

Título	Resumen de las respuestas al cuestionario de 2022 sobre acceso a la justicia
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Autor	OP
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Mandatos	CyD N.º 46 del CAGP de 2024 CyD N.º 39 del CAGP de 2023 CyD N.º 32 del CAGP de 2022 CyD N.º 36 del CAGP de 2021
Objetivo	Resumir las conclusiones del cuestionario de 2022 relativo al <i>Convenio de 25 de octubre de 1980 para Facilitar el Acceso Internacional a la Justicia</i> (Convenio sobre Acceso a la Justicia)
Acción requerida	Decisión <input type="checkbox"/> Aprobación <input type="checkbox"/> Discusión <input checked="" type="checkbox"/> Acción / finalización <input type="checkbox"/> A título informativo <input checked="" type="checkbox"/>
Anexos	Anexo: Compilación de respuestas (cuestionario para Partes contratantes) - las respuestas se han compilado en el idioma en que se recibieron
Documentos relacionados	Doc. Prel. N.º 5 de diciembre de 2022 - Cuestionario relativo al <i>Convenio de 25 de octubre de 1980 para Facilitar el Acceso Internacional a la Justicia</i> (Convenio sobre Acceso a la Justicia)

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Resumen de las respuestas al cuestionario de 2022 sobre acceso a la justicia

I. Introducción

- 1 De conformidad con el mandato otorgado por el Consejo de Asuntos Generales y Política (CAGP) en sus reuniones de 2021 y 2022,¹ en diciembre de 2022 la Oficina Permanente (OP) distribuyó dos cuestionarios relativos al funcionamiento práctico del *Convenio de 25 de octubre de 1980 para Facilitar el Acceso Internacional a la Justicia* (Convenio sobre Acceso a la Justicia o Convenio). Uno de ellos estaba dirigido a las Partes contratantes del Convenio ² y el otro a Partes no contratantes.
- 2 El cuestionario dirigido a las Partes contratantes abarcaba una serie de temas, entre ellos el ámbito de aplicación y el funcionamiento del Convenio, la utilización de las tecnologías de la información en la transmisión y tramitación de las solicitudes de asistencia jurídica gratuita, posibles cuestiones para debatir en la próxima reunión de la Comisión Especial (CE), y datos y estadísticas relativos al Convenio. La información recibida de las Partes contratantes en respuesta a este cuestionario servirá para preparar la agenda de la reunión de la CE. El cuestionario para las Partes no contratantes tenía como objetivo averiguar si estos Estados habían considerado, o estaban considerando, adherirse al Convenio sobre Acceso a la Justicia.
- 3 Los cuestionarios se distribuyeron a todos los Miembros de la HCCH y a las Partes contratantes del Convenio, y la fecha límite para responder era el 31 de marzo de 2023. Ante la decisión del CAGP de posponer la reunión de la CE al ejercicio económico 2024-2025,³ la OP amplió el plazo para la presentación de respuestas hasta el 9 de junio de 2023 y continuó aceptando respuestas después de esa fecha. Este resumen incluye todas las respuestas recibidas hasta el 30 de noviembre de 2023.
- 4 La OP recibió un total de 30 respuestas a los cuestionarios: 16 de ellas, de Partes contratantes.⁴ Esto significa que, de las 28 Partes contratantes del Convenio, aproximadamente el 57% han respondido al cuestionario. Se recibieron 13 respuestas de Partes no contratantes.⁵ La OP está muy agradecida a estos Estados por el tiempo y el esfuerzo dedicados a responder a los cuestionarios.
- 5 En el presente documento solo se resumen las respuestas al cuestionario de las Partes contratantes. Las respuestas recibidas de las Partes no contratantes se utilizarán para iniciativas de promoción y trabajo bilateral, por lo que no se han incluido en el análisis de este documento.
- 6 El resumen fue elaborado a partir de la información obtenida de las respuestas. Cuando los encuestados no respondieron a determinadas preguntas, la OP no tuvo en cuenta esas respuestas para el cálculo de los porcentajes. Con todo, el resumen no pretende ser concluyente ni exhaustivo; como se indica en varios casos, las respuestas de los Estados no siempre ofrecen una visión completa de su legislación y sus prácticas.

¹ CyD N.º 36 del CAGP de 2021; CyD N.º 32 del CAGP de 2022.

² "Cuestionario relativo al *Convenio de 25 de octubre de 1980 para Facilitar el Acceso Internacional a la Justicia (Convenio sobre Acceso a la Justicia)*" Doc. Prel. N.º 5 de diciembre de 2022 (en lo sucesivo, "Cuestionario sobre Acceso a la Justicia de 2022").

³ CyD N.º 39 del CAGP de 2023. En su reunión de marzo de 2024, el CAGP confirmó que la reunión de la CE tendría lugar del 2 al 5 de julio de 2024 (CyD N.º 46 del CAGP de 2024).

⁴ Brasil, Bulgaria, Costa Rica, Croacia, Eslovaquia, Eslovenia, Francia, Kazajstán, Letonia, Montenegro, Países Bajos, República Checa, Rumania, Serbia, Suecia y Suiza. La Unión Europea (UE) también ha facilitado información complementaria sobre el derecho de la UE en materia de acceso a la justicia.

⁵ Alemania, Andorra, Australia, Bélgica, Canadá, la República Popular China (continental y RAE de Macao), los Estados Unidos de América, Hungría, Japón, Nicaragua, Portugal, el Reino Unido, y Viet Nam.

- 7 El anexo contiene una compilación de las respuestas de las Partes contratantes a cada una de las preguntas. Las respuestas de cada una de las Partes contratantes (en los casos en que autorizaron su publicación) se publicarán en la Sección Acceso a la Justicia del sitio web de la HCCH.⁶

II. Comentarios generales

- 8 La mayoría de los encuestados calificaron el funcionamiento general del Convenio sobre Acceso a la Justicia como “bueno”. Cinco de los 14 encuestados indicaron que el funcionamiento del Convenio es “satisfactorio”.⁷
- 9 En cuanto a la pregunta relativa al funcionamiento de los formularios modelo,⁸ el 93% respondieron que los formularios son “buenos”. Uno de los encuestados indicó que los formularios modelo requieren mejoras y señaló la necesidad de que sean más “fáciles para el usuario”.⁹
- 10 El 27% sugirieron que la OP debería elaborar nuevas orientaciones sobre el funcionamiento del Convenio sobre Acceso a la Justicia. Dos de los encuestados señalaron la necesidad de disponer de un Manual Práctico, y otro destacó la importancia de seguir promoviendo y “aclarando” el funcionamiento del Convenio. Por otro lado, el resto de los encuestados (73%) consideran que no es necesario elaborar más material explicativo.¹⁰

III. Funcionamiento del Convenio

- 11 Según las respuestas, el 93% no han tenido dificultades en la aplicación de ninguno de los capítulos del Convenio sobre Acceso a la Justicia.¹¹ Uno de los encuestados indicó haber tenido dificultades con el funcionamiento de los artículos 1 a 13 del Convenio (asistencia jurídica gratuita), ya que las solicitudes fueron rechazadas por falta de información.¹²
- 12 Asimismo, el concepto de “residencia habitual”, tal como se utiliza en el Convenio, no planteó dificultades de interpretación o aplicación para ninguno de los encuestados.¹³
- 13 Se preguntó a las Partes contratantes si han concedido asistencia jurídica gratuita a personas jurídicas (a diferencia de las personas físicas) con arreglo al Capítulo I del Convenio sobre Acceso a la Justicia. Cabe destacar que todos contestaron que no. Uno de los encuestados indicó que su derecho nacional impone limitaciones a la concesión de asistencia jurídica gratuita a las personas jurídicas y señaló que solo es posible concederla a personas físicas.¹⁴
- 14 Tres de los encuestados indicaron que la asistencia jurídica gratuita solo se concede en asuntos civiles y comerciales. Sin embargo, la mayoría de las respuestas muestran que, además de en materia civil y comercial, los encuestados también ofrecen asistencia jurídica gratuita en materia administrativa, social o fiscal. Es importante señalar que una parte de los encuestados indicaron que ofrecen asistencia jurídica gratuita en todas las materias, incluso en materia penal.¹⁵
- 15 El 67% indicaron que ni su derecho ni su práctica imponen el pago de una garantía, fianza o depósito a determinadas categorías de personas, como los extranjeros o las personas que no

⁶ Las respuestas estarán disponibles en el sitio web de la HCCH, www.hcch.net, en la sección “Acceso a la Justicia” y luego “Cuestionarios y respuestas”.

⁷ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 1.

⁸ Conforme al art. 4 del Convenio sobre Acceso a la Justicia, las solicitudes de asistencia jurídica gratuita deben transmitirse utilizando el formulario modelo anexo al Convenio.

⁹ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 2.

¹⁰ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 3.

¹¹ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 4.

¹² En la respuesta se indica que “las solicitudes son rechazadas por falta de información. La autoridad nacional que se ocupa de la asistencia jurídica gratuita envía solicitudes de información, pero rara vez recibe respuesta”.

¹³ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 5.

¹⁴ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 6.

¹⁵ Cuestionario de 2022 sobre Acceso a la Justicia, pregunta 8.

residen o no están domiciliadas en su territorio. En cambio, el resto (33%) indicaron que este requisito está contemplado en su derecho interno.¹⁶

IV. Uso de la tecnología

- 16 Solo tres de los 14 encuestados indicaron haber tomado medidas (en particular a través de legislación) para permitir o incrementar el uso de la tecnología o de medios electrónicos para facilitar la transmisión o tramitación de solicitudes de asistencia jurídica gratuita en el marco del Convenio sobre Acceso a la Justicia. Entre las medidas que se adoptaron cabe señalar el uso del correo electrónico u otras plataformas electrónicas para transmitir y recibir solicitudes, y para comunicarse con Autoridades Centrales extranjeras.¹⁷
- 17 El 40% de los encuestados han recibido y enviado solicitudes de asistencia jurídica gratuita por medios electrónicos en el período de cinco años comprendido entre 2017 y 2022. Según las respuestas, hay una preferencia por el correo electrónico ordinario, seguido por el correo electrónico seguro/criptado y las plataformas en línea administradas por el gobierno.¹⁸
- 18 Entre los encuestados que no han recibido ni enviado solicitudes de asistencia jurídica gratuita por medios electrónicos, las razones más citadas para no hacerlo fueron (i) que no se transmitieron solicitudes con arreglo al Convenio; y (ii) limitaciones de derecho interno. Uno de los encuestados señaló la imposibilidad de utilizar medios electrónicos por la exigencia de que las solicitudes se firmen a mano, mientras que otros dos indicaron que no disponen de un sistema informático para transmitir las solicitudes por vía electrónica.
- 19 Se preguntó a las Partes contratantes si se habían encontrado con dificultades en relación con el uso de tecnologías de la información en el marco del Convenio y las respuestas estuvieron repartidas por igual.¹⁹ La mitad de los encuestados indicaron que habían tenido que hacer frente a dificultades, y señalaron solo una o varias de las siguientes:

Limitaciones de derecho interno	43%
Estructuras judiciales o administrativas	29%
Desafíos en la implementación (p. ej., falta de recursos, falta de infraestructura)	43%
Costos	0%
Interoperabilidad/compatibilidad con el sistema	14%
Problemas de seguridad	14%
Otras	29%

- 20 Como se ve en el cuadro, las limitaciones de derecho interno y las dificultades de implementación son los principales desafíos informáticos que se presentan para el funcionamiento del Convenio. En particular, uno de los encuestados señaló dificultades para verificar la identidad de la autoridad encargada de la transmisión y/o la integridad de los documentos.

¹⁶ Cuestionario de 2022 sobre acceso a la justicia, pregunta 9.

¹⁷ Cuestionario de 2022 sobre acceso a la justicia, pregunta 11.

¹⁸ Cuestionario de 2022 sobre acceso a la justicia, preguntas 12 y 13.

¹⁹ Cuestionario de 2022 sobre acceso a la justicia, pregunta 14. Se podía seleccionar más de una opción para responder a esta pregunta.

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ANEXOS

Annex: Compilation of responses (questionnaire for Contracting Parties)

I. General Feedback

(1) How does your State rate the general operation of the Access to Justice Convention?	
Brazil	Good
Croatia	Satisfactory
Czech Republic	Satisfactory
France	Good
Kazakhstan	Good
Latvia	Satisfactory
Montenegro	Good
Romania	Good
Serbia	Satisfactory
Slovakia	Good
Slovenia	Good
Sweden	Good

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(2) How does your State rate the operation of the Model Forms?	
Brazil	Good
Croatia	Good
Czech Republic	Good
France	Good
Kazakhstan	Good
Latvia	Good
Montenegro	Good
Romania	Good
Serbia	Good
Slovakia	Good
Slovenia	Good
Sweden	Requires improvement – “The Model Forms could be more user friendly”

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(3) In your State’s opinion, should the PB develop further guidance or explanatory material on the operation of the Access to Justice Convention?	
Brazil	No
Bulgaria	No
Croatia	Yes – “a Handbook with best practices and explanations”
Czech Republic	Yes – “Explanatory Report or Practical Handbook on the operation of the Convention would be useful”
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No

Slovakia	Yes – “The designated authority (Centre for Legal Aid) has a very limited knowledge about problems or any other misconceptions with procedures and forms mentioned above, as there are very few real cases in our line of work”
Slovenia	Yes – “It could be useful to encourage States that are not yet Members to this Convention to join the Convention. It may also be useful to clarify or emphasise that it is actually Convention providing legal aid for court proceedings in civil and commercial matters in each Contracting State”
Sweden	No

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II. Operation of the Convention

(4) Has your State, as a requesting or as a requested State, experienced any difficulties in the application of any of the chapters of the Access to Justice Convention?	
Brazil	No
Bulgaria	No
Croatia	No
Czech Republic	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	No
Slovenia	No
Sweden	Yes – “(i) Legal aid (Arts 1-13). The most applications are rejected due to lack of information. National Legal Aid Authority sends out requests for more information but rarely receives any additions”

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(5) Has the concept of habitual residence, as used in the Access to Justice Convention, led to any difficulties of interpretation or application in your State?	
Brazil	No
Bulgaria	No
Croatia	No
Czech Republic	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	No
Slovenia	No
Sweden	No

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(6) Has your State granted legal aid to legal persons (as opposed to “natural” persons) under Chapter I of the Convention (noting comments in the Explanatory Report by Gustaf Möller, which excludes legal persons from Chapter 1).	
Brazil	No
Bulgaria	No
Croatia	No
Czech Republic	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	Yes – “In fact, no, because the Legal Aid Authority has not provided such legal aid because under the Slovak law, Legal Aid Centre have competences in providing legal aid only for natural persons (Act. No. 327/2005 col. on Legal Aid)”
Slovenia	No
Sweden	No

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(7) If your State has made a reservation under Article 28(1), please indicate whether your State has exercised the power granted by that Reservation.	
Brazil	No
Bulgaria	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	Yes
Slovenia	No
Sweden	No

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(8) In your State, is legal aid made available only in civil and commercial matters, or also in administrative, social or fiscal matters? (Art. 1(3))	
Brazil	Civil and commercial
Bulgaria	Civil and commercial – “Legal aid is granted only to natural persons, in criminal, civil and administrative matters before courts of all instances. According to the Bulgarian Law on Legal Aid there are four types of legal aid: 1. a consultation and/or preparing of documents in view of reaching a settlement before the start of court proceedings or to file a case, to start or conduct proceedings to issue an individual administrative act and/or dispute it under an administrative procedure, including a consultation and/or preparing documents under Chapter Five "a", section II; 2. procedural representation; 3. representation in

	out-of-court procedures; 4. representation upon detention under Article 72 (1) of the Ministry of Interior Act, under Article 16a of the Customs Act and under Article 124b(1) of the State Agency for National Security Act. For each type of legal aid has rules regulating the persons entitled to it”
Croatia	Administrative, social or fiscal – “In accordance with Legal Aid Act (“Official Gazette” No. 143/13., 98/19) secondary legal aid (for court proceedings) may be granted in civil and administrative court proceedings, while primary legal aid (legal advice and general legal information) may be provided in any legal matter”
Czech Republic	Administrative, social or fiscal – “Legal aid is provided in the Czech Republic in all areas of law, see e.g. § 18a of the Advocacy Act, § 30, paragraph 2 of the Civil Procedure Code, § 35, paragraph 10 of the Administrative Procedure Code, § 33 of the Criminal Code. If a person does not have financial means (and meets the conditions set by the relevant legal regulations), he/she is entitled to be provided with legal aid”
France	Administrative, social or fiscal – “L’assistance judiciaire est disponible dans toutes les matières”
Kazakhstan	Civil and commercial – “If it is possible we will provide legal aid”
Latvia	Civil and commercial – “Civil and commercial and certain kinds of administrative cases, in the process of the Constitutional Court and criminal”
Montenegro	Administrative, social or fiscal – “Legal aid made available in administrative, social or fiscal in the same way as for the civil and commercial matters”
Romania	Administrative, social or fiscal – “See the art. 3 from the EMERGENCY ORDINANCE no. 51/2008 on the judiciary public aid in civil matter”
Serbia	Civil and commercial
Slovakia	Administrative, social or fiscal – “civil law, family law, labour law, commercial law, certain administrative proceedings, certain cases in the proceedings before the Constitutional Court, proceedings for debt relief for natural persons, cross-border disputes, asylum matters, proceedings on administrative expulsion, proceedings on the detention of a third-country national, proceedings on the detention of asylum seekers”
Slovenia	Administrative, social or fiscal – “Free Legal Aid Act of the Republic of Slovenia provides in Article 7: Pursuant to this Act, free legal aid may be granted for legal advice, legal representation and other legal services laid down in this Act, for all forms of judicial protection before all courts of general jurisdiction and specialised courts based in the Republic of Slovenia, before the Constitutional Court of the Republic of Slovenia, and before all authorities, institutions or persons in the Republic of Slovenia authorised for out-of-court settlements (hereinafter: judicial proceedings), as well as for exemption from payment of the costs of judicial proceedings. Free legal aid shall also be granted for proceedings conducted before international courts or arbitration panels if the rules of these international courts or arbitration panels do not govern the right to free legal aid, or if an individual is not eligible for free legal aid pursuant to the rules governing free legal aid. Free Legal Aid may be granted for all forms of judicial protection before all courts of general jurisdiction and specialised courts, including Administrative Court and Labour and Social Courts”
Sweden	Administrative, social or fiscal – “Legal aid can be granted both in cases in general courts and in administrative courts. However, there must always be a need for legal assistance. Over all legal aid is most used in civil cases, such as family disputes, for example cases concerning custody of a child. Legal aid can be granted in cases in administrative courts if there is a need for legal

	assistance. The administrative courts substance process management and investigation responsibilities mean that the need for council in these courts is not as great as in cases before the general courts”
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(9) In judicial proceedings before the courts of your State, does the law or practice of your State impose any security, bond or deposit upon certain categories of persons such as foreign nationals or persons who are not resident or domiciled in your State?	
Brazil	No
Bulgaria	No
Croatia	<p>Yes - https://narodne-novine.nn.hr/clanci/sluzbeni/2017_10_101_2319.html Insurance of the costs of the procedure Article 61 (1) A plaintiff who is not a citizen of the Republic of Croatia or any other member state of the European Union or a contracting state of the Treaty on the European Economic Area or another international agreement that regulates the exemption from the insurance of the costs of the procedure, and has a place of residence or headquarters in a state that is not a member of the European Union or a contracting state of the Treaty on the European Economic Area or another international agreement that regulates the exemption from the insurance of costs of the procedure, is obliged, at the defendant's proposal, to deposit the insurance of litigation costs, unless the decisions of the courts of the Republic of Croatia on costs are recognized in the country where the plaintiff has his residence or headquarters procedure. (2) The provisions of Article 8 of this Act shall be applied in an appropriate manner to determine foreign law. (3) The defendant is obliged to submit the request from paragraph 1 of this article no later than at the preliminary hearing, and if the preliminary hearing was not held, at the first hearing for the main hearing before starting to discuss the main case. (4) Insurance for litigation costs is given in money, but the court can approve that the insurance is given in another suitable form. Article 62. The defendant does not have the right to insurance for litigation costs: 1. if the claim refers to the plaintiff's claim from his employment in the Republic of Croatia, or 2. if it is a question of matrimonial disputes or disputes about establishing or contesting motherhood or paternity and if it is a matter of legal maintenance, or 3. if it is a counterclaim, or 4. if the plaintiff has the right to asylum in the Republic of Croatia. Article 63. (1) In the decision approving the request for insurance of litigation costs, the court determines the amount of insurance and the period in which the insurance must be provided, and warns the plaintiff of the consequences provided by law if it is not proven that the insurance was provided within a certain period. (2) If the plaintiff does not prove within a certain period that he has provided insurance for litigation costs, it is considered that the lawsuit has been withdrawn. (3) A defendant who has submitted a timely request that the plaintiff insure him for litigation expenses is not obliged to continue the proceedings in the main case until his request has been legally decided, and if the request is accepted, until the plaintiff has deposited insurance. (4) If the court rejects the request for litigation costs insurance, it may decide to continue the procedure even before the rejection decision becomes final”</p>
Czech Republic	Yes - “Act on Private International Law (published under No. 91/2012 Coll.) - § 11 (1) The court may, upon a defendant’s proposal, order a foreigner with

	<p>habitual residence abroad and a foreign legal entity seeking a decision on a property right, to provide a security deposit set by a court to cover the costs of proceedings. Should the security deposit not be provided within the set time limit, the court shall not continue in the proceedings against the defendant's will and shall dismiss the proceedings. The plaintiff needs to be informed thereof. (2) The security deposit shall not be ordered if a) the proposal to provide the security deposit was submitted after the defendant has already acted in the case or has undertaken a procedural step, while knowing that the plaintiff is not a citizen of the Czech Republic or a Czech legal entity, or that the plaintiff has lost the Czech citizenship or ceased to be a Czech legal entity, or the plaintiff is not habitually resident in the Czech Republic, b) in similar cases, in the state of the plaintiff's domicile a provision of a security deposit is not required from the citizens of the Czech Republic or the Czech legal entities, c) the plaintiff owns an immovable property in the Czech Republic in a price sufficient to cover the costs incurred by the defendant in the proceedings, d) the proposal to initiate the proceedings is processed by means of a payment order, or e) the plaintiff is exempt from court fees and deposits. (a) (3) The obligation to provide a security deposit shall not be ordered to the citizens of the European Union Member States and other countries of the European Economic Area"</p>
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	Yes - "If there is no reciprocity with state in question regarding the costs of Serbian citizens"
Slovakia	No
Slovenia	<p>Yes - "The Private International Law and Procedure Act of the Republic of Slovenia provides in Article 90 that when a foreign citizen or a person without citizenship who does not have permanent residence in the Republic of Slovenia initiates a suit before a court in the Republic of Slovenia, he shall pay the defendant, upon the defendant's request, a deposit towards the costs of the suit. The defendant must make the request described in the first paragraph of Article 90 before the preliminary hearing at the latest, and if there is no such hearing then by the first hearing of the main hearing, before addressing the main matter, or as soon as when learning that the conditions for requesting a deposit have been met. The deposit towards the court costs shall be made in cash; the court may permit the deposit to be made in another appropriate form. Article 91 of the Private International Law and Procedure Act provides that the defendant shall not be entitled to a deposit towards court costs: 1) if citizens of the Republic of Slovenia are not obliged to pay deposits in the country that the defendant is a citizen of; 2) if the plaintiff has the right to asylum in the Republic of Slovenia; 3) if the claim made in the suit by the plaintiff arose from work relations in the Republic of Slovenia; 4) in cases of matrimonial suits, paternity or maternity suits or maintenance suits; 5) in cases of suits concerning bills of exchange or cheques, counter-suits or suits requesting issuance of a payment order. When in doubt as to whether under point 1 of the first paragraph of this Article citizens of the Republic of Slovenia do have to pay a deposit in the country of the plaintiff, the instructions shall be issued by the ministry responsible for justice"</p>

Sweden	No
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(10) Is your State able to provide the PB with an example or case of the Convention operating effectively in practice?	
Brazil	Yes
Bulgaria	No
Croatia	No
Czech Republic	No
France	Yes - "Une ressortissante française résidant en France après 5 ans passés en Suisse, a décidé d'engager une procédure devant une juridiction suisse de ZURICH et a sollicité le bénéfice de l'aide juridictionnelle auprès du Tribunal judiciaire de Grenoble. Par courrier du 13 octobre 2022, le tribunal français a transmis la demande accompagnée de tous les justificatifs de situation à l'Autorité centrale française en application de la Convention du 25 Octobre 1980. Le DEDIPE a saisi le 2 novembre 2022 l'Autorité centrale suisse (OFJ) qui a accusé réception du dossier le 8 novembre suivant et a saisi à son tour le Bureau d'aide judiciaire helvétique"
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	No
Slovenia	No
Sweden	No

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III. Use of Information Technology

(11) Has your State taken any steps (including through legislation) to enable or increase the use of technology or electronic means to facilitate the transmission or processing of applications for legal aid under the Convention, including in response to the COVID-19 pandemic?	
Brazil	Yes - "Brazil is able to receive all applications electronically. During the pandemic, we have increased the use of e-mail and other electronic systems to send and receive requests"
Bulgaria	No
Croatia	No
Czech Republic	Yes - "The COVID-19 pandemic has improved informal electronic communication between Central Authorities (e.g. email communication)"
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	No

Sweden	Yes – “The European Commission has adopted a proposal for a Regulation on the digitalisation of judicial cooperation and the access to justice in cross-border civil, commercial and criminal matters and amending certain acts in the field of judicial cooperation such as the Legal Aid Directive. The main objective of the proposal for a Regulation is to make the digital communication channel between competent authorities mandatory. Negotiations between the Council and the Parliament is pending”
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(12) In the past five years, has your State received any applications using electronic means? If yes, please select the means.	
Brazil	Yes (E-mail (regular); E-mail (secured / encrypted)
Bulgaria	No
Croatia	No
Czech Republic	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	Yes (E-mail (regular))
Romania	Yes (E-mail (regular))
Serbia	Yes (E-mail (regular))
Slovakia	Yes (E-mail (regular); Electronic transmission via online platform administered by the government; Other: “The new complex IT system with expanded functionality and phone app is currently developed with expected operational status by fall 2023”)
Slovenia	No
Sweden	No

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(12.1) If no, please provide further information about why this is not yet possible.	
Bulgaria	“No applications under the Convention”
Croatia	“There is no IT system to support transmission of application using electronic means”
Czech Republic	“The Czech Central and Transmitting Authority has not received any application based on this Convention yet”
France	“L’Autorité centrale française n’a pas encore dématérialisé, essentiellement pour des raisons technologiques et budgétaires, ces procédures qui s’effectuent toujours par voie papier”
Kazakhstan	“It’s impossible under our national law”
Latvia	“In last 5 years there were no applications received”
Slovenia	“We have not received any applications regarding this convention, not via post nor via e-mail or other electronic means”
Sweden	“It is not possible to accept electronic applications due to requirements that an application must be signed by hand”

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(13) In the past five years, has your State **sent** any applications using electronic means?
If yes, please select the means.

Brazil	Yes (E-mail (regular); Electronic transmission via online platform administered by the government)
Bulgaria	No
Croatia	No
Czech Republic	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	Yes (E-mail (regular))
Romania	Yes (E-mail (regular))
Serbia	No
Slovakia	Yes (E-mail (regular); Electronic transmission via online platform administered by the government)
Slovenia	No
Sweden	Yes (E-mail (regular))

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(13.1) If no, please provide further information about why this is not yet possible.

Bulgaria	“No applications under the Convention”
Croatia	“There was no application to send”
Czech Republic	“The Czech Central and Transmitting Authority has not forwarded any application based on this Convention yet”
France	“L’Autorité centrale française n’a pas encore dématérialisé, pour des raisons technologiques et budgétaires, ces procédures qui s’effectuent toujours par voie papier”
Kazakhstan	“It’s impossible under our national law”
Latvia	“In last 5 years there were no applications received”
Slovenia	“We have not sent any applications regarding this convention, not via post nor via e-mail or other electronic means”

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(14) What challenges, if any, has your State faced regarding the use of information technology under the Access to Justice Convention?

Brazil	None
Bulgaria	None
Croatia	Implementation challenges (e.g., lack of resources, lack of infrastructure)
Czech Republic	Internal law limitations; Implementation challenges (e.g., lack of resources, lack of infrastructure); System interoperability / compatibility; Other: “It is necessary to verify the request sender and the origin and integrity of received documents from non-EU countries”
Kazakhstan	None
Latvia	None
Montenegro	Implementation challenges (e.g., lack of resources, lack of infrastructure)
Romania	None
Serbia	Judicial or administrative structures

Slovakia	Internal law limitations; Judicial or administrative structures; Security concerns
Slovenia	None
Sweden	Internal law limitations

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(15) In addition to the Access to Justice Convention, is your State a party to any bilateral, regional, or multilateral agreements that provide rules for access to justice in a cross-border context?	
Brazil	Yes - “Brazil has bilateral treaties with France, Spain, Lebanon, Italy, Netherlands, Belgium, Paraguay and Chile. Most cases were sent through bilateral instruments, which explains the low number of cases in the statistics. For instance, from 2017-2022, Brazil sent around 30 requests to Spain, but only 6 were based on the Hague Convention. The same thing happened with France and Italy (which did not ratify the Hague Convention, but has a bilateral treaty with Brazil)”
Bulgaria	Yes - “Within the EU, the matter is governed by the Legal Aid Directive that had to be transposed by 30 November 2004 / 30 May 2006 -European Agreement on the Transmission of Applications for Legal Aid, 1977 - Treaty between the People's Republic of Bulgaria and the Union of Soviet Socialist Republics on legal assistance in civil, family and criminal matters; (Moscow, 19 February 1975; EIF: 18 January 1976) - Treaty on judicial and legal assistance in civil, commercial, family and criminal matters between the People's Republic of Bulgaria and the People's Democratic Republic of Algeria (Algeria, 20 December 1975; EIF: 1 April 1985) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and the Republic of Albania (Sofia, 17 November 2003; EIF: 19 January 2006) - Treaty between the Government of the Republic of Bulgaria and the Government of the Republic of Lebanon on legal assistance in civil matters (Beirut, 20 March 2001; EIF: 10 April 2004) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and Georgia (Sofia, 19 January 1995; EIF: 6 June 1996) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and the Republic of Armenia (Sofia, 10 April 1995; EIF: 7 December 1997) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and the Republic of Azerbaijan (Sofia, 29 June 1995; EIF: 26 September 1997) - Treaty between the People's Republic of Bulgaria and the State of Kuwait on legal and judicial assistance in civil and criminal matters; (Kuwait, 26 December 1988; EIF: 6 July 1989) - Treaty between the People's Republic of Bulgaria and Great Socialist People's Libyan Arab Jamahiriya on legal assistance (Tripoli, 8 March 1984; EIF: 5 August 1985) - Treaty between the People's Republic of Bulgaria and the People's Democratic Republic of Yemen on legal assistance in civil and criminal matters; (Sofia, 13 May 1988; EIF: 22 January 1989) - Treaty on legal assistance in civil and criminal matters between the People's Republic of Bulgaria and the Republic of Turkey (Ankara, 2 September 1975; EIF: 27 October 1978) - Treaty on legal assistance in civil, family and criminal matters between the People's Republic of Bulgaria and the Socialist Republic of Vietnam; (Sofia, 3 October 1986; EIF: 5 July 1987) - Treaty between the People's Republic of Bulgaria and the Democratic People's Republic of Korea on rendering of mutual legal assistance in civil, family and criminal matters (Pyongyang, 17 May 1989; EIF: 15 February 1990) - Treaty between the Republic of Bulgaria and the Republic of Uzbekistan on legal assistance in civil

	<p>matters. (Sofia, 24 November 2003; EIF: 11 November 2004) - Treaty between the People's Republic of Bulgaria and the Republic of Cuba on legal assistance in civil, family and criminal matters (Havana, 11 April 1979; EIF: 25 July 1980)</p> <p>- Treaty the People's Republic of Bulgaria and the People's Republic of Mongolia on rendering of mutual legal assistance in civil, family and criminal matters; (Sofia, 27 November 1968; EIF: 10 April 1969)”</p>
Croatia	<p>Yes – “Republic of Croatia is not party to any bilateral, regional, or multilateral agreements that provide rules for access to justice in a cross-border context. In European Union this is regulated by Directive 2003/8/EC – improved access to justice in cross-border disputes by establishing minimum common rules relating to legal aid”</p>
Czech Republic	<p>Yes – “Hague Convention of 1 March 1954 on civil procedure • Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes • European Agreement on the Transmission of Applications for Legal Aid (Strasbourg, 27.1.1977) • bilateral treaties on legal aid in civil and commercial matter”</p>
France	<p>Yes – “Accord européen de Strasbourg du 27 janvier 1977 et son protocole additionnel du 4 octobre 2001 - Directive 2003/8/CE du 27 janvier 2003 - Convention de La Haye de 1954 (ex azéri) - Conventions bilatérales d'entraide judiciaire: Algérie (1962), Australie (1922), Bahamas (1922), Belgique (1956), Bénin (1975), Brésil (1996), Bulgarie (1989), Burkina Faso (1961), Cameroun (1974), Canada (1922 et Entente franco-québécoise du 9 septembre 1977), Chine (1987), Congo, Côte d'Ivoire (1961), Djibouti (1986), Égypte (1982), Émirats arabes unis (1991), Fédération de Russie (1936), Gabon (1963), Hongrie, Italie (1955), Lituanie (1928), Luxembourg (1870), Madagascar (1973), Mali (1962), Maroc (1957), Mauritanie (1961), Monaco (1949), Mongolie (1994), Niger (1977), Nouvelle-Zélande (1922), République centrafricaine (1965), République démocratique populaire lao (1956), République tchèque (1984), République-Unie de Tanzanie (1922), Roumanie (1974), Saint-Marin (1967), Sénégal (1974), Slovaquie (1984), Suisse (1913), Tchad (1976), Togo (1976), Tunisie (1972), Uruguay (1991), Vietnam (1999)”</p>
Kazakhstan	<p>Yes – “we have some bilateral agreements”</p>
Latvia	<p>No</p>
Montenegro	<p>Yes</p>
Serbia	<p>Yes</p>
Slovakia	<p>Yes – “Within the EU, the matter is governed by the Legal Aid Directive (Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in crossborder disputes by establishing minimum common rules relating to legal aid for such disputes, OJ L 26, 31.1.2003, p. 41–47) that had to be transposed by 30 November 2004 / 30 May 2006 (depending on the specific provisions). Apart from that a wide spread of bi-, tri- or multilateral treaties as shown here: https://www.justice.gov.sk/agenda-ministerstva/medzinarodne-pravo/justicna-spolupraca/pramene-prava/”</p>
Slovenia	<p>Yes – “- EU: Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes that has been transposed in our national legislation Bilateral conventions on judicial co-operation: Bosnia and Herzegovina (21 September 2009); Croatia (7 February 1994); Republic of North Macedonia (6 February 1996); Russian federation (24 February 1962); Turkey (3 July 1934); United Kingdom (27 February 1936 - applicability</p>

	extended to Australia, the Bahamas, Barbados, Bermuda, Borneo, Sri Lanka, Honduras, Fiji, Falkland Islands, Gambia, Gibraltar, Hong Kong, Jamaica, Canada, Kenya, Malta, Mauritius, Nigeria, Papua New Guinea, New Zealand, Uganda, Tonga, Somalia, Seychelles)”
Sweden	Yes – “Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes - European Agreement on the transmission of applications for legal aid, Strasbourg 1977”

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(15.1) Do any of these agreements provide for the use of electronic means (e.g., e-mail) to transmit or process applications for access to justice?	
Brazil	Yes – “Request to France, Spain and Italy are usually sent by e-mail”
Bulgaria	No
Croatia	No
Czech Republic	Yes – “Not explicitly, but in our opinion, they can be considered technologically neutral as to the means of communication”
France	No
Kazakhstan	No
Serbia	No
Slovakia	Yes – “(b) The Legal Aid Directive is technology neutral as to the means of communication. However, on 1 December 2021, the European Commission adopted a proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation and a proposal for a Directive amending certain acts in the field of judicial cooperation (Digitalisation proposals). These proposals also apply to the Legal Aid Directive. The main objective of the proposal for a Regulation is to make the digital communication channel between competent authorities mandatory. The intention is to build upon our achievements to date, namely to extend existing IT tools such as e-CODEX and the eEvidence Digital Exchange System (eEDES), which already support digital exchanges of European Investigation Orders and Mutual Legal Assistance (in criminal matters) requests. The Service of Documents / Taking of Evidence IT systems will also be based on the eEDES and will start applying from May 2025. Additionally, in civil and commercial matters the proposed Regulation will provide natural and legal persons with the option to communicate with competent authorities digitally through a European electronic access point (on the e-Justice Portal) or existing national IT portal. The Council adopted its General Approach in December 2022 and the European Parliament is expected to adopt its position in March 2023 after which the trilogies can start. For information on the challenges faced regarding the use of information technology prior to the adoption of the Digitalisation proposals please see Impact assessment report - Proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial, criminal matters”
Slovenia	No
Sweden	Yes – “Please see response of the EU”
European Union	“The Legal Aid Directive is technology neutral as to the means of communication. However, on 1 December 2021, the European Commission adopted a proposal for a Regulation on the digitalisation of judicial cooperation

and access to justice in crossborder civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation and a proposal for a Directive amending certain acts in the field of judicial cooperation (Digitalisation proposals). These proposals also apply to the Legal Aid Directive. The main objective of the proposal for a Regulation is to make the digital communication channel between competent authorities mandatory. The intention is to build upon our achievements to date, namely to extend existing IT tools such as e-CODEX and the eEvidence Digital Exchange System (eEDES), which already support digital exchanges of European Investigation Orders and Mutual Legal Assistance (in criminal matters) requests. The Service of Documents / Taking of Evidence IT systems will also be based on the eEDES and will start applying from May 2025.

Additionally, in civil and commercial matters the proposed Regulation will provide natural and legal persons with the option to communicate with competent authorities digitally through a European electronic access point (on the e-Justice Portal) or existing national IT portal.

The Council adopted its General Approach in December 2022 and the European Parliament is expected to adopt its position in March 2023 after which the trilogies can start.

For information on the challenges faced regarding the use of information technology prior to the adoption of the Digitalisation proposals please see Impact assessment report - Proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial, criminal matters”.

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