. 2) – distinguishing contacts</u> Item No 18, in response to a suggestion made by Australia. (<i>same suggestion for the Evidence Country Profile</i>) 2) <u>Central Authority (Art. 2) – data protection and contact details</u> Items No 20, and 22-26, in response to suggestions made by Germany, the Philippines and Switzerland (<i>pls note: as raised for the Evidence Country Profile</i>). <p>D) Preparation, transmission, and execution of requests for service under the main channel (Items No 27 to 42)</p> <ol style="list-style-type: none"> 1) <u>Language requirements (Art. 5(3))</u> Item No 28, in response to a suggestion made by Switzerland. 2) <u>Transmission of requests for service – electronic transmission</u> Item No 29, in response to a suggestion made by Brazil (<i>same suggestion for the Evidence Country Profile</i>). 3) <u>Other requirements – physical copy following electronic</u> Item No 33, in response to a suggestion made by Singapore. 4) <u>Methods of service under national law</u> Items No 39 and 41, in response to suggestions made by Canada and Switzerland.
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			<p>E) Alternative channels (Items No 43 to 54)</p> <ol style="list-style-type: none">1) <u>Direct consular or diplomatic channel (Art. 8)</u> Item No 47, in response to a suggestion made by Germany.2) <u>Postal channels (Art. 10 (a))</u> Item No 49, in response to a suggestion made by Germany. <p>F) Useful information (Items No 57 to 59)</p> <ol style="list-style-type: none">1) <u>Comments on “Blocking statutes”</u> Item No 57, in response to a suggestion made by Switzerland.2) <u>Domestic law governing service and transmission of documents</u> Item No 59, in response to a suggestion made by Canada. <p>G) Other comments</p>
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