

GUIDELINES FOR COMPLETING THE MODEL FORMS (CHAPTER II)

There are three optional forms available to facilitate seeking permission to take evidence under Chapter II of the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (1970 Evidence Convention or Convention):

- (i) **Form A (Request)**, which may be used by the person or authority seeking permission under Chapter II of the Convention. Form A can be used whenever permission for the taking of evidence under Chapter II must be sought from the Requested State;
- (ii) **Form B (Authorisation)**, which may be used by the Competent Authority of the Requested State; and
- (iii) **Form C**, which may be used by the person or authority for requesting video-link assistance. Where Form C is used, it may be sent together with Form A or at a later time, once the necessary technical information is known.

Before completing and submitting a Request under Chapter II, regard should be given to the information set out in the Country Profile of the Requested State.

Filling out the fields: Complete the forms electronically. Use plain language and avoid using unnecessary legal or technical language. Spell out dates in full (e.g., "1 January 2026"). If a particular item does not apply, insert "not applicable" or "N/A" or otherwise indicate that this item is not applicable. The notes accompanying these guidelines provide further information on filling out each field.

Content: The forms are intended to assist any person or authority seeking permission to take evidence under Chapter II of the 1970 Evidence Convention.

Attachments: Attachments may be used, if applicable and relevant. The notes accompanying these guidelines indicate some situations in which it might be convenient or appropriate to do so. Attachments should be clearly identified and referenced in the Request, and, if sent in hard copy, securely fastened to the completed form.

Language: In order to enable the processing of the Request, it is highly recommended that the completed form (including attachments) be drafted in the language of the Requested State or accompanied by a translation into that language. However, the Requested State may permit or require a different language to be used. To find out the particular language requirements for the Requested State, refer to the Country Profile for that Contracting Party.

Format: The Request may be issued in paper or electronic form in accordance with the law or policy of the Requesting State. If the sender wishes to issue the Request in electronic form (e.g., as a PDF file), it should first refer to the Country Profile or, if necessary, consult the Competent Authority of the Requested State to confirm that such a form will be accepted.

Copies: To determine whether a paper version of the Request, if required, should be furnished in *duplicate*, consult the Country Profile or, if necessary, contact the Central Authority of the Requested State.

No legalisation: The Request does not need to be legalised (or apostilled).

Terminology: In the forms:

Commissioner refers to a person appointed to take evidence pursuant to Article 17 of the Convention. It is possible to appoint a judge as a Commissioner.

Competent Authority means the authority designated by a Contracting Party to grant permission for the taking of evidence pursuant to Articles 15, 16, or 17 of the Convention.

Consular agent refers to an official engaged to take evidence pursuant to Article 15 or 16 of the Convention.

Convention means the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*, the full text of which is available on the Evidence Section of the HCCH website.

Country Profile means an online profile containing practical and country-specific information about a Contracting Party to the Convention, which is available on the Evidence Section of the HCCH website.

Diplomatic officer refers to an official engaged to take evidence pursuant to Article 15 or 16 of the Convention.

HCCH means the Hague Conference on Private International Law.

Requested State (also referred to as the State of execution) means the Contracting Party in whose territory evidence is, or will be, taken.

Requesting State (also referred to as the State of origin) means the Contracting Party in whose territory the proceedings are commenced and in aid of which evidence is, or will be, taken. Where evidence is taken by a Consular agent or a Diplomatic officer, the Requesting State is also the State which they represent.

Request means the form used to apply for permission to take evidence pursuant to Articles 15, 16, and 17 of the Convention (Form A).

Sender means the person or authority applying for permission to take evidence under Chapter II of the Convention. It is the person or authority sending the Request to the Competent Authority.

Further information: For further information on obtaining evidence abroad under the Convention, visit the Evidence Section of the HCCH website. Detailed explanations on the operation of the Convention are provided in the *Practical Handbook on the Operation of the Evidence Convention*, copies of which may be ordered via the Evidence Section.

NOTES

Form A

Request according to Chapter II

(to be completed by the person / authority seeking permission under Chapter II)

** Before completing and submitting a Request under Chapter II, regard should be given to the information set out in the Country Profile of the Requested State.

Item 1: Form A may be used whenever the Requested State requires prior permission for the taking of evidence under Chapter II of the Convention. When seeking permission, the sender is required to indicate the legal basis for the Request: (i) **Article 15**, where evidence is taken by a Diplomatic officer or a Consular agent from a national of the State which they represent; (ii) **Article 16**, where evidence is taken by a Diplomatic officer or a Consular agent from nationals of the Requested State or of a third State; or (iii) **Article 17**, where evidence is taken by a Commissioner.

Under Article 33 of the Convention, a Contracting Party may exclude, in whole or in part, the application of Chapter II. Parties seeking to obtain evidence under any provision of Chapter II are encouraged to consult the declarations or reservations made by the relevant Contracting Party. Further information on the application of Chapter II can be found in the relevant Country Profile.

Item 2: Depending on the legal basis for the Request, different persons or authorities may request permission. Under item 2, provide the name, job title / official function, postal address, telephone number, and e-mail address of the sender (e.g., the Diplomatic officer, Consular agent or Commissioner), as well as the name of the Requesting State. If the sender is requesting prior authorisation on behalf of another person or authority, this should be expressly indicated.

Importantly, item 2 is intended to identify the person or authority seeking authorisation and sending the Request, not necessarily the authority adjudicating the case in the Requesting State.

Item 2.a: Insert the sender's reference number, including any case, file, or docket number sufficient to identify the Request in the Requesting State. This number may be used by the Competent Authority of the Requested State for any communication regarding the Request, and may be particularly useful when several Requests are lodged for the taking of evidence in respect of the same case.

Item 2.b: Where evidence is taken by a Commissioner (who is not the judge adjudicating the case), provide the name, postal address, telephone number, and e-mail address (if applicable) of the authority in the Requesting State that has authorised the taking of evidence. Where possible, a copy of the court order appointing the Commissioner should be enclosed with the Request.

Where evidence is taken by a Diplomatic officer or a Consular agent, indicate the geographical area in which they exercise their functions. If an official is based in one Contracting Party but exercises their functions in more than one Contracting Party, this should be expressly indicated.

Further information on other relevant documents that may be required by the Competent Authority of the Requested State and which should be annexed to the Request can be found in item numbers 11 to 13 of the Country Profile.

Item 3: Insert the name of the Requested State.

Item 3.a: Provide the name of the Competent Authority, where known. The contact details of all Competent Authorities designated by Contracting Parties can be found in the relevant Country Profile.

Item 4: The documents granting permission may need to be returned to another person or authority and not necessarily to the sender. It is important to specify to whom the documents should be returned (the person or authority, including a party, an attorney, or an authority in the Requesting State).

Item 5: The taking of evidence under Chapter II may involve additional costs, such as those associated with a witness's right to reimbursement of necessary expenses (*e.g.*, travel expenses), loss of earnings, court fees, fees paid to experts and interpreters, costs occasioned by the use of a special method or procedure, and even costs for the processing of the Request, which may be subject to reimbursement. To determine whether the Requested State requires reimbursement for such costs, refer to the relevant Country Profile.

Under item 5, provide the name, postal address, telephone number, and e-mail address of the person or authority responsible for bearing these costs, if different from the sender.

Item 6: This item is intended to facilitate communication between the sender and the Competent Authority. Indicate whether the Competent Authority may communicate with the sender by electronic means, and specify any requirements or considerations that should be taken into account (*e.g.*, specific data security or privacy requirements).

Item 7: In some cases, evidence may need to be taken within a specific timeframe. The time required to process the Request may impact this timeframe. Use this item to specify any such timeframe and explain the urgency, where relevant. In some Contracting Parties, the Competent Authority will endeavour to give special expedited processing to urgent requests, although there is no guarantee that the Request will be processed within the specified timeframe.

Item 8: If different from the sender, indicate the name of the Requesting State and insert the name, postal address, telephone number, and e-mail address (if applicable) of the judicial authority or court in the Requesting State before which the proceedings are pending.

Item 8.a: If different from the sender, insert the name, function, postal address, telephone number, and e-mail address of the person or authority responsible for conducting the taking of evidence.

Item 8.b: Insert the name and reference number of the case (e.g., the file, case, or docket number). The case may be cited using the same style as the Requesting State. Importantly, this item refers specifically to the case in the Requesting State and not to the Request.

Item 9: If there is only a single party to the proceedings, only item 9.a needs to be completed. Consider whether it is appropriate to include an e-mail address for the parties and / or their representatives to facilitate future correspondence with the Competent Authority. If there are multiple plaintiffs or defendants, consider specifying only the lead plaintiff or defendant.

Under item 9.d, consider indicating the name and contact details of persons assisting with the taking of evidence, such as interpreters, technicians, etc., where known and relevant. These individuals do not need to be named individually and may include companies or service providers. A Request cannot be refused on the basis that information regarding persons assisting is not supplied.

Item 10: The amount of information provided will depend on the proceedings and the evidence being sought. As far as possible, describe the nature of the proceedings in a precise manner, using plain language, and in such a way as to ensure that a foreign authority unfamiliar with litigation practices in the Requesting State would understand the Request.

In order to use Articles 15, 16, or 17 for the taking of evidence, proceedings must have commenced in a court of the Requesting State. Confirm that the proceedings have commenced by providing the date on which they were initiated, in accordance with the procedural law of the Requesting State.

Item 10.a: Pay close attention to describing the pleadings that give rise to the Request (i.e., the pleadings in support of which the evidence is sought).

Item 10.b: Other information or documents may include judicial decisions that specify the nature and details of the evidence being sought. Such additional information may assist the Competent Authority in granting permission and in assessing whether certain conditions or safeguards should be imposed for the taking of evidence. Bear in mind that some authorities may ask that any attachment to the Request be accompanied by a translation to facilitate the processing of the Request. Please refer to language information on page 1 of these Guidelines.

Item 11: Indicate the type of evidence to be obtained, and use items 12 to 14 to provide specific details regarding the evidence sought. If in doubt, refer to the Country Profile of the Requested State for further information on any restrictions concerning the types of evidence that may be obtained.

Item 12: Where applicable, providing complete and accurate information about the person to be examined or from whom evidence is sought is essential for the Competent Authority to process the Request effectively.

Under this item, the sender should specify not only the name and address of any person who may be subject to examination, but also the details of any individual or entity from whom evidence, such as documentary material, is being sought.

For natural persons, specify the residential address and any other relevant address(es), including a professional address, that may be relevant for processing the Request. Additional information, such as the person's nationality, profession, date of birth, and identification number, may also be provided. For Requests made under Article 15 or 16, the nationality(ies) of the person may be required, depending on the specific reservations and declarations made by the Requested State (see item 12.a).

For legal persons, specify an authorised office and / or office holder and the registration number.

Under item 12.b, other information that may assist in the processing of the Request may be included. This may include language skills, any known disabilities, and whether the evidence or testimony is being provided voluntarily.

** Under Chapter II of the Convention, evidence is given on a voluntary basis. The voluntariness of the person may be an important factor in determining whether permission will be granted. The assessment of voluntariness may occur at different stages of the process, depending on the law and policy of the Requested State. Some Contracting Parties require the person to be informed of the voluntary nature of giving evidence before permission is granted, while other Contracting Parties accept that such notice is provided only after permission is granted.

If the person has already been informed of this right and has agreed to give evidence, documentation of such consent (in any format, including e-mail confirmation) may be included with the Request. It is advisable to consult the relevant Country Profile or contact the Competent Authority of the Requested State to determine whether any specific requirements apply regarding such consent.

Item 13: Indicate the method or procedure envisaged to be followed in the taking of evidence (e.g., oral or written examination, verbatim transcript or summary, cross-examination, technical report, the use of oath / affirmation, etc.). It may be useful to provide an extract of the relevant law or guidelines of the Requesting State by way of an attachment to the Request.

As far as possible, describe the method or procedure in a precise manner, using plain language, and in such a way that a foreign authority unfamiliar with litigation practices in the Requesting State would understand the Request. While some Competent Authorities require such information to inform the witness of the particularities of the taking of evidence, others use this information to assess whether the method or procedure envisaged is compatible with the law of the Requested State or whether conditions or safeguards should be imposed for the taking of evidence.

Item 14: Documents or tangible and intangible evidence (including real or personal property) should be, as far as possible, specifically identified. For documents, specify the name and address of the person from whom the documents or property are to be produced or examined.

Avoid describing the documents as any and all documents within a class. The Requested State may apply its Article 23 declaration (pre-trial discovery of documents) to Requests for permission under Chapter II of the Convention. Consider that some Contracting Parties do not allow for "fishing expeditions" and will refuse, e.g. requests where a person is required to indicate what documents relating to a case are or were in their possession. Further information may also be available in the Country Profile for that Contracting Party.

Item 15: Indicate the day and time (if known) when the taking of evidence is envisaged to take place. If not known, indicate the time period (e.g., between January and March of 2026).

Item 16: In the case of a property inspection, indicate the name and address of the location where the inspection will take place. For documentary evidence, specify, where known, the location (service, department, office, etc.) from which the documents will be obtained, or, where known, the name of the custodian of the documents sought.

In the case of an oral examination, indicate, where known, the place and address from which the person will participate in the examination (including where the witness will be physically located if participation is by video-link). If the person to be examined resides in the Requested State but evidence will be given in a foreign State (a Contracting Party), specify the circumstances under which evidence will be taken.

Item 17: Indicate whether evidence is intended to be obtained via video-link, and specify if known the location from which the person to be examined will connect (e.g., private premises, courtroom, etc.).

If the use of a courtroom in the Requested State is necessary, it is advisable to contact the Competent Authority of the Requested State in advance to determine whether such a request is possible and can be accommodated.

Where necessary, additional technical information may be provided in the form requesting video-link assistance (**Form C**), available on the Evidence Section of the HCCH website. Where Form C is used, it may be sent together with Form A or at a later time, once the necessary technical information is known.

Annexes: Attachments may be used where relevant. They should be clearly identified and referenced in the Request, and, if sent in hard copy, securely fastened to the completed form.

Form B

Authorisation of the Request according to Chapter II

(to be completed by the Competent Authority of the Requested State)

Item 1: Insert the name of the Requested State and the Competent Authority granting the permission. Indicate a reference number (e.g., file, case, or docket number) sufficient to identify the case or the authorisation in the Requested State.

Item 2: Insert the name of the Requesting State and all available information on the recipient of the authorisation. Indicate the name and reference number of the case, as well as any other reference number used in the Requesting State to sufficiently identify the Request.

- ✓ When granting the permission, the Competent Authority may impose additional requirements or conditions for the taking of evidence, pursuant to Article 19 of the Convention. Any such conditions should be clearly specified in the authorisation.

- ✓ The Competent Authority may also refuse to grant the permission. When doing so, the Competent Authority may specify the reasons underlying the refusal in the form.
- ✓ In each case, the Competent Authority may provide additional information relevant to the recipient of the authorisation, including any incurred costs that will need to be reimbursed, applicable provisions of domestic law, legal remedies, and other practical information.

Item 3: When evidence is requested by video-link, the sender may seek the assistance of an authority in the Requested State (e.g., a court). Not all Contracting Parties are able to accommodate such requests; in such cases, this should be indicated in the form. When further assistance is possible, the Competent Authority should provide the name and contact details of the relevant authority, as well as information regarding the possibility of a prior connection test.