

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]	POLAND
<i>For follow-up purposes</i>	
Name of contact person:	Luiza Nadstazik
Name of Authority / Office:	Ministry of Justice (receiving CA)
Telephone number:	22 23 90 699
E-mail address:	alimenty@ms.gov.pl

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

The changes should go towards the elimination of cheques, the acceleration of the procedures of transferring money directly to the accounts of entitled persons and the complete elimination or reduction of the costs of banking operations on the part of authorized persons.

In Poland the transfer of funds between the debtor and the creditor is carried out with the involvement of bailiffs and banks. There is no participation of Ministry of Justice and 46 Regional Courts.

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:

Please insert text here

Has already been implemented. Please explain:

Due to changes of banking law cheques are not exchangeable in Poland starting from 1st January 2020. Cheques never have been a popular means of payment, because they generated difficulties in their cashing.

However, due to the withdrawal of the National Bank of Poland from the transfer of funds via checks, the transfer of funds in countries like the United Kingdom or the USA is realized via electronic transfer of funds to the indicated bank account.

In general, in application for recognition or recognition and enforcement of the decision there are indicated only details of bank account number.

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

- c. Solutions with regard to increased transparency and cost reduction of transfers and currency conversion (see C&R EG Nos 2 and 10)

Not being considered. Please explain:

Polish Central Authority is not responsible for this issues.

In general there are various costs depending of banks. Some regional courts encourage entitled persons to open bank foreign currency accounts. There is a good practice of some regional courts to consult with requested country the details of payment method before first payment made to the creditor.

Is being considered. Please explain:

Please insert text here

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:

Please insert text here

Has already been implemented. Please explain:

In Poland, any costs related to enforcement run by Polish bailiff are borne by the debtor, so if the creditor receives an amount less the cost of transferring funds, it should be remembered that the amount received by the creditor is deducted from the debt owed by the debtor.

The regional courts pointed out that in outgoing cases the issue to resolve is that the creditors should not be born by costs of trasfer of payments. Regular actualisation of statements of arrears (incl. amounts received by the creditor after deduction of transfer costs) can be helpful in dealing with this issue.

- 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:

It should be discussed with representants of all Polish banks. However, in some enforcement cases the bailiff - after receiving the consent of the creditor - accumulate costs and made payments every few months.

There is no existing institutions facilitating the transfer of funds.

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Please insert text here

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:

Out of the scope of activity of our CA.

General rule in maintenance cases should be that the costs of transfer of payments should be born by the debtor.

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Please insert text here

g. 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:

On request of the Central Authority there is sent the current statement of arrears. Moreover, depending on individual case, the bailiff indicates in the regular reports sums received and transferred to the creditor.

h. 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:

In Poland there is no maintenance authority on the central level involved in collecting and transferring maintenance debts. Due to the national specificities it is not considered currently.

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Please insert text here

i. 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:

No legislative actions on this issue currently.

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Please insert text here

j. 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:

In Poland there are over 2000 enforcement authorities. It is not possible to monitor all payments received and made by bailiffs, because there is no common bank account dedicated to maintenance payments in international cases. In general, Polish CAs are not informed about payments made by the debtor or received by the creditor, because funds are transferred directly to the bank account of the entitled person.

k. 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 her

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

In most enforcement cases bailiffs indicate unique reference number of requesting CA.

l. 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:

If necessary the solution depends of the enforcement authorities.

However, in application for declaration of enforceability the proper regional court usually obliges the bailiff to convert the amount awarded into PLN currency at the average exchange rate of PLN in relation to foreign currencies as announced by the National Bank of Poland (Narodowy Bank Polski) on the date of drawing up the division plan or paying the awarded amount to the creditor.

Is being considered. Please explain:

Please insert text here

Has already been implemented. Please explain:

Please insert text here

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

Not being considered. Please explain: [

Please insert text here

Is being considered. Please explain:

Depending on individual case and the consent of the creditor.

Has already been implemented. Please explain:

Please insert text here

n. Any other developments:

0 The changes should go towards the unification of procedures concerning costs that born by creditors resulted from the need to have a foreign currency account (in currency that maintenance are paid) and costs related to conversion of maintenance received in another currency into PLN currency.

- 1 It should be noted that sometimes there are cases that the creditor does not cooperate with CA (the regional court), e.g. she/he fails to contact or to reply to correspondence. As an effect it is not possible to verify the consistence of the payments indicated by a foreign authority with the current amount of maintenance received by the creditor.

Thank you!