

Title	Questionnaire in preparation of the Experts' Group meeting of 8 to 11 February 2021 on international transfers of maintenance funds
Document	Prel. Doc. No 11 of October 2020
Author	PB
Agenda Item	TBD
Mandate(s)	C&D No 25 of CGAP 2020
Objective	To prepare for the Experts' Group meeting of February 2021 by collecting information on current arrangements regarding international transfers of maintenance funds. Replies to the Questionnaire should be sent to the PB by e-mail to < secretariat@hcch.net > no later than 15 January 2021
Action to be Taken	For Action <input checked="" type="checkbox"/> For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input type="checkbox"/>
Annexes	N/A
Related Documents	Prel. Doc. 11 of November 2019 - Report of the Experts' Group on international transfers of maintenance funds

Questionnaire in preparation of the Experts' Group meeting of 8 to 11 February 2021 on international transfers of maintenance funds

- 1 At its 3 to 6 March 2020 meeting, the Council on General Affairs and Policy (CGAP) of the HCCH concluded and decided as follows regarding the work of the Experts' Group (EG) on international transfers of maintenance funds:

“25. CGAP mandated the Experts' Group on international transfer of maintenance funds to continue its work and invited the PB to make arrangements for a further meeting of the Experts' Group by videoconference. The findings of the Expert's Group will inform the work of the SC.”

- 2 In preparation of the 8 to 11 February 2021 videoconference meeting of the EG, to take place in the afternoon Central European Time, delegates / experts are invited to review the “Report of the Experts' Group on international transfers of maintenance funds”¹ which includes the Conclusions and Recommendations of the first meeting of the EG in September 2019 (C&R EG) that reflect existing good practices found in a number of States. Delegates / experts are also invited to complete the following Questionnaire.
- 3 Membership of the EG is open to all Members of the HCCH regardless of whether they are Contracting Parties to the HCCH 2007 Child Support Convention or not. To ensure the widest possible representation, any contributions or proposals from Members which have not yet participated in the work of the EG are welcome.

Instructions for completion of the Questionnaire

- 4 The Questionnaire is being sent to Central Authorities as well as National and Contact Organs. Central Authorities are asked to co-ordinate as appropriate between themselves and other competent authorities. For Contracting Parties to the Convention, Central Authorities are ultimately responsible for submitting the completed Questionnaire to the Permanent Bureau (PB).
- 5 In order to allow the PB to extract parts of the Questionnaire for a compilation and analysis of the responses, you are kindly requested to use **this Word version** of the document, and **not return a PDF version** of the completed Questionnaire.
- 6 We kindly request that replies to the Questionnaire be sent to the PB by e-mail to < secretariat@hcch.net > **no later than 15 January 2021** with the following subject matter captioned in the heading of the e-mail: “[name of State] Response to transfer of maintenance funds Questionnaire – 2021 Special Commission”. Any questions concerning the Questionnaire may be directed to < secretariat@hcch.net >.
- 7 The PB intends, except where expressly asked not to do so, to place all responses to the Questionnaire on the HCCH website (< www.hcch.net >). Please therefore clearly identify any responses which you do not want to be placed on the website.
- 8 The findings of the EG will inform the work of the Special Commission (SC) tentatively scheduled to take place during the week of 7 to 11 June 2021. The dates of the SC will be discussed and decided at the CGAP 2021 meeting, which is scheduled to take place during the week of 1 to 5 March 2021. Thank you for your kind co-operation as the PB prepares for the meeting of the SC in 2021.

¹ CGAP Prel. Doc. No 11 of November 2019 “Report of the Experts' Group on international transfers of maintenance funds” is available at: < <https://assets.hcch.net/docs/4def3f24-fde9-487a-9396-531105e196d5.pdf> >.

Questionnaire

Name of State or territorial unit:^[1]	Germany
<i>For follow-up purposes</i>	
Name of contact person:	Please insert text here
Name of Authority / Office:	Bundesamt für Justiz/Federal Office of Justice
Telephone number:	Please insert text here
E-mail address:	auslandsunterhalt@bfj.bund.de

- 9 For the purpose of the 8 to 11 February 2021 meeting of the EG, delegates / experts are invited to report on consideration given to and / or implementation of the following arrangements in their jurisdiction:
- a. Developments in general regarding the international transfer of maintenance funds
- As already pointed out at the first meeting of the Experts' Group, the German Reserve Bank (Deutsche Bundesbank) will terminate the processing of check transactions in the medium term.
- b. Elimination of the use of cheques (see C&R EG No 1)
- Not being considered. Please explain:
- Please insert text here
- Is being considered. Please explain:
- The only countries checks are still used with are Canada, South Africa, Australia, New Zealand and the USA. However, the states Virginia, California and Ohio mostly make use of electronic transfers.
- Following up on the discussions at the first meeting of the Experts' Group, Germany and Ontario entered into a first test of electronic payment. On 27/01/2020 the German CA received a test transfer made by Ontario in the amount of 1 CAD converted into the amount of 0.68 EUR. Obviously no major fees were deducted. However, the payment reference number ("Kassenzeichen") which is essential for automated payment processing in Germany was missing. No further test transfers were made due to other priorities during the pandemic.
- Has already been implemented. Please explain:
- With all other countries Germany uses exclusively electronic payment systems.
- c. Solutions with regard to increased transparency and cost reduction of transfers and currency conversion (see C&R EG Nos 2 and 10)

^[1] The term "State" in this Questionnaire includes a territorial unit, where relevant.

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

Regarding electronic payments with Virginia, California, Ohio and Ontario there are apparently no major costs (around 1 %) as far as the German CA can compare the sent and the received amounts. Currently, the German CA cannot itself see the exchange rate used for the currency conversion of the amount transferred. This is only possible for the Federal Treasury ("Bundeskasse", the holder of the bank account of the German CA). The German CA has not yet been able to clarify whether it can also be given the opportunity to see the exchange rate used for currency conversion.

Has already been implemented. Please explain:

Please insert text here

d. Solutions where creditors would not bear the costs related to the transfer of funds (see C&R EG No 2)

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

Has already been implemented. Please explain:

Only partially. The German CA has an arrangement with its bank to cover own transfer fees (see question f.).

As regards third-party fees, the situation is as follows:

Electronic payments

At present, the German CA is not aware of any fees being charged in Germany if payments are forwarded to the recipients via the German CA (SEPA). The German Reserve Bank does not charge own fees to the German CA for transfers (see question f.).

It is not certain whether extra fees are charged in the case of payments made directly to the creditor living in Germany (this may differ depending on the country the payment was sent from and/or the banks involved).

Checks

Incoming checks are credited to the bank account of the German CA (held by the Federal Treasury/Bundeskasse) for a fee of 2.00 EUR per check. Therefore, checks should be at least 5.00 USD. This fee is paid by the recipient because it is deducted by the bank from the amount transferred.

Outgoing checks are issued on behalf of the German CA via the German Reserve Bank (Bundesbank) by the latter's correspondence bank in the respective country. The

currency conversion is done by the German Reserve Bank/Bundesbank. The transfer fees are paid by the recipient. In both cases, the fees are third-party fees. The German CA's house bank (German Reserve Bank/Deutsche Bundesbank) does not charge own fees for transfers (see also question f.).

- e. Solutions where the institution(s) facilitating the transfer of funds could cover the costs of such transfers by withholding the amounts for a few days (see C&R EG No 2)

Not being considered. Please explain:

In Germany this is not possible according to domestic law which is implementing Art. 83, 84 of the Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC:

Section 675t German Civil Code

Value date and availability of funds

(1) The payee's payment service provider is obliged to make the payment amount available to the payee promptly after it has been credited to the account of the payment service provider. Insofar as the payment amount is to be credited to a payment account of the payee, crediting, even if it takes place subsequently, is to be carried out such that the time which the payment service provider uses as a basis for the calculation of the interest on credit or debit of an amount on a payment account (value date) is at the latest the business day on which the payment amount was credited to the account of the payee's payment service provider. Sentence 1 also applies if the payee does not hold a payment account.

(2) If a consumer places cash on a payment account with a payment service provider in the currency of the payment account concerned, this payment service provider must ensure that the amount is made available and credited to the payee promptly after the time of acceptance. If the payment service user is not a consumer, the amount of money must be made available and credited to the payee at the latest on the business day following acceptance.

(3) A debit to the payer's payment account is to be effected such that the value date is at the earliest the time when this payment account is debited with the payment amount.

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

- f. Requested Central Authority arrangements with their bank to cover transfer fees or other arrangements to that effect (see C&R EG No 3)

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

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Has already been implemented. Please explain:

With regard to the fees of the German CA's house bank (German Reserve Bank/Deutsche Bundesbank), such an arrangement already exists, whereby the bank does not charge own fees for transfers.

However, any third-party-fees incurred are passed on to the German CA - what, for example, would be the case for an outgoing electronic credit transfer with the "Details of Charges" set to "OUR".

- a. Requesting Central Authority providing confirmation to the requested Central Authority that the amounts received are the same as the amounts sent and, where applicable, information on the reasons for any difference (see C&R EG No 3)

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

In cases where debtors make electronic payments to the bank account of the German CA (held by the Federal Treasury/Bundeskasse) and the German CA forwards the payments to the recipients abroad, the recipients are informed in writing (by letter or email) of the first payment being made. In most cases, the recipients are asked to confirm receipt of the first payment by letter or email upon the transfer being made. Where recurring payments are in place, the caseworkers of the German CA request confirmation of payments by letter or email from the recipients every few months to ensure that these are in fact being received. Furthermore, the recipients and the other CA are informed that the relevant date for the currency conversion is the day the German CA receives the payment from the debtor. Discrepancies are clarified with the other Central Authority and the recipient.

- b. Establishment of a centralised point (e.g., bank account, central bank) for international transfers dedicated to both incoming and outgoing transfer of funds (see C&R EG Nos 4 and 5)

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Regarding checks: Incoming checks are credited to the bank account of the German CA (held by the Federal Treasury/Bundeskasse). Outgoing checks are issued on behalf of the German CA via the German Reserve Bank/Bundesbank by the latter's correspondence bank in the respective country. In the USA this is JP Morgan Chase, New York Branch, in Canada it is the National Bank of Canada/Banque National du Canada.

Regarding electronic payments: Most of the payments to creditors in Germany are made by electronic transfer. The majority of those electronic payments go straight to the creditor. A much smaller number of payments is made to the German CA which then forwards the payment to the creditor.

Where electronic payments are made by the debtor to the German CA, the electronically provided payment receipt is provided by the financial institution Bundeskasse/ Federal Treasury, the cash office of the German CA. The electronically provided payment receipt is necessary for automatic processing of the payment.

c. Provision of payment transfer services to any debtors transferring payments within the scope of the HCCH 2007 Child Support Convention (see C&R EG No 5)

Not being considered. Please explain:

[Please insert text here](#)

Is being considered. Please explain:

[Please insert text here](#)

Has already been implemented. Please explain:

As mentioned above (question h.) the German CA provides the opportunity for any debtor to make electronic payments to the bank account of the German CA (Federal Treasury/Bundeskasse). The German CA forwards these payments to the recipients abroad.

d. Implementation of payment transfer monitoring systems (see C&R EG No 6)

Not being considered. Please explain:

[Please insert text here](#)

Is being considered. Please explain:

[Please insert text here](#)

Has already been implemented. Please explain:

As far as the payments are processed via the German CA, the monitoring of the payments is possible. That concerns many incoming cases (e.g. outgoing payments),

because the debtor is asked to send his payments to the bank account of the German CA (Bundeskasse/Federal Treasury).

Especially in outgoing cases mainly with EU member states (i.e. incoming payments) the payments cannot be monitored as the debtors / other Central Authorities / bailiffs regularly pay directly (via SEPA) to the creditors in Germany. One exception in the group of incoming payments concerns checks from the US/CAN which can be monitored.

- e. Implementation of unique case references, known to both the requesting and requested State, attached to each transfer of funds (see C&R EG No 7)

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

Allocation and automatic procession of electronic payments is already possible if the payment reference number ("Kassenzeichen") is attached to the payment and remains unchanged throughout the transfer.

In incoming cases (i.e. outgoing payments) it seems possible to exchange our case reference number for the iSupport ID. However, the German CA could not clarify yet if the iSupport ID can be used in outgoing cases (i.e. incoming payments).

Has already been implemented. Please explain:

Please insert text here

- f. Implementation of currency conversion of payments done by the relevant authority in the requested State at the time of transfer (see C&R EG No 8)

Not being considered. Please explain:

Please insert text here

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Where debtors make electronic payments via the German CA (Federal Treasury/Bundeskasse), the full payments are forwarded to the recipients. The relevant date for the currency conversion is the day the German CA receives the payment from the debtor.

- g. Implementation of bundled payments to reduce costs of transfers (see C&R EG No 11)

Not being considered. Please explain: [

For outgoing payments bundled payments are not being considered so far due to the disadvantages mentioned below.

Is being considered. Please explain:

- 1 Bundled payments may help reduce costs of transfer. However, the processing of bundled payments may involve time and cost intensive manual work for the receiving CA/body. For example the processing of bundled payments from the USA would entail for the German CA that around 220,000 EUR per month needed to be divided up into about 560 different cases. At worst this work would have to be done manually delaying the payment and tying up resources.

Has already been implemented. Please explain:

Please insert text here

a. Any other developments:

Please insert text here

Thank you!