

**ESQUISSE D'UN PROJET DE CONVENTION SUR LE RECOUVREMENT INTERNATIONAL  
DES ALIMENTS ENVERS LES ENFANTS ET D'AUTRES MEMBRES DE LA FAMILLE**

*préparée par le Comité de rédaction  
qui s'est réuni à La Haye du 5 au 9 septembre 2005*

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**TENTATIVE DRAFT CONVENTION ON THE INTERNATIONAL RECOVERY  
OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE**

*prepared by the Drafting Committee  
which met at The Hague from 5-9 September 2005*

*Document préliminaire No 16 d'octobre 2005  
à l'intention de la Commission spéciale de juin 2006  
sur le recouvrement international des aliments  
envers les enfants et d'autres membres de la famille*

*Preliminary Document No 16 of October 2005  
for the attention of the Special Commission of June 2006  
on the International Recovery of Child Support  
and other Forms of Family Maintenance*

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**TENTATIVE DRAFT CONVENTION ON THE INTERNATIONAL RECOVERY  
OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE**

[Note: Except where otherwise indicated, square brackets are used to signify text which is tentative or which deals with a matter which has not yet been fully considered by the Special Commission.]

**PREAMBLE**

The States signatory to the present Convention,

[Emphasising the importance of international administrative co-operation for the international recovery of child support and other forms of family maintenance,

Taking into account the *United Nations Convention on the Rights of the Child of 20 November 1989*, in particular Articles 3 and 27,

Considering that, in all actions concerning children, the best interests of the child shall be a primary consideration,

Considering that every child should have a standard of living adequate for the child's physical, mental, spiritual, moral and social development,

Considering that both parents or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development,

Recalling that States should take all appropriate measures, including the conclusion of international agreements, to secure the prompt and effective recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, in particular, where the person having financial responsibility for the child lives in a State different from that of the child,

[Recognising the importance of other forms of family maintenance,]

[Recognising the importance of accountability,]

Desiring to build upon the best features of existing Conventions,

Seeking to take advantage of recent advances in technology and to create a flexible and efficient system, which can continue to evolve as needs change and further advances in information technology create new opportunities.

Have resolved to conclude this Convention and have agreed upon the following provisions -]

**CHAPTER I – SCOPE AND DEFINITIONS****Article 1 Object**

The object of the present Convention is to ensure the effective international recovery of child support and other forms of family maintenance in particular by -

- a) establishing a comprehensive system of co-operation between the authorities of the Contracting States;
- b) making available applications for the establishment of maintenance decisions and for other procedures;
- c) providing for the recognition and enforcement of maintenance decisions; and
- [d) requiring effective measures for the enforcement of maintenance decisions].

**Article 2 Scope**

1. This Convention applies to maintenance obligations in respect of a child [regardless of the marital status of the parents], as well as maintenance obligations arising from other family relationships, parentage, marriage or affinity.
2. The Convention also applies to claims by a public body for reimbursement of benefits provided in place of maintenance.

**Article 3 Definitions**

For the purposes of this Convention -

- a) "creditor" means an individual to whom maintenance is owed or is alleged to be owed;
- b) "debtor" means an individual who owes or who is alleged to owe maintenance;
- [c) "legal assistance" includes legal advice, assistance in bringing a case before an authority, legal representation and exemption from costs of proceedings;]
- [d) "residence" includes habitual residence but excludes mere presence;]<sup>1</sup>
- [e) "requesting State" means a Contracting State in which the applicant has his or her [habitual] residence, and from which an application under this Convention is made.]<sup>2</sup>

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<sup>1</sup> Further consideration will need to be given to the use of either "habitual residence" or "residence". Furthermore, consideration could be given to whether to use different terms for the purpose of Chapters III, IV and V.

<sup>2</sup> Consideration may be given to the use of the words "where the applicant lives" instead of the words "in which the applicant has his or her [habitual] residence".

## CHAPTER II – ADMINISTRATIVE CO-OPERATION

### **Article 4      *Designation of Central Authorities***

1. A Contracting State shall, at the time when the instrument of ratification or accession is deposited, designate a Central Authority to discharge the duties that are imposed by the Convention on such an authority.
2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and shall specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.
3. The designation of the Central Authority or Central Authorities, their contact details, and where appropriate the extent of their functions as specified in paragraph 2, shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law. Contracting States shall promptly inform the Permanent Bureau of any changes.

### **Article 5      *General functions of Central Authorities***

Central Authorities shall –

- a) co-operate with each other and promote co-operation amongst the competent authorities in their States to achieve the purposes of the Convention;
- b) provide information to the Permanent Bureau as to the laws and procedures concerning maintenance obligations in their States;
- c) seek as far as possible solutions to difficulties which arise in the application of the Convention.

### **Article 6      *Specific functions of Central Authorities***

1. Central Authorities shall provide assistance in relation to applications under Chapter III. In particular they shall –
  - a) transmit and receive such applications;
  - b) initiate, or facilitate the institution of, proceedings in respect of such applications.
2. In relation to such applications they shall take [all appropriate measures] [the most effective measures available] –
  - a) where the circumstances require, to provide or facilitate the provision of legal assistance;
  - b) to help locate the debtor;
  - c) to help obtain relevant information concerning the income and other financial circumstances of the debtor or creditor, including the location of assets;
  - d) to encourage amicable solutions with a view to obtaining voluntary payment of maintenance, where suitable by use of mediation, conciliation or similar processes;
  - e) to facilitate the ongoing enforcement of maintenance decisions including any arrears;
  - f) to facilitate the [collection and] expeditious transfer of maintenance payments;
  - g) to facilitate the obtaining of documentary or other evidence;
  - h) to provide assistance in establishing parentage where necessary for the recovery of maintenance;

[i) to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application;]

[j) to facilitate service of documents.]

3. The functions of the Central Authority under this Article may, to the extent permitted under the law of that State, be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State. The designation of any such public bodies or other bodies as well as their contact details and the extent of their functions shall be communicated by a Contracting State to the Permanent Bureau of the Hague Conference on Private International Law. Contracting States shall promptly inform the Permanent Bureau of any changes.

4. Nothing in this Article or Article 7 shall be interpreted as imposing an obligation on a Central Authority to exercise powers that can be exercised only by judicial authorities under the law of the requested State.

### **Article 7      *Requests for specific measures***

1. A Central Authority may make a request, supported by reasons, to another Central Authority to take appropriate specific measures under Article 6(2) *b), c), [i) and j)]* when no application under Article 10 is pending. The requested Central Authority shall take such measures if satisfied that they are necessary to assist a potential applicant [in making an application under Article 10 or]<sup>3</sup> in determining whether such an application should be initiated.

[2. A Central Authority may also take specific measures on the request of another Central Authority in relation to a case concerning the recovery of maintenance pending in the requesting State.]

### **Article 8      *Central Authority costs***

1. Central Authorities shall not impose any charge on an applicant for the provision of their services including the processing of applications under the Convention.

2. Subject to the obligation under Article 13 to provide effective access to procedures, the rule set out in paragraph 1 shall be without prejudice to the possibility of imposing reasonable charges for services additional to or at a higher level than those listed under Article 6(2),<sup>4</sup> provided that the applicant gives prior authorisation to any such charges.

3. Each Central Authority shall bear its own costs in applying this Convention.

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<sup>3</sup> The addition of the bracketed language might be necessary if reference to Article 6(2) *i) and j)* is retained.

<sup>4</sup> Consideration should be given to the treatment of costs for services under Article 7.

## CHAPTER III – APPLICATIONS

### **Article 9 Application through Central Authority**

Where the assistance of a Central Authority is requested in relation to an application under this Chapter, that application shall be made through the Central Authority of the requesting State to the Central Authority of the requested State.

### **Article 10 Available applications**

1. A creditor in a requesting State seeking to recover maintenance in another Contracting State may make application [under this Convention]<sup>5</sup> for any of the following –

- a) recognition or recognition and enforcement of a decision made in a Contracting State;<sup>6</sup>
- b) enforcement of a decision made [or recognised] in the requested State; and,

subject to the jurisdictional rules applicable in the requested State –

c) establishment of a decision in the requested State where there is no existing decision, including where necessary the establishment of parentage;

[d) establishment of a decision in the requested State where recognition and enforcement of a decision is not possible or is refused;<sup>7</sup>]

e) modification of a decision made in the requested State to the extent permissible under the law of that State;

f) modification of a decision made in a State other than the requested State to the extent permissible under the law of the requested State;<sup>8</sup>

g) recovery of arrears.

2. A debtor in a requesting State against whom there is an existing maintenance decision may make an application to another Contracting State, subject to the jurisdictional rules applicable in that State and Article 14, for any of the following –<sup>9</sup>

a) modification of a decision made in the requested State to the extent permissible under the law of that State;

b) modification of a decision made in a State other than the requested State to the extent permissible under the law of the requested State.<sup>10</sup>

### **Article 11 Application contents**

#### **Option 1 (if no mandatory forms exist)**

1. All applications under Article 10 shall as a minimum include –

- a) the nature of the application or applications;

<sup>5</sup> The Convention does not exclude the possibility of other procedures being available under national law.

<sup>6</sup> Further discussion is needed on the question whether an application to recognise and enforce a decision in a requested State extends to a decision made in a non-Contracting State which is entitled to recognition in the requested State.

<sup>7</sup> I.e. on the basis of lack of jurisdiction under Article 16 or on the basis of Article 18 b) or e).

<sup>8</sup> The Chair noted that one delegation expressed concern about this sub-paragraph.

<sup>9</sup> Consideration should be given to whether there should be an application available to a potential debtor for the establishment of a decision.

<sup>10</sup> The Chair noted that one delegation expressed concern about this sub-paragraph.

- b) the name and [contact details, including]<sup>11</sup> the address, [and date of birth]<sup>12</sup> of the applicant;
- c) the name and, if known, address and date of birth of the respondent;
- d) the name and the date of birth of any person for whom maintenance is sought;
- e) the grounds upon which the application is based;
- [f) in an application by a creditor, information concerning where the maintenance payment should be sent or electronically transmitted;]<sup>13</sup>
- [g) save in an application made under Article 10(1) a), any information or document<sup>14</sup> specified by declaration under Article 55 by the requested State].
2. As appropriate, and to the extent known, the application shall in addition in particular include –
- a) the financial circumstances of the creditor;
- b) the financial circumstances of the debtor including the name and address of the employer of the debtor and the nature and location of the assets of the debtor;<sup>15</sup>
- [c) any other information that may assist with the location of the respondent].<sup>16</sup>
3. The application shall be accompanied by any necessary supporting information or documentation including documentation concerning the entitlement of the applicant to legal assistance.<sup>17</sup> In the case of applications under Article 10(1) a), the application shall be accompanied only by the documents listed under Article 20.
4. An application under Article 10 may be made in the form recommended and published by the Hague Conference on Private International Law.

**Option 2 (if mandatory forms exist)**

Applications under Article 10 shall be in accordance with the forms annexed to this Convention and shall be accompanied by any necessary documents, without prejudice, save in relation to an application under Article 10(1) a), to the right of the requested State to require further information or documents in appropriate cases.

**Article 12 Transmission, receipt and processing of applications and cases through Central Authorities**

1. The Central Authority of the requesting State shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application.
2. The Central Authority of the requesting State shall, when satisfied that the application complies with the requirements of the Convention, transmit the application to the Central Authority of the requested State. The application shall be accompanied by the transmittal form set out in annex ??? to the Convention.
3. The requested Central Authority shall within six weeks from the date of receipt of the application, acknowledge receipt [in the form the content of which set out in annex ???] and inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority shall provide

<sup>11</sup> This language has been recommended by the Forms Committee. The Plenary needs to discuss the policy issue of whether there could be direct contact between the requested Central Authority and the applicant.

<sup>12</sup> These words have been added further to the examination of the Transmittal Form by the Drafting Committee.

<sup>13</sup> This language has been recommended by the Forms Committee.

<sup>14</sup> The final review of the text of the Convention will have to assess whether the text is media neutral.

<sup>15</sup> The Forms Committee has suggested this reformulation of former letters a), b) and c) of paragraph 2.

<sup>16</sup> This language has been recommended by the Forms Committee.

<sup>17</sup> This language has been recommended by the Forms Committee.

to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.

[4. Within 3 months after the acknowledgement, the requested Central Authority shall inform the requesting Central Authority of the status of the application.]

5. Requesting and requested Central Authorities shall –

a) keep each other informed of the person or unit responsible for a particular case;

b) keep each other informed of the progress of the case and provide timely responses to enquiries.

6. Central Authorities shall process a case as quickly as a proper consideration of the issues will allow.

7. Central Authorities shall employ the most rapid means of communication at their disposal.

[8. A requested Central Authority may refuse to process an application only if it is manifest that the requirements of this Convention are not fulfilled. In such case, that Central Authority shall promptly inform the requesting Central Authority of its reasons. The requested Central Authority may not reject an application solely on the basis that additional documentation or information is needed.]

### **Article 13      *Effective access to procedures***<sup>18</sup>

1. The requested State shall provide applicants with effective access to the procedures, including appeal procedures, arising from applications under Chapter III, where necessary by the provision of free legal assistance.

2. The requested State shall not be obliged to provide the legal assistance referred to in paragraph 1 where the procedures are designed to enable the applicant to make the case without the need for such assistance, and where the Central Authority provides such free services as are necessary.

3. The provision of free legal assistance may be made subject to a means or a merits test. A Contracting State may declare under Article 55 that it will provide free legal assistance in applications concerning child support on the basis of the assessment of the child's means only, or without any means test at all.

4. Entitlements to free legal assistance shall not be less than those available in equivalent domestic cases.

[5. A creditor, who in the State of origin has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in any proceedings for recognition or enforcement, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.]

6. No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in proceedings brought by a creditor under the Convention.

[7. A Contracting State may declare under Article 55 that it will provide free legal assistance in applications concerning child support on the basis of reciprocity with any other Contracting State that makes the same declaration.]<sup>19</sup>

<sup>18</sup> Consideration should be given to whether these provisions should apply (in whole or in part) to direct applications or to applications by public bodies.

<sup>19</sup> An alternative proposal would be the following: "Any applicant who is entitled to complete or partial legal assistance in the requesting State shall be entitled in any proceedings under this chapter to equivalent legal assistance in the requested State". The possibility of reciprocal declarations would be without prejudice to the overriding obligation in paragraph 1 to provide effective access to procedures.

**CHAPTER IV – RESTRICTIONS ON DEBTORS BRINGING PROCEEDINGS****Article 14    *Limit on proceedings by debtor***

1. Where a decision is made in a Contracting State where the creditor is [habitually] resident, the debtor may not bring proceedings for a new or modified decision in any other Contracting State as long as the creditor remains [habitually] resident in that State.<sup>20</sup>
2. The previous paragraph shall not apply –
  - a) where there is agreement between the parties as to the jurisdiction of that other Contracting State in writing or evidenced in writing;
  - b) where the creditor submits to the jurisdiction of that other Contracting State either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or,
  - c) where the competent authority in the State of origin cannot, or refuses to, exercise jurisdiction to modify the decision or make a new decision.

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<sup>20</sup> Consideration should be given to insert in paragraph 1 after the terms “any other Contracting State” the following phrase: “in which the original decision can be recognised or enforced under the Convention”.

## CHAPTER V – RECOGNITION AND ENFORCEMENT

### **Article 15** *Scope of the Chapter*

1. This Chapter applies to a decision rendered by a judicial or administrative authority in respect of a maintenance obligation. Such decision includes a settlement or agreement concluded before or approved by such an authority. A decision may include automatic adjustment by indexation and a requirement to pay arrears[, retroactive maintenance]<sup>21</sup> or interest.
2. If a decision does not relate solely to a maintenance obligation, the effect of this Chapter is limited to the parts of the decision which concern maintenance obligations.
3. For the purpose of paragraph 1, “administrative authority” means a public body whose decisions, under the law of the State where it is established –
  - a) may be made subject of an appeal to or review by a judicial authority; and
  - b) have the same force and effect as a decision of a judicial authority on the same matter.
- [4. This Chapter also applies to authentic instruments and private agreements relating to a maintenance obligation in accordance with Article 25.]
5. The provisions of this Chapter, with the exception of Article 19(2), shall apply to an application for recognition and enforcement made directly to a competent authority of the State addressed.<sup>22</sup>

### **Article 16** *Bases for recognition and enforcement*

1. A decision made in one Contracting State (“the State of origin”) shall be recognised and enforced in other Contracting States if –
  - a) the respondent was [habitually] resident in the State of origin at the time proceedings were instituted;
  - b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;
  - c) the creditor was [habitually] resident in the State of origin at the time proceedings were instituted;
  - d) the child for whom maintenance was ordered was [habitually] resident in the State of origin at the time proceedings were instituted, provided that the respondent has lived with the child in that State or has resided in that State and provided support for the child there;
  - [e) there has been agreement to the jurisdiction by the parties in writing or evidenced by writing; or
  - f) the decision was made by an authority exercising jurisdiction on a matter of personal status, unless that jurisdiction was based solely on the nationality of one of the parties.]
2. A Contracting State may make a reservation, in accordance with Article 54, in respect of paragraph 1 c)[, e) or f)].

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<sup>21</sup> Consideration should be given to whether the terms “arrears” and “retroactive maintenance” should be defined. There is general agreement in the Drafting Committee that maintenance for periods prior to the application for a decision is retroactive maintenance and that unpaid maintenance for periods after the decision constitutes arrears.

<sup>22</sup> The Drafting Committee is aware that some further consequential amendment of Article 19 may be needed.

3. A Contracting State making a reservation under paragraph 2 shall recognise and enforce a decision if its law would in similar [factual] circumstances confer or would have conferred jurisdiction on its authorities to make such a decision.<sup>23</sup>

4. A Contracting State shall, if recognition of a decision is not possible as a result of a reservation under paragraph 2, and if the debtor is [habitually] resident in that State, take all appropriate measures to establish a decision. The preceding sentence does not apply to direct applications for recognition and enforcement under Article 15(5) unless a new application is made under Article 10(1) d).

5. A maintenance decision which cannot be recognised by virtue only of a reservation under Article 16(1) c)[, e) or f)] shall for the purpose of such proceedings, be accepted as establishing the eligibility of the creditor.<sup>24</sup>

6. A decision shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.

### **Article 17 Severability and partial recognition and enforcement**

1. If the State addressed is unable to recognise or enforce the whole of the decision it shall recognise or enforce any severable part of the decision which can be so recognised or enforced.

2. Partial recognition or enforcement of a decision can always be applied for.

### **Article 18 Grounds for refusing recognition and enforcement**

Recognition and enforcement of a decision may be refused –

a) if recognition and enforcement of the decision is manifestly incompatible with the public policy ("*ordre public*") of the State addressed;

[b) if the decision was obtained by fraud in connection with a matter of procedure;]

c) if proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted;

d) if the decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed;

e) if the respondent did not have proper notice of the proceedings and an opportunity to be heard; however recognition and enforcement may not be refused if the respondent had proper notice of the decision and the opportunity to challenge it; or

f) if the decision was made in violation of Article 14.

### **Article 19 Procedure on an application for recognition and enforcement**

1. Subject to the provisions of this Chapter, the procedures for recognition and enforcement shall be governed by the law of the State addressed.

2. Where an application has been made through Central Authorities in accordance with Chapter III, the requested Central Authority shall promptly refer the application to the competent authority for determination whether the decision may be recognised and enforced in the requested State or, if it is the competent authority, make such determination.

3. The competent authority shall make the determination without delay.

<sup>23</sup> Consideration should be given to Working Document No 63 in relation to (1) whether the fact based jurisdiction should appear in paragraph 1 instead of paragraph 3, and (2) wherever the fact based jurisdiction appears whether Contracting States should list in a declaration additional bases of jurisdiction than those listed in paragraph 1 and how they operate. If it appears in paragraph 1, all Contracting States would have to make this declaration.

<sup>24</sup> The wording of this paragraph may need to be restricted to parent-child relationship depending on the scope of the Article 44 reservation.

4. Recognition and enforcement may be refused only for the reasons specified in [Articles 16 and 18] [18 a)]. At this stage neither the applicant nor the respondent is entitled to make any submissions.

5. The applicant and the respondent shall be promptly notified of the determination made under paragraphs 2 and 3 and shall have the right to challenge or appeal on the ground[s] of [fact and] law against that determination.

6. A challenge or an appeal is to be lodged within [20]<sup>25</sup> days of notification of the determination. If the contesting party is [habitually] resident in a Contracting State other than that in which the determination was made, the challenge or appeal shall be lodged within [60] days of notification.

7. A challenge or appeal may be founded only on the following –

- a) the grounds for refusing recognition and enforcement set out in Article 18;
- b) the bases for recognition and enforcement under Article 16.

8. A challenge or an appeal by a respondent may also be founded on the fulfilment of the debt if the recognition and enforcement was only applied for in respect of payments that fell due in the past.

[9. Further appeal is possible only if permitted by the law of the State addressed.]<sup>26</sup>

## **Article 20 Documents**

An application for recognition and enforcement under Article 19 shall be accompanied by the following –

a) an original of the maintenance decision or a true copy certified<sup>27</sup> by the competent authority in the State of origin;<sup>28</sup>

### **[Alternative proposal:**

a) an abstract of the decision certified by the competent authority in the State of origin in the form set out in annex ...;]

b) [where required by a requested State,] a certificate from the competent authority in the State of origin that the decision is enforceable [and, in the case of a decision by an administrative authority, that the requirements of Article 15(3) are met];<sup>29</sup>

c) if the respondent did not appear in the proceedings in the State of origin, a document establishing that the conditions of Article 18 e) were met;

[d) where necessary, a certified or sworn statement showing the amount of any arrears and the date such amount was calculated;]

[e) where necessary, in the case of a decision providing for automatic adjustment by indexation, a document providing the information necessary to make the appropriate calculations;]

f) where necessary, documentation concerning the entitlement of the applicant to legal assistance in the State of origin.

## **Article 21 Procedure on an application for recognition**

This Chapter shall apply *mutatis mutandis* to an application for recognition of a decision, save that the requirement of enforceability is replaced by the requirement that the decision has effect in the State of origin.

<sup>25</sup> The time periods in this paragraph are taken from Working Document No 67.

<sup>26</sup> Consideration should be given to the addition of the following terms: "There shall be no stay or suspension of enforcement while any appeal under this paragraph is pending."

<sup>27</sup> The French equivalent of "certified" raised the question whether the certification should be by the originating authority or by some other competent authority.

<sup>28</sup> Consideration should be given to replacing letter a) by the following: "a maintenance decision". This would have the advantage of allowing requested States that do not require an original decision or a true copy to continue to do so.

<sup>29</sup> The Drafting Committee queries the retention of the terms between square brackets.

**Article 22 Findings of fact**

The authority of the State addressed shall be bound by the findings of fact on which the authority of the State of origin based its jurisdiction.

**Article 23 No review of the merits**

There shall be no review by the authority of the State addressed of the merits of a decision.

**Article 24 Physical presence of the child or applicant**

[The physical presence of the child or applicant shall not be required in any proceedings in the requested State under this Chapter.]

**[Article 25 Authentic instruments and private agreements]<sup>30</sup>**

1. An authentic instrument or a private agreement made in a Contracting State shall be recognised and enforced in other Contracting States as a decision in accordance with this Chapter, except that Articles 16, 18 and 20 shall not apply, and recognition or enforcement may be refused or challenged only if it would be manifestly incompatible with the public policy ("*ordre public*") of the State addressed.

2. An authentic instrument or a private agreement shall have the same force and effect as a decision in the requested State if it has effect and is enforceable as a decision in the State of origin.

3. An application for recognition and enforcement of an authentic instrument or a private agreement shall be accompanied by the following –

a) a copy of the authentic instrument or the private agreement certified as true by the competent authority of the State of origin;<sup>31</sup>

b) a certificate issued by the competent authority in the State of origin that the particular authentic instrument or private agreement is enforceable as a decision in that State.]

**[Article 26 Enforcement of a decision for costs]<sup>32</sup>**


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<sup>30</sup> If this Article is adopted, consideration should be given to whether the rules for direct applications (Article 15(5)) should apply for all Contracting States.

<sup>31</sup> Consideration should be given to replacing letter a) by the following: "the authentic instrument or the private agreement". This would have the advantage of allowing requested States that do not require an original authentic instrument, private agreement or a true copy to continue to do so.

<sup>32</sup> Consideration may be given to including a provision relating to the enforcement of an order for costs. See for example, the proposal of the European Community in Working Document No 40: "An order for payment of costs based on a maintenance decision which is enforceable according to this Convention shall be rendered enforceable in any other Contracting State."

**CHAPTER VI – ENFORCEMENT BY THE REQUESTED STATE****Article 27    *Enforcement under national law***

1. Subject to paragraphs 2 and 3, enforcement shall take place in accordance with the law of the State addressed.
2. Effect shall be given to any rules applicable in the State of origin of the decision relating to the duration of the maintenance obligation.
3. Any limitation on the period for which arrears<sup>33</sup> may be enforced shall be determined either by the law of the State of origin of the decision or by the law of the State addressed, whichever provides for the longer limitation period.

**Article 28    *Non-discrimination***

The requested State shall provide at least the same range of enforcement methods for cases under this Convention as are available in domestic cases.

**[Article 29    *Enforcement measures***

Contracting States shall make available the most effective measures to enforce decisions under this Convention, such as –

- a) wage withholding;
- b) garnishment from bank accounts and other sources;
- c) deductions from social security payments;
- d) lien on or forced sale of property;
- e) tax refund withholding;
- f) withholding or attachment of pension benefits;
- g) credit bureau reporting;
- h) denial, suspension or revocation of various licenses (for example, driving licenses).]

**Article 30    *Transfer of funds***

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.

**Article 31    *Information concerning enforcement rules and procedures***

Contracting States, at the time of becoming a Party to this Convention, shall provide the Permanent Bureau of the Hague Conference with a description of their enforcement rules and procedures, including any debtor protection rules. Such information shall be kept up-to-date by the Contracting States.

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<sup>33</sup> Consideration should be given to the relationship between arrears and retroactive maintenance. See footnote 21.

**CHAPTER VII – PUBLIC BODIES****Article 32 Public bodies as applicants**

1. The reference to creditor in Article 10(1) includes a public body to which reimbursement is owed for benefits provided in place of maintenance.<sup>34</sup>
2. The right of a public body to seek reimbursement of a benefit provided to the creditor in place of maintenance shall be governed by the law to which the body is subject.
3. A decision rendered against a debtor on the application of a public body which claims reimbursement of benefits paid in place of maintenance shall be recognised and enforced in accordance with this Convention [if reimbursement can be obtained by the public body under the law to which it is subject].<sup>35</sup>
4. A public body may seek recognition or claim enforcement of a decision rendered between a creditor and maintenance debtor to the extent of the benefits provided for the creditor if it is entitled *ipso jure*, under the law to which it is subject, to seek recognition or claim enforcement of the decision in place of the creditor.
5. Without prejudice to the provisions of Article 20, the public body seeking recognition or claiming enforcement of a decision shall furnish any document necessary to prove that it fulfils the conditions of [paragraph 3 or] paragraph 4, and that benefits have been provided for the maintenance creditor.

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<sup>34</sup> It may be necessary to also make reference to Article 13(5). This Article may not be necessary having regard to Article 2(2).

<sup>35</sup> This language was taken from the 1973 Convention. If paragraph 2 is accepted then the language in square brackets is redundant. In any event, the Drafting Committee queries whether it should be retained because the decision in favour of the public body would not have been given if it were not entitled to reimbursement under its own law.

## CHAPTER VIII – GENERAL PROVISIONS

### **Article 33** *Protection of personal information*

Personal information gathered or transmitted shall be used only for the purposes for which they were gathered or transmitted.

### **Article 34** *Confidentiality*

Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.

### **Article 35** *Non disclosure of information*

An authority shall not disclose to the respondent or to the applicant information leading to the location of any party or child if to do so could, in its opinion, jeopardise the health, safety or liberty of a party or child. [The authority to which the information is transmitted shall be bound by any such opinion arrived at by the transmitting authority.] Nothing in this provision shall impede the gathering and transmitting of information between authorities.

### **Article 36** *No legalisation*

All documents transmitted under this Convention shall be exempt from legalisation or any analogous formality.

### **[Article 37** *Power of attorney*

A power of attorney authorising the Central Authority of the requested State to act on behalf of the applicant shall not be required.]

### **Article 38** *Costs recovery*

1. Recovery of any costs incurred in the application of this Convention shall not take precedence over the obligation to pay maintenance.<sup>36</sup>
2. ...<sup>37</sup>

### **Article 39** *Language requirements*

1. Any application and related documents shall be in the original language, and shall be accompanied by a translation into an official language of the requested State [or in another language which the requested State has indicated, by way of declaration in accordance with Article 55, it will accept], unless the competent authority of that State dispenses with translation.<sup>38</sup>
2. A Contracting State which has more than one official language and cannot, for reasons of internal law, accept for the whole of its territory documents in one of those languages shall by declaration in accordance with Article 55 specify the language in which such documents or translations thereof shall be drawn up for submission in the specified parts of its territory.

<sup>36</sup> Consideration should be given to the question whether this principle should apply only in respect of child support.

<sup>37</sup> Consideration should be given to the inclusion of a provision along the following lines "nothing in this Convention shall prevent the recovery of costs from an unsuccessful party".

<sup>38</sup> Note that this rule should also apply to direct applications, for example applications for recognition and enforcement not made through Central Authorities.

3. Unless otherwise agreed by the Central Authorities, any other communications between such Authorities shall be in an official language of the requested State or in either English or French. However, a Contracting State may, by making a reservation in accordance with Article 54, object to the use of either French or English.

**Article 40 Means and costs of translation**

[1. In case of applications made under Chapter III, the Central Authorities may agree in an individual case that the translation into an official language of the requested State may be made in the requested State from the original language or from any other agreed language. If no agreement can be reached and it is not possible for the requesting Central Authority to comply with the requirements of Article 39(1) and (2), then the application and related documents may be transmitted with translation into [French or English] for further translation into an official language of the requested State.]

2. The cost of translation arising from the application of the preceding paragraph shall be borne by the requesting State unless otherwise agreed by Central Authorities of the States concerned.

3. Notwithstanding Article 8, the requesting Central Authority may charge an applicant for the costs of translation of an application and related documents, except insofar as those costs may be covered by its system of legal assistance.

**[Article 41 Non-unified legal systems**

1. In relation to a State in which two or more systems of law or sets of rules of law with regard to any matter dealt with in this Convention apply in different territorial units –<sup>39</sup>

a) any reference to [habitual] residence in that State shall be construed as referring, where appropriate, to [habitual] residence in a territorial unit;

[b) any reference to a decision established, recognised and / or enforced, and modified in that State shall be construed as referring, where appropriate, to a decision established, recognised and / or enforced, and modified in a territorial unit;]

c) any reference to a judicial or administrative authority in that State shall be construed as referring, where appropriate, to a judicial or administrative authority in the relevant territorial unit;

d) any reference to competent authorities, public bodies, and other bodies of that State, other than Central Authorities, shall be construed as referring, where appropriate, to those authorised to act in the relevant territorial unit;

e) any reference to the law or procedure of a State shall be construed as referring, where appropriate, to the law or procedure in force in the relevant territorial unit;

f) any reference to location of assets in that State shall be construed as referring, where appropriate, to the assets in the relevant territorial unit.

2. Notwithstanding the preceding paragraph, a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which involve solely such different territorial units.

3. A court in a territorial unit of a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to recognise or enforce a decision from another Contracting State solely because the decision has been recognised or enforced in another territorial unit of the same Contracting State under this Convention.

4. This Article shall not apply to a Regional Economic Integration Organisation.]<sup>40</sup>

<sup>39</sup> Further consideration should be given to paragraph 1.

<sup>40</sup> Drawn from Article 25 of the *Hague Convention of 30 June 2005 on Choice of Court Agreements* (hereinafter the 2005 Convention).

**[Article 42 Relationship with other international instruments]**

**Article 43 Supplementary agreements<sup>41</sup>**

Any Contracting State may enter into agreements with one or more other Contracting States with a view to improving the application of this Convention between or among themselves, provided that such agreements are consistent with the objects and purpose of this Convention. The States which have concluded such an agreement shall transmit a copy to the Depositary of the Convention.

**Article 44 Reservation on scope<sup>42</sup>**

Any Contracting State may in accordance with Article 54, reserve the right not to apply [the Convention, or] [Chapters II and III of the Convention] [any specified part of the Convention],<sup>43</sup> to maintenance obligations in respect of any specified family relationships or relationships based on affinity, other than maintenance obligations of holders of parental responsibility<sup>44</sup> towards a child under the age of 18.<sup>45 46</sup>

**Article 45 Uniform interpretation**

In the interpretation of this Convention, regard shall be had to its international character and to the need to promote uniformity in its application.

**Article 46 Review of practical operation of the Convention**

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention and to encourage the development of good practices under the Convention.

For the purpose of such review Contracting States shall co-operate with the Permanent Bureau in the gathering of information, including statistics and case law, concerning the practical operation of the Convention.

**Article 47 Amendment of forms**

1. The forms annexed to this Convention may be amended by a decision of a Special Commission convoked by the Secretary General of the Hague Conference on Private International Law to which all Contracting States and all Member States shall be invited. Notice of the proposal to amend the forms shall be included in the agenda for the meeting.

2. Amendments adopted by a majority of the Contracting States present and voting at the Special Commission shall come into force for all Contracting States on the first day of the seventh calendar month after the date of their communication by the Secretary General to all Contracting States.

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<sup>41</sup> This would include the possibility of agreements for the provision of an advanced level of services.

<sup>42</sup> A provision on reciprocity remains to be drafted.

<sup>43</sup> A view was expressed in the Special Commission that no reservation should be permitted in relation to spousal support under Chapter V.

<sup>44</sup> See Article 1(2) of the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (hereinafter the 1996 Convention). The use of the term "parental responsibility" indicates that the Convention does not oblige reserving States to apply the Convention to married or otherwise emancipated children under 18.

<sup>45</sup> The issue of persons above the age of 18 in continuing education and the issue of incapacitated persons raised by the Working Document No 65 has not been fully discussed by the Special Commission. Consideration should be given to Article 1 of the *Hague Convention of 13 January 2000 on the International Protection of Adults* (hereinafter, the 2000 Convention) which reads: "This Convention applies to the protection in international situations of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests".

<sup>46</sup> Consideration should be given to Working Document No 64 with regard to prohibiting any reservation in respect of maintenance obligations between a spouse and a former spouse.

3. During the period provided for by paragraph 2 any Contracting State may by notification in writing to the Ministry of Foreign Affairs of the Kingdom of the Netherlands make a reservation, in accordance with Article 54, with respect to the amendment. The State making such reservation shall until the reservation is withdrawn be treated as a State not a Party to the present Convention with respect to that amendment.<sup>47</sup>

**[Article 48 Transition provisions]**

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<sup>47</sup> This option is inspired by Articles 5 and 28 of the *Convention of 25 October 1980 on International Access to Justice*. These paragraphs formed part of Article 11 (option 2) of Preliminary Document No 13.

**[CHAPTER IX – FINAL PROVISIONS]**

**Article 49     *Signature, ratification and accession***

**Option 1**<sup>48</sup>

1. The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Twenty-first Session and by the other States which participated in that Session.
2. It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.<sup>49</sup>
3. Any other State may accede to the Convention after it has entered into force in accordance with Article 52.
4. The instrument of accession shall be deposited with the depositary.
5. Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in Article 57. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.<sup>50</sup>

OR

5. The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession in accordance with Article 55. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited with depositary which shall forward, through diplomatic channels, a certified copy to each of the Contracting States.<sup>51</sup>

**Option 2**<sup>52</sup>

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. This Convention is open for accession by all States.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.<sup>53</sup>

**Article 50     *Regional Economic Integration Organisations***

1. A Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that the Organisation has competence over matters governed by this Convention.

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<sup>48</sup> Where a distinction is made for bilateralisation purposes between Member States, States participating in the Session, and third States.

<sup>49</sup> Drawn from Article 43 of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereinafter the 1993 Convention).

<sup>50</sup> Drawn from Articles 44 of 1993 Convention, 58 of 1996 Convention and 54 of 2000 Convention. A longer period for the receipt of objections is also possible.

<sup>51</sup> Drawn from Article 38 of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (hereinafter the 1980 Convention).

<sup>52</sup> For a completely open Convention, *i.e.* one where no bilateralisation is possible.

<sup>53</sup> Drawn from Article 27 of 2005 Convention.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, notify the depositary in writing of the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Organisation shall promptly notify the depositary in writing of any changes to its competence as specified in the most recent notice given under this paragraph.

3. For the purposes of the entry into force of this Convention, any instrument deposited by a Regional Economic Integration Organisation shall not be counted unless the Regional Economic Integration Organisation declares in accordance with Article 51 that its Member States will not be Parties to this Convention.

4. Any reference to a "Contracting State" or "State" in this Convention applies equally to a Regional Economic Integration Organisation that is a Party to it, where appropriate.<sup>54</sup>

#### **Article 51 Accession by Regional Economic Integration Organisations**

1. At the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation may declare in accordance with Article 55 that it exercises competence over all the matters governed by this Convention and that its Member States will not be Parties to this Convention but shall be bound by virtue of the signature, acceptance, approval or accession of the Organisation.

2. In the event that a declaration is made by a Regional Economic Integration Organisation in accordance with paragraph 1, any reference to a "Contracting State" or "State" in this Convention applies equally to the Member States of the Organisation, where appropriate.<sup>55</sup>

#### **Article 52 Entry into force**

1. This Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third [/ second] instrument of ratification, acceptance, approval or accession referred to in Article 49.

2. Thereafter the Convention shall enter into force –

a) for each State or Regional Economic Integration Organisation referred to in Article 50 subsequently ratifying, accepting, approving or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

b) for a territorial unit to which the Convention has been extended in accordance with Article 53, on the first day of the month following the expiration of three months after the notification referred to in that Article.<sup>56</sup>

#### **Article 53 Declarations with respect to non-unified legal systems**

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare in accordance with Article 55 that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.<sup>57</sup>

<sup>54</sup> Drawn from Article 29 of 2005 Convention.

<sup>55</sup> Drawn from Article 30 of 2005 Convention.

<sup>56</sup> Drawn from Article 19 of the *Hague Convention on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary* (13 December 2002) (hereinafter the 2002 Convention).

<sup>57</sup> Drawn from Articles 40 of 1980 Convention, 45 of 1993 Convention, 59 of 1996 Convention, 55 of 2000 Convention, 20 of 2002 Convention and 28 of 2005 Convention.

3. If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.<sup>58</sup>
4. This Article shall not apply to a Regional Economic Integration Organisation.<sup>59</sup>

#### **Article 54 Reservations**

1. Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 53(1), make one or more of the reservations provided for in Articles 16(2), 39(3), 47(3) and 44. No other reservation shall be permitted.
2. Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the depositary.
3. The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.<sup>60</sup>
4. A Contracting State which has made a reservation under this Convention shall not be entitled to claim the application of this Convention to such matters as are excluded by its reservation.

#### **Article 55 Declarations**

1. Declarations referred to in Articles 11(1) *g*) option 1, 13(3) and (7), 39(1) and (2), 49(5) option 1, 51(1) and 53(1), may be made upon signature, ratification, acceptance, approval or accession or at any time thereafter, and may be modified or withdrawn at any time.
2. Declarations, modifications and withdrawals shall be notified to the depositary.
3. A declaration made at the time of signature, ratification, acceptance, approval or accession shall take effect simultaneously with the entry into force of this Convention for the State concerned.
4. A declaration made at a subsequent time, and any modification or withdrawal of a declaration, shall take effect on the first day of the month following the expiration of three months after the date on which the notification is received by the depositary.

#### **Article 56 Denunciation**

1. A Contracting State to the Convention may denounce it by a notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a Multi-unit State to which the Convention applies.<sup>61</sup>
2. The denunciation shall take effect on the first day of the month following the expiration of twelve months after the date on which the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take effect upon the expiration of such longer period after the date on which the notification is received by the depositary.<sup>62</sup>

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<sup>58</sup> Drawn from Articles 45 of 1993 Convention, 59 of 1996 Convention, 55 of 2000 Convention, 20 of 2002 Convention and 28 of 2005 Convention.

<sup>59</sup> Drawn from Article 28 of 2005 Convention.

<sup>60</sup> Drawn from Articles 42 of 1980 Convention, 60 of 1996 Convention and 56 of 2000 Convention.

<sup>61</sup> Drawn from Article 23 of 2002 Convention.

<sup>62</sup> Drawn from Articles 23 of 2002 Convention and 33 of 2005 Convention.

### **Article 57 Notification**

The depositary shall notify the Members of the Hague Conference on Private International Law, and other States and Regional Economic Integration Organisations which have signed, ratified, accepted, approved or acceded in accordance with Articles 49 and 50 of the following<sup>63</sup> –

- a) the signatures, ratifications, acceptances and approvals referred to in Articles 49 and 50;<sup>64</sup>
- b) the accessions and objections<sup>65</sup> raised to accessions referred to in Article 49(5) option 1;<sup>66</sup>

OR

- a) + b) the signatures and ratifications, acceptances, approvals and accessions referred to in Articles 49 and 50;<sup>67</sup>
- c) the date on which the Convention enters into force in accordance with Article 52;<sup>68</sup>
- d) the declarations referred to in Articles 11(1) g) option 1, 13(3) and (7), 39(1) and (2), 49(5) option 1, 51(1) and 53(1);<sup>69</sup>
- e) the agreements referred to in Article 43;<sup>70</sup>
- f) the reservations referred to in Articles 16(2), 39(3), 47(3) and 44, and the withdrawals referred to in Article 54(2);<sup>71</sup>
- g) the denunciations referred to in Article 56.<sup>72</sup>

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the ?? day of ??, 2007, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Twenty-first Session.

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<sup>63</sup> Drawn from Article 24 of 2002 Convention.

<sup>64</sup> Drawn from Articles 45 of 1980 Convention, 48 of 1993 Convention, 63 of 1996 Convention and 59 of 2000 Convention.

<sup>65</sup> It depends of the choice made earlier. See Article on Accession, *supra*.

<sup>66</sup> Drawn from Articles 48 of 1993 Convention, 63 of 1996 Convention and 59 of 2000 Convention.

<sup>67</sup> Drawn from Articles 24 of 2002 Convention and 34 of 2005 Convention.

<sup>68</sup> Drawn from Articles 45 of 1980 Convention, 48 of 1993 Convention, 63 of 1996 Convention, 59 of 2000 Convention, 24 of 2002 Convention and 34 of 2005 Convention.

<sup>69</sup> Drawn from Articles 45 of 1980 Convention, 63 of 1996 Convention and 59 of 2000 Convention.

<sup>70</sup> Drawn from Articles 63 of 1996 Convention and 59 of 2000 Convention.

<sup>71</sup> Drawn from Articles 45 of 1980 Convention, 63 of 1996 Convention and 59 of 2000 Convention.

<sup>72</sup> Drawn from Articles 45 of 1980 Convention, 48 of 1993 Convention, 63 of 1996 Convention, 59 of 2000 Convention, 24 of 2002 Convention and 34 of 2005 Convention.

## Transmittal Form under Article 12(2)

### CONFIDENTIALITY AND PERSONAL INFORMATION PROTECTION NOTICE

*Personal information gathered or transmitted shall be used only for the purposes for which they were gathered or transmitted. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.*

*Do not disclose information included in this transmittal form, attached applications and supporting documents which may lead to the location of any party or child in accordance with Article 35.*

<b>1. Requesting Central Authority</b>	<b>2. Contact person in requesting State</b>
a. Address	a. Language(s)
b. ☎	b. Address (if different)
c. Telefax	c. ☎ (if different)
d. Telex	d. Telefax (if different)
e. E-mail	e. E-mail (if different)
	f. Reference number

3. Requested Central Authority \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

4. Particulars of the applicant

a. Full name: \_\_\_\_\_

b. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)

5. Particulars of the person(s) for whom maintenance is sought

a.  The person is the same as the applicant named above

b. i. Full name: \_\_\_\_\_

Date of birth: \_\_\_\_\_ (dd/mm/yyyy)

ii. Full name: \_\_\_\_\_

Date of birth: \_\_\_\_\_ (dd/mm/yyyy)

iii. Full name: \_\_\_\_\_

Date of birth: \_\_\_\_\_ (dd/mm/yyyy)

**6. Particulars of the debtor<sup>1</sup>**

- a.  The person is the same as the applicant named above
- b. Full name: \_\_\_\_\_
- c. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)

**7. This Transmittal Form concerns and is accompanied by an application under:**

- Article 10(1) *a*) – recognition or recognition and enforcement of a decision made in a Contracting State
- Article 10(1) *b*) – enforcement of a decision made [or recognised] in the requested State
- Article 10(1) *c*) – establishment of a decision in the requested State where there is no existing decision, including where necessary the establishment of parentage
- Article 10(1) *d*) – establishment of a decision in the requested State where recognition and enforcement of a decision is not possible or is refused
- Article 10(1) *e*) or (2) *a*) – modification of a decision made in a requested State to the extent permissible under the law of that State
- Article 10(1) *f*) or (2) *b*) – modification of a decision made in a State other than the requested State to the extent permissible under the law of the requested State
- Article 10(1) *g*) – recovery of arrears

**8. The following documents are enclosed together with the application:**

- a. For the purpose of an application under Article 10(1) *a*), and:  
In accordance with Article 20:
- 1 Original of the maintenance decision or a true copy certified by the competent authority in the State of origin] (Article 20 *a*))
- [OR]
- 1 Abstract of the decision certified by the competent authority in the State of origin in the form set out in annex ... to the Convention] (Article 20 *a*))
- 2 Certificate from the competent authority in the State of origin that the decision is enforceable [and, in the case of a decision by an administrative authority, that the requirements of Article 15(3) are met] (Article 20 *b*))
- 3 A document establishing that the respondent had proper notice of the proceedings and an opportunity to be heard, or had proper notice of the decision and the opportunity to challenge it, where the respondent did not enter an appearance in the proceedings in the State of origin (Article 20 *c*))
- 4 A certified or sworn statement showing the amount of any arrears and the date such amount was calculated] (Article 20 *d*))
- 5 Document providing the information necessary to make appropriate calculations in case of a decision providing for automatic adjustment by indexation] (Article 20 *e*))
- 6 Documentation concerning the entitlement of the applicant to legal assistance in the State of origin (Article 20 *f*))

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<sup>1</sup> According to Article 3 of the Convention “‘debtor’ means an individual who owes or who is alleged to owe maintenance”.

**In accordance with Article 25(3):**

- 7 A copy of the authentic instrument or the private agreement certified as true by the competent authority of the State of origin (Article 25(3) a)
- 8 A certificate issued by the competent authority in the State of origin that the particular authentic instrument or private agreement is enforceable as a decision in that State (Article 25(3) b))

**In accordance with Article 32(5), any document necessary to prove that:**

- 9 The public body fulfils the conditions of [Article 32(3) or] Article 32(4)
- 10 Benefits have been provided for the maintenance creditor
- 11 Any other documents accompanying the application:

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- b. For the purpose of an application under Article 10(1) b), c), d), e), f), and (2) a) or b) the necessary supporting documents in accordance with Article 11(3):

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- 9. Other matters to which the requesting Central Authority draws attention for the consideration of the requested Central Authority:

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Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Representative of the requesting Central Authority