

**PROJET DE LISTE RECAPITULATIVE POUR LA MISE EN ŒUVRE –
CONVENTION RECOUVREMENT DES ALIMENTS DE 2007**

établi par le Bureau Permanent

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**DRAFT IMPLEMENTATION CHECKLIST –
2007 CHILD SUPPORT CONVENTION**

drawn up by the Permanent Bureau

*Document préliminaire No 6 de septembre 2009 à l'intention
de la Commission spéciale de novembre 2009 sur la mise en œuvre de
la Convention de 2007 sur le recouvrement des aliments et
du Protocole de 2007 sur la loi applicable aux obligations alimentaires*

*Preliminary Document No 6 of September 2009 for the attention
of the Special Commission of November 2009 on the implementation of
the 2007 Child Support Convention and of
the 2007 Protocol on the Law Applicable to Maintenance Obligations*

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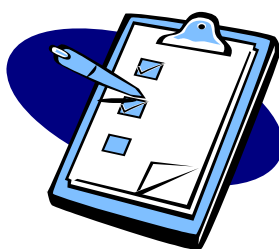
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**DRAFT IMPLEMENTATION CHECKLIST –
2007 CHILD SUPPORT CONVENTION**

drawn up by the Permanent Bureau

Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

IMPLEMENTATION CHECKLIST



Introduction

A "Checklist" of matters that may need to be examined in implementing the Convention

The purpose of this Checklist is to highlight issues which may need to be considered by States or Regional Economic Integration Organisations¹ when implementing the Convention.

The Checklist does not prescribe the method by which the Convention should be implemented in Contracting States. Rather, it indicates some questions that may arise prior to, or upon implementation of the Convention. The list is not exhaustive and there will undoubtedly be other issues specific to States that will require consideration.

The Checklist includes "Preliminary matters" for consideration that relate to the Convention generally, while "Specific measures of implementation" and the annexes to the Checklist may also assist a State when considering particular aspects of the Convention. The annexes cover the following matters:

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| Annex I | A summary of information to be communicated to the depositary (the Ministry of Foreign Affairs of the Kingdom of the Netherlands) or the Permanent Bureau of the Hague Conference on Private International Law. |
| Annex II | A summary of the functions performed by Central Authorities, competent authorities and other authorities under the Convention. |

¹ The term "State" refers also to Regional Economic Integration Organisations (referred to in Art. 59 of the Convention) unless otherwise specified.

IMPLEMENTATION CHECKLIST

Preliminary matters

1. Contemplating becoming a State Party

- Consult with the Permanent Bureau of the Hague Conference on Private International Law and other Contracting States about the benefits of the Convention.
- Identify the multilateral treaties, regional instruments, bilateral treaties, agreements, reciprocal arrangements and other international instruments concerning maintenance obligations to which your State is already a Party. In each case, identify the measures used to implement these instruments.
- Identify and consult with different stakeholders and experts in your State, for example, government and non-government agencies, child protection agencies, welfare services, enforcement authorities, judiciary and the legal profession to:
 - determine the implications of becoming a State Party;
 - identify the best methods to implement the Convention; and,
 - develop a plan for the implementation and operation of the Convention.
- Examine the possibility of becoming a Party to the *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations*, which may supplement the rules of the Convention.

2. Methods of implementation

- Consider the method by which the Convention will be implemented in your State:
 - In your legal system, is the Convention automatically incorporated in domestic law without the need for a legislative act providing that effect?
 OR
 - In your legal system, is incorporation or transformation of the Convention into domestic law necessary? If so, by what means will this be achieved?
 Regardless of whether incorporation or transformation is required in your legal system, some implementing measures will be needed to assist the effective implementation and operation of the Convention within the context of your own legal and administrative systems.
- Conduct a comprehensive review of domestic laws (including constitutional law), rules, regulations, orders, policies and practices to ensure that existing provisions are not contrary to the Convention.
- If there are any existing provisions that create obstacles or impediments to the effective implementation and operation of the Convention, identify the amendments needed.
- Consider amending your domestic laws, rules, regulations, orders, policies and practices in order to introduce new features found in the Convention

which produce positive results for children and families and are accessible, prompt, efficient, cost-effective, responsive and fair.

- Consider which matters will need to be dealt with in your legal system:
- i. in legislation, for example:
 - making available the applications under the Convention;²
 - providing legal assistance and effective access to procedures including for foreign applicants;³
 - implementing procedural requirements in the treatment of an application for recognition and enforcement;⁴
 - providing powers for the Central Authority to perform its functions; and,
 - establishing the role of the Central Authority vis-à-vis applicants (*i.e.*, representation or service provider).
 - ii. in rules, regulations or orders, for example:
 - rules of court to ensure an effective access to procedures;
 - rules which provide that certification of certain documents is not required;⁵ and,
 - providing for the use of the recommended forms and translating such forms.^{6 7}
 - iii. by administrative acts, for example:
 - appointment of a Central Authority;⁸
 - designation of public body(ies)⁹ and competent authorities;
 - providing legal assistance and effective access to procedures;¹⁰ and,
 - non-disclosure of specific information.¹¹

3. Becoming a State Party – signature and ratification or accession

Any State may become a Party to the Convention. However, there are different ways in which a State may become a Party to the Convention. Consider which of the following is applicable:

- Signature followed by ratification:** A State which was a Member of the Hague Conference on 23 November 2007 or participated as Observer¹² in the Twenty-First Session of the Hague Conference may *sign and ratify* the Convention.¹³ By *signing* the Convention, a State expresses, in principle, its intention to become a Party to the Convention. However, signature does not oblige a State to ratify the Convention.¹⁴ The State will then need to *ratify* the Convention for it to enter into force. The Convention enters into force three months after ratification.¹⁵
- Accession:** Other States wishing to become a Party to the Convention may

² Art. 10.

³ Arts 14 to 17.

⁴ Arts 23 and 24.

⁵ Art. 25(3) a).

⁶ Art. 11(4).

⁷ Arts 14 to 17.

⁸ Art. 4.

⁹ Art. 36.

¹⁰ Arts 14 to 17.

¹¹ Art. 40.

¹² These States were: Algeria, Burkina Faso, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Holy See, India, Indonesia, Iran, Philippines and Viet Nam.

¹³ Art. 58(1).

¹⁴ However, Art. 18 of the *Vienna Convention on the Law of Treaties* obliges States, once an expression of consent to be bound by the treaty has been made, not to defeat the object and purpose of the treaty prior to its entry into force.

¹⁵ Art. 60(2) a).

accede.¹⁶ For an acceding State, the Convention will enter into force 12 months after the date of accession.¹⁷ Within this twelve-month period, any other Contracting State may raise an objection to the accession. The Convention will not enter into force between the acceding State and the State which has raised the objection, until such time as the objection is withdrawn. Nevertheless, the Convention will enter into force between the acceding State and all other Contracting States which have not raised an objection.¹⁸

Ratification or accession to the Convention requires the deposit by the State of the appropriate instrument with the depositary.¹⁹

4. Developing a timetable

Determine the date on which the Convention should come into force for your State. In developing a timetable for implementation, keep this date in mind and take steps to:

- ensure that the appropriate implementing measures are put in place, or enacted and in force, by the time the Convention enters into force in your State (*e.g.*, domestic laws, rules, regulations, orders, policies and practices, translation of the recommended forms);
- ensure that the necessary instruments are deposited with the depositary and the necessary information communicated to the Permanent Bureau;
- make certain that all key stakeholders (*e.g.*, government departments, welfare agencies, child protection agencies, courts, police, legal profession) are informed of when the Convention will come into force, any changes to law and procedures and, where applicable, their respective roles under the Convention;
- ensure that adequate training is provided to individuals involved in the application of the Convention (*e.g.*, government departments, child protection agencies, welfare agencies, enforcement authorities, courts and members of the legal profession);
- disseminate information on the Convention to the public.

5. Obligatory designations and provision of information

There are some obligatory designations and provision of information concerning laws, procedures and services to be made under the Convention, in particular:

- ensure that the designation of a Central Authority or Central Authorities is made at the time of ratification / accession (or at least before the Convention enters into force);²⁰
- ensure that, at the time of ratification / accession, the contact details of each Central Authority and, where appropriate, the extent of their functions are communicated to the Permanent Bureau of the Hague Conference on Private International Law;²¹
- ensure that, by the time the instrument of ratification or accession of your State is deposited or a declaration is submitted in accordance with Article 61 of the Convention, the Permanent Bureau is provided with:²²

¹⁶ Art. 58(3).

¹⁷ Art. 60(2) *b*).

¹⁸ Art. 58(5). Note that an objection in respect of an earlier accession may also be raised by States at the time they *ratify, accept or approve* the Convention.

¹⁹ The Ministry of Foreign Affairs of the Kingdom of the Netherlands.

²⁰ Art. 4. If a Central Authority is not designated at the time of ratification / accession, this may lead other Contracting States to consider whether an objection to the accession should be raised.

²¹ Art. 4.

²² Art. 57.

- a description of the laws and procedures of your State concerning maintenance obligations;
 - a description of the measures your State will take to meet the obligations under Article 6;
 - a description of how your State will provide applicants with effective access to procedures, as required under Article 14; and,
 - a description of the enforcement rules and procedures of your State, including any limitations on enforcement, in particular debtor protection rules and limitation periods.
- Ensure that, when the functions of the Central Authority are performed by public bodies, or other bodies, the designation of any such public bodies or other bodies, as well as their contact details and the extent of their functions, are communicated to the Permanent Bureau.²³
 - Indicate, through a declaration, in which language(s) applications and related documents are to be received and the language in which documents or translations are to be drawn up for submission in the specified parts of its territory.²⁴

A summary of all the obligatory designations and provision of information concerning laws, procedures and services to be made under the Convention as well as all the optional declarations, specifications and reservations that States may consider necessary that have to be communicated to the depositary and / or the Permanent Bureau of the Hague Conference is provided in Annex I.

6. Ongoing processes of implementation

- States are encouraged to utilise the country profile form recommended and published by the Hague Conference on Private International Law when providing the Permanent Bureau with information concerning their laws, procedures and services.²⁵
- Develop and implement mechanisms to monitor and evaluate the application and functioning of the Convention, for example, consultation with courts and other authorities responsible under the Convention, collection of statistics and case law. Regular evaluation will assist in identifying and responding to any implementation difficulties that may arise.²⁶
- Ensure that any future changes to contact details of Central Authorities and designated bodies are provided to the Permanent Bureau.
- Access the following resources for assistance:
 - the website of the Hague Conference on Private International Law < www.hcch.net >;
 - A. Borrás and J. Degeling, "Explanatory Report on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance", to be available at < www.hcch.net > under "Publications" then "Explanatory Reports";
 - the Country Profile, available on the website of the Hague Conference under "Work in Progress" then "Maintenance Obligations";

²³ Art. 6(3).

²⁴ Art. 44.

²⁵ Art. 57.

²⁶ Art. 54.

- the Practical Handbook for Caseworkers under the 2007 Child Support Convention, available on the website of the Hague Conference under “Work in Progress” then “Maintenance Obligations”;
- Recommended Forms, available on the website of the Hague Conference under “Work in Progress” then “Maintenance Obligations”;
- *The Judges’ Newsletter on International Child Protection* – available on the website of the Hague Conference under “Publications” then “Judges’ Newsletter”.

Specific measures of implementation

The 2007 Convention accommodates States of different legal traditions and systems allowing them to adapt the implementation of the Convention to their specific needs. This Checklist identifies a number of issues that may arise before, or upon implementation of the Convention, including responses offered by the Convention.

Chapter I – Object, scope and definitions

Object (Art. 1)

- Note that the Convention establishes a comprehensive system of co-operation between States for the effective international recovery of child support and other forms of family maintenance. The Convention makes available applications for the establishment, recognition, recognition and enforcement, enforcement and modification abroad of maintenance decisions.

Scope (Art. 2) (possible declaration and reservation)

- Verify whether the law of your State covers at a minimum the mandatory scope of application of the Convention as set out in Article 2(1) and (2). If not, take the necessary implementing measures to bring the law of your State into line with the Convention. It is important to note that the Convention applies to maintenance obligations in respect of a child regardless of the marital status of the parents.²⁷
- If maintenance obligations arising from a parent-child relationship are limited towards persons under the age of 18 years, consider amending your legislation to cover persons under the age of 21 years. If not, consider making a reservation under Article 2(2) of the Convention in accordance with Article 63.
- If the domestic law of your State provides for maintenance obligations arising from a parent-child relationship towards a person under the age of 25 years under certain conditions, consider extending the scope of application of the whole of the Convention to such maintenance obligations.
- Consider extending the scope of application of the whole Convention to spousal support.²⁸

²⁷ Art. 2(4)

²⁸ Art. 2(1) b) or c).

- If the domestic law of your State covers other maintenance obligations arising from a family relationship, parentage, marriage or affinity, including in particular obligations in respect of vulnerable persons, consider extending the scope of application of the whole or any part of the Convention by way of declaration²⁹ to such maintenance obligations.³⁰

Chapter II – Administrative co-operation

Designation and general functions of Central Authorities (Art. 4)

Central Authorities will play a crucial role in the effective operation of the Convention. Central Authorities serve as a point of contact between Contracting States to transmit and receive applications made under the Convention and to provide and facilitate a number of services. Most functions of the Central Authority may be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State.

- When planning to establish a Central Authority, consider:
 - which authority is best placed to perform the functions of a Central Authority. This is most likely to be an authority with responsibilities that are closely related to the subject matter of the Convention. The Central Authority should both be in a position to promote co-operation amongst the national authorities responsible for the different aspects of recovery of maintenance, and to co-operate with Central Authorities in other Contracting States. The Central Authority might, for example, be a public agency such as a welfare agency or a governmental authority such as a ministry of justice or a ministry of child and family issues. It will be very important to publicise the location of the Central Authority to the general public and legal practitioners;
 - whether your State needs to appoint more than one Central Authority;³¹
 - the functions that Central Authorities will perform and the functions that other authorities will perform (see Annex II);
 - the measures needed to ensure that each authority has the adequate powers and resources to perform effectively their functions under the Convention;
 - whether specific internal procedures are needed to ensure that requests are transmitted and processed quickly. For example:
 - communication between Central Authorities, competent authorities and other authorities *within* your State;
 - communication with authorities in other States.
- Ensure that contact details and specifications are determined prior to the ratification or accession. Ensure that this information is communicated to the Permanent Bureau of the Hague Conference prior to or at the time of the deposit of an instrument of ratification or accession.³²

General functions of Central Authorities (Art. 5)

- Consider how best to provide the Central Authority with the necessary authority under domestic law to promote co-operation amongst the competent authorities in the State of the Central Authority to achieve the purpose of the Convention.

²⁹ See Art. 63.

³⁰ Art. 2(3)

³¹ Art. 4(2).

³² Art. 4(3).

Specific functions of Central Authorities (Art. 6)

- Ensure that the Central Authority in your State has the authority and powers to perform all the functions listed under Article 6.
- If some of the functions listed under Article 6 are to be performed by public bodies, or other bodies subject to the supervision of a competent authority in your State, consider which bodies will carry out these functions and who will be supervising them.³³
- The designation of any such public bodies or other bodies, as well as their contact details and the extent of their functions, must be communicated to the Permanent Bureau.

Transmission and receipt of applications

- Identify under the law of your State the means by which incoming and outgoing requests are to be processed and ensure they are processed promptly, efficiently and in a cost effective way.
- Consider carefully how to manage cases efficiently.
- Consider the possibility of using the recommended forms to facilitate the management of applications.
- Consider the possibility of using electronic case management systems.

Institution of proceedings in respect of applications

- Ensure that the Central Authority has the necessary powers to initiate or facilitate the initiating of proceedings, in your State, in respect of the applications received.³⁴

Legal assistance

- Careful consideration should be given to which elements, if any, of legal assistance are to be provided directly by the Central Authority and, where assistance is not provided directly, how the Central Authority will facilitate the provision of legal assistance, and under what circumstances.³⁵

Location of the debtor or the creditor, information on financial circumstances of the debtor or creditor

- In order to locate debtors and creditors consider, if necessary, amending your domestic law to allow, access, either directly or with the assistance of other bodies, to personal data held by the government³⁶ or private institutions, for the purposes of recovering child support.³⁷ Such access to personal data could also be used, for example, to ascertain income and, if necessary, other financial circumstances, including the identification and location of assets.
- In this respect, internal privacy laws should be identified and consideration might be given to the balance between privacy rights of parents and the right of the child to financial support as set out in the *United Nations Convention on the Rights of the Child*, of 20 November 1989.³⁸

³³ Art. 6(3).

³⁴ See Explanatory Report, paras 115 to 119.

³⁵ See Explanatory Report, paras 126 to 134.

³⁶ For example, Inland Revenue and Human Resources Departments.

³⁷ For example, telephone companies, banks and other financial institutions.

³⁸ See Explanatory Report, para. 138.

Amicable solutions

- Consider the means by which the Central Authority, within its own procedure and / or through other bodies, could encourage amicable solutions between parties.

Enforcement of maintenance decisions

- Consider setting up, either directly or with the assistance of other bodies, systems to manage the enforcement of maintenance decisions as well as the accumulation of arrears, such as electronic case management systems.

Collection and expeditious transfer of maintenance payments

- Consider whether the Central Authority should collect and / or disburse funds electronically either directly or with the assistance of other bodies (see also "Enforcement measures").

Central Authority costs (Art. 8)

- Develop a procedure to obtain the consent of the applicant for the recovery of exceptional costs arising from requests for specific measures under Article 7.

Chapter III – Applications through Central Authorities***Available applications (Art. 10)***

- Verify that applications for recognition, recognition and enforcement, enforcement, establishment and modification are available in your State.³⁹ If not, make the necessary adjustments to the domestic law of your State. Note that a maintenance decision can either be modified by an adjustment to the original decision or by making of a new decision which is independent from the original decision.

Application contents (Art. 11) (possible declaration)

- Consider the use of the recommended forms to facilitate the transmission and receiving of applications. Note that the content of each application is different.
- Consider translating and making available in the official language(s) of your State the forms recommended and published by the Hague Conference on Private International Law.
- Identify any additional information or documents necessary for the purpose of applications for enforcement, establishment or modification under Article 10 and specify them by way of a declaration in accordance with Article 63.
- Take appropriate measures to ensure that the collection, management and sharing of information by the Central Authority and other competent authorities in your State respects the provision of the Convention in respect of the protection of personal data, confidentiality and non-disclosure of information (see the relevant sections under Chapter VIII below).

³⁹ See Explanatory Report, paras 275 to 277.

Transmission, receipt and processing of applications and cases through Central Authorities (Art. 12)

In respect of applications transmitted, received and processed in your State, consider:

- whether a complete certified copy of any document specified under Articles 16(3), 25(1) *a)*, *b)* and *d)* and (3) *b)* and 30(3) is necessary;⁴⁰
- the possible advantages of developing and implementing an electronic case management system to keep foreign Central Authorities informed of the progress of cases and to process cases as quickly as possible;
- the use of secured means of communications to communicate with other Central Authorities.

Means of communication (Art. 13)

- Ensure that the domestic law of your State does not allow the respondent to challenge an application, and related documents or information, on the sole basis of the medium or means of communication employed between the Central Authorities concerned.

Effective access to procedures and free legal assistance (Arts 14-17) (possible declaration)⁴¹

- Consider how applicants will be provided with effective access to procedures under Chapter III.⁴²
- With regard to the provision of free legal assistance, consider whether your system complies with the provisions of Articles 14 to 17.

Chapter V – Recognition and enforcement

- Consider whether any implementing measures are needed to comply with the following provisions: Articles 20, 21, 26, 27, 28 and 29.

Bases for recognition and enforcement (Art. 20) (possible reservation)

- If it is not possible or desired to amend existing legislation or procedures to meet the bases for recognition and enforcement provided under Article 20(1) *c)*, *e)* or *f)*, consider making a reservation under Article 20(2) in accordance with Article 62.
- Where a reservation is made, ensure that the conditions set out in Article 20 are implemented.⁴³

Procedure on an application for recognition and enforcement (Art. 23)

- Verify the grounds upon which the competent authority in your State may review on its own motion recognition and enforcement of a maintenance decision. In the context of Article 23, amend the law of your State to reduce these grounds to the ground set out in Article 22 *a)* (*i.e.*, recognition and enforcement of the decision is manifestly incompatible with the public policy (“*ordre public*”) of the State addressed).

⁴⁰ See Explanatory Report, paras 322 to 326.

⁴¹ See Explanatory Report, paras 356 to 414.

⁴² Art. 3 *c)*.

⁴³ Art. 20(3), (4) and (5). See Explanatory Report, paras 461 to 471.

- Consider whether any changes to existing procedural law or regulations are needed to ensure compliance with Article 23, especially:
 - the time limits to lodge an appeal or a challenge;⁴⁴
 - the grounds on which an appeal or a challenge might be funded;⁴⁵
 - the requirement that an appeal shall not have the effect of staying the enforcement of the decision, except under "exceptional circumstances".

Alternative procedure on an application for recognition and enforcement (Art. 24) (possible declaration)

- Consider whether, in view of the procedure characteristics of your legal system, a declaration is needed to enable the use of the alternative procedure in Article 24.⁴⁶

Documents (Art. 25) (possible specifications)

- Consider the use of the recommended forms and their translation into the official language(s) of your State to facilitate the processing of applications.
- Consider implementing the necessary measures to process non-certified documents for the purpose of recognition and enforcement.
- Consider whether, in the context of domestic law and procedure, your State should specify to the Permanent Bureau of the Hague Conference:⁴⁷
 - that a complete copy of the decision certified by the competent authority in the State of origin must accompany the application;
 - the circumstances in which your State will accept, in lieu of a complete text of the decision, an abstract or extract of the decision drawn up by the competent authority of the State of origin, which may be made in the form recommended and published by the Hague Conference on Private International Law.
- Consider whether your State requires a document stating that the requirements of Article 19(3) are met.

Maintenance arrangements (Art. 30) (possible reservation and declaration)

- Verify whether the law of your State permits the recognition and enforcement of maintenance arrangements as defined in Article 3 e).⁴⁸ If not, consider implementing the measures necessary to provide for the recognition and enforcement of maintenance arrangements. If this is not possible or desired, consider reserving the right not to recognise and enforce maintenance arrangements.⁴⁹

⁴⁴ Art. 23(6).

⁴⁵ Art. 23(7) and (8).

⁴⁶ That is a procedure not involving a separate declaration of enforceability or registration for enforcement of the decision, but rather a single application to the court for recognition and enforcement of a decision. See Explanatory Report, paras 516 to 525.

⁴⁷ By the time the instrument of ratification or accession of your State is deposited or a declaration is submitted.

⁴⁸ According to the definitions of the Convention, " 'maintenance arrangement' means an agreement in writing relating to the payment of maintenance which –

i) has been formally drawn up or registered as an authentic instrument by a competent authority; or

ii) has been authenticated by, or concluded, registered or filed with a competent authority,

and may be the subject of review and modification by a competent authority".

⁴⁹ Art. 30(8).

- In the absence of a reservation, consider whether any implementing measures are needed to comply with the procedure specifically established for recognition and enforcement of maintenance arrangements (challenge, effect of challenge, review of the grounds for refusing recognition and enforcement).
- Consider whether a declaration is needed to ensure that an application for recognition and enforcement of a maintenance arrangement can be made only through Central Authorities and not by direct request.

Decisions produced by the combined effect of provisional and confirmation orders (Art. 31)

Article 31 of the Convention has been drawn up specifically for countries that are parties to reciprocity arrangements where decisions are produced by the combined effect of provisional and confirmation orders.⁵⁰

- Identify the reciprocity arrangements that your State is party to, and ensure that the Central Authority and relevant authorities are aware of how to co-ordinate the application of the Convention and these arrangements. Note that the Convention ensures that a decision made can be recognised and enforced in any other Contracting States even when the first State is not a party to the Convention. However, some conditions are required to confirm a provisional order regarding, for instance, proper notice and enforceability.

Chapter VI – Enforcement by the State addressed

Enforcement under internal law (Art. 32)

- Consider whether any implementing measures are needed to ensure that:
 - where a decision has been declared enforceable or registered for enforcement, the Central Authority or domestic law does not require any further action to be taken by the applicant in order to proceed with the enforcement of the decision in question;
 - enforcement is “prompt”;
 - the rules of the State of origin of the decision related to the duration of the maintenance obligation and arrears will be given effect in your State.⁵¹

Non-discrimination (Art. 33)

- Consider whether any implementing measures are needed to respect the principle of non-discrimination regarding the availability of enforcement methods in your State.⁵²

Enforcement measures (Art. 34)

- Identify what effective measures are available under your domestic law to enforce maintenance decisions.
- Consider what implementing measures may be necessary to make available under the law of your State effective measures to enforce maintenance decisions. The Convention provides examples of such measures.⁵³

⁵⁰ Also known as REMO. See Explanatory Report, para. 567.

⁵¹ Art. 32(4) and (5).

⁵² See Explanatory Report, para. 580.

⁵³ Art. 34(2). See also Explanatory Report, paras 582 and 583.

Transfer of funds (Art. 35)

- Consider how best to promote cost effective and efficient methods for the transfer of funds payable as maintenance.⁵⁴
- Consider how the law of your State should give the highest priority to transfers of funds under the Convention compared with other payments.⁵⁵

Chapter VII – Public bodies (Art. 36)

- Consider whether amendment of any existing legislation or procedures is needed to ensure that the concept of “creditor” includes, for the purpose of the Convention, public bodies acting in place of an individual to whom maintenance is owed or one to which reimbursement is owed for benefits provided in place of maintenance.⁵⁶
- Consider implementing a method to request documents necessary to establish the right of a public body to act in place of an individual to whom maintenance is owed or to seek reimbursement of benefits, and to provide the same information to other Central Authorities upon request.

Chapter VIII – General provisions

Direct requests to competent authorities (Art. 37)

- Consider the circumstances in which your State will allow direct requests under the Convention. Ensure that the requests provided for under Article 37 are complied with.
- Consider making available the recommended forms developed under the Convention and their translation for the purpose of direct applications.

Protection of personal data and confidentiality (Arts 38 and 39)

- Consider whether existing domestic laws and procedures are sufficient to protect personal data and confidentiality of information that is gathered or transmitted under the Convention.⁵⁷
- If there are existing limitations in your State on the type of information or data that can be released to third parties, consider whether exceptions should be made for maintenance, and in particular child support, cases.⁵⁸

Non-disclosure of information (Art. 40)

- Consider whether any implementing measures are needed to comply with the principle of non-disclosure of information provided for under Article 40,⁵⁹ in particular:
 - if the Central Authority determines that transmitting or gathering information could jeopardise the health, safety or liberty of a person, it must not disclose or confirm this information;

⁵⁴ See Explanatory Report, para. 584.

⁵⁵ See Explanatory Report, para. 585.

⁵⁶ See Explanatory Report, paras 586 to 598.

⁵⁷ See Explanatory Report, paras 605 to 606.

⁵⁸ See Explanatory Report, para. 607.

⁵⁹ See Explanatory Report, paras 608 to 613.

- Central Authorities shall take into account a determination of non-disclosure made by another Central Authority, especially in the case of family violence.
- Consider the use of the recommended forms to facilitate the application of the principle of non-disclosure of information in proceedings under the Convention.

No legalisation (Art. 41)

- Consider whether it is necessary to amend the law of your State to ensure that no legalisation or similar formality will be required in the context of the Convention.

Power of attorney (Art. 42)

- Consider whether the Central Authority in your State should act as a “representative” of the applicant and consider implementing a system to prevent conflicts of interest arising from the “representation” of both a creditor and a debtor in the same case.
- If the Central Authority is to act as a “representative” of the applicant consider implementing the necessary measures for the Central Authority to act on the basis of a power of attorney.

Recovery of cost (Art. 43)

- Ensure that, under the law of your State, recovery of maintenance will always take precedence over recovery of costs incurred in the application of the Convention.

Language requirements, means and costs of translation (Arts 44 and 45) (possible declarations and reservation)

- In order to facilitate compliance with the provisions of the Convention in relation to language requirements, consider the adoption and use of the recommended forms and Country Profile.
- A declaration may be necessary if your State has more than one official language and cannot, for reasons of domestic law, accept for the whole of its territory documents in one of those languages. Your State may consider making a declaration specifying the language in which such documents or translations shall be drawn up for submission in the specified parts of its territory.
- Consider the possibility of the Central Authority having among its employees, English or French-speaking personnel.
- Consider whether a reservation is necessary in order to object to the use of either French or English (*but not both*) in communications between Central Authorities.

Non-unified legal system (Arts 46 and 47)

- If in your State (REIOs excluded) two or more systems of law or sets of rules of law apply in different territorial units, consider whether it is necessary to amend the existing legislation of your State, as well as of different territorial units within your State, to comply with the interpretation of references listed by the Convention.
- Note that States with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which solely involve such different territorial units.

Most effective rule (Art. 52)

- Consider ascertaining the international instruments, agreements or arrangements in force between your State and another Contracting State to the Convention, with a view to identifying the most effective rules contained therein, such as:
 - broader bases for recognition of maintenance decisions, without prejudice to Article 22 f) of the Convention;
 - simplified, more expeditious procedures on an application for recognition or recognition and enforcement of maintenance decisions;
 - more beneficial legal assistance than that provided for under Articles 14 to 17; or
 - procedures permitting an applicant from a requesting State to make a request directly to the Central Authority of the requested State.
- Consider ensuring the availability in maintenance procedures of the most effective rules.

Transitional provisions (Art. 56)

- Ensure that domestic law or implementing measures will allow the application of the Convention to:
 - any request or application that has been received by your Central Authority after the Convention has entered into force between your State and the requesting State concerned. Note that the sole criterion is the date of receipt of the application in your State, irrespective of the date of any previous procedural steps taken in any other State;
 - any direct request for recognition and enforcement that will be received by the competent authorities after the Convention has entered into force between your State and the requesting State concerned. Note again that the sole criterion is the date of receipt of the application in your State.
- However, note that, except for child support, the State addressed shall not be bound under this Convention to enforce a decision (or a maintenance arrangement) in respect of payments falling due prior to the entry into force of the Convention between the State of origin and the State addressed.

A N N E X E S

ANNEX I

Information to be communicated to the depositary or the Permanent Bureau by States Parties to the Hague Convention of 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

Information which States must provide directly to the Permanent Bureau of the Hague Conference on Private International Law (Arts 4 and 6(3))	
Article 4	<p>A State shall designate a Central Authority to discharge the duties that are imposed by the Convention on such an authority. As a matter of priority, contact details of Central Authorities and the language(s) of communication should be communicated to the Permanent Bureau.</p> <p>A Federal State, a State with more than one system of law or a State having autonomous territorial units shall be free to appoint more than one Central Authority. 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.</p> <p>A State must communicate the contact details of the Central Authority or Central Authorities to the Permanent Bureau, and where appropriate the territorial or personal extent of their functions.</p>
Article 6(3)	The designation of any public bodies or other bodies to perform the specific functions of Central Authorities under Article 6, must be communicated by a State to the Permanent Bureau, along with their contact details and the extent of their functions.
Article 16	A State which has made a declaration under Article 16 shall provide information to the Permanent Bureau concerning the manner in which the assessment of the child's means will be carried out, including the financial criteria which would be needed to be met to satisfy the test.
Article 57	<p>A State shall provide the Permanent Bureau with:</p> <ul style="list-style-type: none"> - a description of its laws and procedures concerning maintenance obligations; - a description of the measures it will take to meet the obligations under Article 6; - a description of how it will provide applicants with effective access to procedures; - a description of its enforcement rules and procedures, including any limitations on enforcement, in particular, debtor protection rules and limitation periods; - any specification referred to in Article 25(1) <i>b</i>) and (3).

Notifications to the depositary and instruments to be deposited with it¹	
Article 58(2)	Instruments of ratification, acceptance and approval.
Article 58(4)	Instruments of accession.
Article 58(5)	Objections to accession. A State may object to the <i>accession</i> of an acceding State within twelve (12) months after the receipt of a notification of accession. ²
Article 59(2)	A Regional Economic Integration Organisation must notify in writing of any changes to its competence transferred to it by its Member States.

Declarations which may be made and must be communicated to the depositary (Art. 63)	
Article 2(3)	<p>A State may declare that it will extend the application of the whole or any part of the Convention to any maintenance obligation arising from a family relationship, parentage, marriage or affinity, including in particular obligations in respect of vulnerable persons.</p> <p>Any such declaration shall give rise to obligations between two Contracting States only in so far as their declarations cover the same maintenance obligations and parts of the Convention.</p>

¹ Ministry of Foreign Affairs of the Kingdom of the Netherlands (Art. 58(2)).

² Note that an objection in respect of an earlier accession may be raised by States at the time they *ratify, accept or approve* the Convention.

Article 11(1) <i>g</i>)	A State may declare that applications made through Central Authorities shall include as a minimum other specified information or shall be accompanied by specified documents. It is not possible to make a declaration for additional information or document for applications under Article 10(1) <i>a</i>) and (2) <i>a</i>) as these applications shall be accompanied only by the documents listed in Article 25.
Article 16(1)	A State may declare that it will provide free legal assistance in respect of applications subject to a test based on an assessment of the means of the child. This declaration cannot be made in respect of: <ul style="list-style-type: none"> - applications by creditors for recognition or recognition and enforcement of a decision (Art. 10(1) <i>a</i>)); - applications by creditors for enforcement of a decision made or recognised in the requested State (Art. 10(1) <i>b</i>)); and - cases where recognition of a decision is not possible as a result of a reservation made under Article 20(2) and that the debtor is habitually resident in that State (Art. 20(4)).
Article 24(1)	A State may declare that it will apply the alternative procedure on an application for recognition and enforcement set out in Article 24.
Article 30(7)	A State may declare that applications for recognition and enforcement of a maintenance arrangement shall only be made through Central Authorities.
Article 44(1)	A State may declare that they will accept translations of applications and related documents into other indicated languages.
Article 44(2)	A State which has more than one official language and cannot accept for the whole of its territory documents in one of those official languages, shall specify the language in which such documents or translations thereof shall be drawn up for submission in specified parts of its territory.
Article 59(3)	A Regional Economic Integration Organisation may declare that it exercises competence over all matters governed by this Convention and that Member States which have transferred competence to the Regional Economic Integration Organisation in respect of the matter in question shall be bound by this Convention by virtue of the signature, acceptance, approval or accession of the Organisation.
Article 61(1)	Where a State has two or more territorial units in which different systems of law are applicable, it may declare that the Convention shall extend to all or to one or more of the territorial units of the Contracting State (which must be identified).

Information to be provided to the depositary regarding agreements between Contracting States

Article 51(2)	A State may conclude with one or more Contracting States agreements, which contain provisions on matters governed by the Convention, with a view to improving the application of the Convention between or among themselves, provided that such agreements are consistent with the objects and purpose of the Convention and do not affect, in the relationship of such States with other Contracting States, the application of the provisions of the Convention. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.
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Reservations which may be made and must be communicated to the depositary (Art. 62)

Article 2(2)	A State may reserve the right to limit the application of the Convention to persons under the age of 18 years.
Article 20(2) and (3)	A State may make a reservation to the bases of recognition and enforcement set out in Article 20(1) <i>c</i>), <i>e</i>) or <i>f</i>).
Article 30(8)	A State may reserve the right not to recognise and enforce a maintenance arrangement.
Article 44(3)	A State may make a reservation objecting to the use of either French or English, but not both, for communications between Central Authorities, other than the application and related documents.
Article 55(3)	A State may make a reservation with respect to an amendment to the forms (annexed to the Convention) adopted by the Contracting States present at a Special Commission convened by the Secretary General of the Hague Conference on Private International Law.
Article 62(2)	The withdrawal of any reservations.

**Functions of Central Authorities and other authorities
under the Hague Convention of 2007 on the International Recovery of
Child Support and Other Forms of Family Maintenance**

The following list of functions is for the applications made under the Convention's limited core scope (Art. 2(1) and (2)).

General mandatory functions of Central Authorities	
Article 5 a)	Co-operate with each other and promote co-operation amongst the competent authorities in their States to achieve the purposes of the Convention.
Article 5 b)	Seek as far as possible solutions to difficulties which arise in the application of the Convention.

Non-discretionary mandatory functions which may be performed by Central Authorities, public bodies or other bodies as determined by the Contracting State	
Article 6(1)	Provide assistance in relation to applications made through Central Authorities. In particular: <ul style="list-style-type: none"> - transmit and receive such applications; - initiate or facilitate the institution of proceedings in respect of such applications.

Other specific mandatory functions which may be performed by Central Authorities, public bodies or other bodies as determined by the Contracting State¹	
Article 6(2) a)	Where circumstances require, provide or facilitate the provision of legal assistance.
Article 6(2) b)	Help locate the debtor or the creditor.
Article 6(2) c)	Help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets.
Article 6(2) d)	Encourage amicable solutions with a view to obtaining voluntary payment of maintenance, where suitable by use of mediation, conciliation or similar processes.
Article 6(2) e)	Facilitate the ongoing enforcement of maintenance decisions, including any arrears.
Article 6(2) f)	Facilitate the collection and expeditious transfer of maintenance payments.
Article 6(2) g)	Facilitate the obtaining of documentary or other evidence.
Article 6(2) h)	Provide assistance in establishing parentage where necessary for the recovery of maintenance.
Article 6(2) i)	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.
Article 6(2) j)	Facilitate service of documents.

Other functions of Central Authorities	
Article 7(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), g), h), i) and j) when no application under Article 10 is pending. The requested Central Authority shall take such measures as are appropriate if satisfied that they are necessary to assist a potential applicant in making an application under Article 10 or in determining whether such an application should be initiated.
Article 7(2)	Upon request from a Central Authority, may take specific measures in relation to a case having an international element concerning the recovery of maintenance pending in the requesting State.
Article 12(1)	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.
Article 12(2)	Transmit the application on behalf of and with the consent of the applicant.

¹ Art. 6(3).

Article 12(3)	<p>Within six (6) weeks from the date of receipt of the application:</p> <ul style="list-style-type: none"> - acknowledge receipt; - inform the requesting Central Authority what initial steps have been or will be taken to deal with the application; - provide the name and contact details of the person or unit responsible for responding to the inquiries regarding the progress of the application.
Article 12(4)	<p>Within three (3) months after the acknowledgment, inform the requesting Central Authority of the status of the application.</p>
Article 12(5)	<p>Keep each other informed of:</p> <ul style="list-style-type: none"> - the person or unit responsible for a particular case; - the progress of a case. <p>Provide timely responses to enquiries.</p>
Article 12(6)	<p>Process a case as quickly as a proper consideration of the issues will allow.</p>
Article 12(7)	<p>Employ the most rapid and efficient means of communication at their disposal.</p>
Article 12(8)	<p>Promptly inform the requesting Central Authority of its reason of refusal.</p>
Article 12(9)	<p>Inform the requesting Central Authority that it will no longer process the application for lack of information or documents which were requested and to which no reply was received within three (3) months or longer period specified by the requested Central Authority.</p>
Article 23(2)	<p>Promptly refer the application for recognition and enforcement of a decision made through Central Authorities to the competent authority.</p>
Article 24(2)	<p>Promptly refer the application for recognition and enforcement of a decision made through Central Authorities to the competent authority.</p>

Other functions performed by competent authorities (or Central Authorities as competent authorities) and public bodies as applicants

Articles 20, 22, 23, 24 and 25	<p>Recognise and enforce decisions made under the Convention</p>
Article 23(2)	<p>Declare the decision enforceable or register the decision for enforcement without delay.</p>
Article 23(5)	<p>Promptly notify the applicant and the respondent of the decision following the challenge or the appeal.</p>
Article 23(9)	<p>Promptly notify the applicant and the respondent of the declaration or registration, or of the refusal.</p>
Article 23(11)	<p>Act expeditiously in taking any decision on recognition and enforcement, including any appeal.</p>
Article 24(2)	<p>Decide on the application for recognition and enforcement.</p>
Article 24(3)	<p>Duly and promptly notify the respondent, and give both parties an adequate opportunity to be heard, before giving its decision</p>
Article 24(4)	<p>May review the grounds for refusing recognition and enforcement:</p> <ul style="list-style-type: none"> - set out in Article 22 a), c) and d) of its own motion; - set out in Articles 20, 22 and 23(7) c) if raised by the respondent or if concerns relating to those grounds arise from the face of the documents submitted in accordance with Article 25.
Article 24(7)	<p>Act expeditiously in taking any decision on recognition and enforcement, including any appeal.</p>
Article 36(1)	<p><i>For the purposes of applications for recognition and enforcement under Article 10(1) a) and b) and cases covered by Article 20(4), "creditor" includes a public body, consider as a creditor a public body acting in place of an individual to whom maintenance is owed or one to which reimbursement is owed for benefits provided in place of maintenance.</i></p>
Article 39	<p>Ensure the confidentiality of information in accordance with the law of the State.</p>