

Aide-mémoire of the Meeting of the Experts' Group on International Transfers of Maintenance Funds

- 1 The Experts' Group on International Transfers of Maintenance Funds (EGITMF) met for a second time from 8 to 11 February 2021 to discuss good practices regarding the cross-border transfer of child support, as well as different ways to facilitate the cross-border transfer of funds with a view to identifying possible solutions that are low cost, cost-effective, transparent, prompt, efficient and accessible. The meeting was held via videoconference and was attended by 46 participants representing 17 Members, one Observer, and members of the Permanent Bureau (PB).
- 2 Arnaldo José Alves Silveira (Brazil), who was elected Chair of the Experts' Group (EG) at its first meeting (16-18 September 2019), chaired the meeting.
- 3 This *aide-mémoire*, prepared by the Chair and unanimously endorsed by the EG, provides a short overview of the main points of discussion.

Introduction

- 4 At its meeting from 5 to 8 March 2019, the Council on General Affairs and Policy (CGAP) of the Hague Conference on Private International Law (HCCH) approved the establishment of an EG on international transfer of maintenance funds (see Conclusion & Recommendation (C&R) No 30 of CGAP 2019).
- 5 From 16 to 18 September 2019, the EG met for the first time at the Permanent Bureau (PB). On that occasion, the EG agreed by consensus to more than 15 C&Rs and reported to CGAP 2020 ([Prel. Doc. No 11 of November 2019](#) - Report of the Experts' Group on international transfers of maintenance funds).
- 6 The main objectives of the February 2021 meeting of the EG were to take stock of the implementation by States of the C&Rs adopted in September 2019, provide a forum for States to exchange on the implementation of these C&Rs and to address any new developments in this area. The discussion was facilitated by the responses of States to a questionnaire developed and distributed by the PB ahead of the meeting ([Prel. Doc. No 11 of October 2020](#) - Questionnaire in preparation of the Experts' Group meeting of 8 to 11 February 2021 on international transfers of maintenance funds). Gratitude was expressed towards Austria, Brazil, Bulgaria, Canada, Germany, Latvia, Norway, Poland, Portugal, Slovenia, Sweden, Switzerland, the United Kingdom (England, Wales & Northern Ireland) and the United States of America for their responses to the Questionnaire.
- 7 The *aide-mémoire* generally follows questions set out in the Questionnaire ([Prel. Doc. No 11 of October 2020](#)) and refers to the C&Rs adopted in September 2019 ([Prel. Doc. No 11 of November 2019](#)).¹ The results of this meeting will be provided to CGAP and will inform the discussion of the First Meeting of the Special Commission (SC) on the practical operation of the *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (the 2007 Child Support Convention), to be held in 2021 which will make C&Rs in relation to this area.

I. Developments in general regarding the international transfer of maintenance funds

- 8 Most experts reported that the Covid-19 crisis has significantly hindered developments in the last 18 months. Nevertheless, notable advances were made in certain States. Although some headway has

¹ The C&Rs adopted in September 2019 are attached to this *aide-mémoire*.

been made by States in the elimination of cheques (*e.g.*, through bundled payments, wire (*e.g.*, SWIFT) transfers, electronic fund transfers or automated clearing house), they are still quite widely used.

9 The plan by the United States of America to create a centralized international payment service was warmly welcomed by participants. The United States delegation gave a presentation summarising the design and phased implementation plan of this project. The fundamental goal of this project is to, eventually, eliminate the use of cheques and lower the costs involved in the international transfer of maintenance funds (*i.e.*, transfer fees and currency conversion). The federal solution is being developed as a cost-effective way to assist states with the transition from cheques to electronic payments.

10 Australia and Germany have made significant progress in transitioning away from cheques, towards electronic payments. Furthermore, Norway is in the process of converting to the updated XML-ISO-20022 format, which will allow for more information to be sent with each payment.

II. Elimination of the use of cheques (C&R No 1)

11 The EG agreed that the electronic transfer of funds is the ideal way forward.

12 Some experts highlighted that a difficulty in eliminating cheques is in cases where the creditor requests a cheque that can be deposited into a savings account. Other experts noted that it is a good practice for Central Authorities to provide information about international banking to creditors and debtors.

13 Reference was made to the use of electronic payment cards as a last resort solution. However, certain difficulties in this approach were highlighted, namely that there are often (hidden) fees involved when such cards are used outside the country in which they were issued and there may be restrictions on the ways in which creditors can use the cards, limiting their ability to withdraw funds.

14 In line with Article 35 of the 2007 Child Support Convention, States are encouraged to discuss bilateral solutions for the elimination of cheques.

III. 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 (C&R No 3)

15 Experts agreed once again that there are many advantages to monitoring the transfer of maintenance funds for both the debtor and creditor, namely:

- identifying the fees charged and by whom;
- assisting with the consolidation of arrears;
- keeping the parties informed regarding payments; and
- ensuring that improper automated enforcement measures are not taken.

It was noted that, where Central Authorities are not involved in the transfer of payments, relying on creditors and / or debtors to provide payment information as a form of monitoring is much too time-consuming and resource intensive. It was also noted that the manual consolidation of accounts between requested and requesting States is time-consuming as well. In that regard, the merits of having the Central Authorities involved in the handling of the transfer of funds was discussed, as a

means to be proactive. It was agreed that a legal framework, with the appropriate safeguards,² enabling requested and requesting Central Authorities to handle the transfer of funds in an automated manner, would assist in this area. It was also highlighted that iSupport could be a solution in the future.

16 Some experts reiterated that their Central Authorities are not directly involved with the transfer of maintenance payments and, therefore, may not have systematic monitoring or communication in place. Some highlighted the lack of resources to develop such a monitoring system. Experts also noted that the provision of the collection and expeditious transfer of maintenance payments could be delegated to public bodies and / or other bodies, in accordance with Article 6(3) of the 2007 Child Support Convention.

17 It was agreed that payment information should be shared securely between requested and requesting Central Authorities, in order to assist in keeping accurate account balances.

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

18 Based on the responses to the Questionnaire , it was noted that many States are not yet prioritising the provision of payment transfer services to any debtors transferring payments within the scope of the 2007 Child Support Convention.

19 It was highlighted that Central Authority services are available to creditors and / or debtors that elect to use these services (Arts 6, 7, 9, 10).

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

20 It was reiterated that a unique international case reference identifier between requested and requesting States is the best way forward (*e.g.*, the iSupport case number). Such case references should be compatible with banking reference conventions (*e.g.*, no special characters). It was agreed that the format of the iSupport case number should be reviewed accordingly. Some experts suggested the ISO 20022 standard as a possible solution. It was understood that the unique international reference identifier would be in addition to the States' reference numbers.

VI. Implementation of currency conversion of payments done by the relevant authority in the requested State at the time of transfer (C&R Nos 8, 9, 10)

21 Experts recalled that the intention behind this is to ensure the creditor receives the full amount, as per the maintenance decision. Experts highlighted that, in many States, relevant authorities are already implementing such currency conversions, utilising the exchange rate of the day of transfer. An expert pointed out that cheques are impractical due to currency conversion difficulties between the time they are issued and the time they are cashed.

22 Experts observed that it was encouraging to note that States take measures, where possible, to minimise the difference resulting from the currency exchange rate between the amount asked and the amount due. Experts agreed that it is good practice that the amount paid by the debtor, upon

² For example, Section 5(6) of the German Foreign Maintenance Act 2011: "The Central Authority shall transmit, in conformity with the provisions governing federal budget funds, to the person entitled to maintenance the maintenance sums recovered from the person liable to pay. The first sentence shall apply to the return of amounts paid in excess or *mutatis mutandis* to other payments necessitated by the exercise of Central Authority functions." (official translation provided by Germany).

notification by the enforcement authority, varies from one month to another based on the exchange rate at the given moment. This avoids the building up of arrears and ensures that when the conversion takes place, it matches the amount in the original maintenance decision. An expert also pointed to the good practice of encouraging creditors to open foreign currency bank accounts. Another solution is for the debtor to open a bank account in the State of the creditor.

- 23 Consideration could be given to obtaining the agreement of the debtor (*e.g.*, via a monthly notification) that the amount owed in the foreign currency be directly withdrawn from the debtor's account, with the objective of ensuring the amount paid matches the amount owed. In some cases, this could be the subject of a court order.

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

- 24 Some experts noted that central national bank rates are used across the board on the day of conversion, in order to ensure equality and transparency. It was also pointed out that there are advantages to day-to-day currency conversion and it is important to establish a common rule for the day of the conversion. An expert noted that to increase transparency, efforts should be made to closely monitor the fees and costs arising at all stages.

- 25 The PB will continue contacting international organisations involved in projects concerning remittances, to discuss ways in which to reduce transfer costs and increase transparency.

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

- 26 Experts noted that it is encouraging to see that some Central Authorities are covering costs for creditors.

- 27 Experts recalled the issue that, in a number of cases, the creditor still bears the costs related to the transfer of maintenance funds. To that effect, experts highlighted the difficulties in tracking the service charges that arise in the process of transferring maintenance funds, whether by cheque or electronic transfer.

- 28 Experts agreed that the ultimate objective is to eliminate all costs relating to the transfer of maintenance funds. It was agreed that an acceptable solution, in the interim, could be for courts to stipulate, in their maintenance decisions, whether the creditor or the debtor is to cover these costs.

- 29 An expert pointed out that SWIFT GPI (Global Payment Initiative), which enables the tracking of fees arising along the way, provides a format for additional information. It was clarified that this initiative is relatively recent and works on a voluntary basis, meaning it would take considerable time for this approach to be mainstreamed into the global payments industry. It was agreed that a best practice would be for States to make arrangements with banks that are transparent in relation to their fees and / or are part of the SWIFT GPI initiative.

- IX. 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 (C&R No 2)
- 30 Some experts noted that it would be difficult if not impossible, in light of their domestic banking systems and / or laws, to consider a solution whereby amounts are withheld for a few days in an effort to cover the transfer costs. Concerns were expressed that withholding amounts would result in delayed payments, which could be harmful to families. Other experts noted that, in some cases, withholding funds is not necessary in light of solutions that are currently in place or that will be in place in the future.
- 31 It was, therefore, agreed that withholding the amounts for a few days to cover the costs of transfer is no longer a viable solution.
- X. Requested Central Authority arrangements with their banks to cover transfer fees or other arrangements to that effect (C&R No 3)
- 32 It was noted that some States have made arrangements with government financial institutions for the cost-free transfer of funds, a fact which was met with great enthusiasm. Experts agreed that States which have not yet made such arrangements should be encouraged to do so.
- XI. Establishment of a centralised point (*e.g.*, bank account, central bank) for international transfers dedicated to both incoming and outgoing transfer of funds (C&R Nos 4 and 5)
- 33 Experts reaffirmed the advantages of a Central Authority establishing a centralised point for international transfers dedicated to both incoming and outgoing transfer of maintenance funds, either through a government financial institution (*e.g.*, central bank, treasury or State reserve) or a private institution (*e.g.*, commercial bank, national chamber of bailiffs). It was agreed that this approach would assist with standardisation of the international transfer of funds, monitoring of payments as well as increased transparency and reduced costs.
- 34 It was recalled that the 2007 Child Support Convention provides a lot of flexibility to States in applying this solution to their own domestic systems. The centralised points for international transfers could be designated under Article 6(3) of the Convention.
- 35 Experts welcomed all current developments from States that already have this solution in place and expressed encouragement for States to continue their work in this area.
- XII. Implementation of payment transfer monitoring systems (C&R No 6)
- 36 Experts recalled the importance of implementing monitoring systems in relation to payment transfers in ensuring accurate payment records, enhancing communication between Central Authorities, assisting enforcement and measuring efficiency through the establishment of statistical reports.
- 37 Several experts noted that their Central Authorities already monitor payment transfers. It was agreed that iSupport would provide considerable opportunities to States who have not yet implemented monitoring systems. It was also noted that iSupport could improve already existing monitoring systems.

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

38 Experts reiterated that bundled payments are a good practice in terms of cost effectiveness, but agreed that they should be sent as soon as possible in order to avoid withholding money from families in need of support. A number of experts noted that incoming bundled payments are currently handled manually by caseworkers, which is both labour intensive and time consuming. However, other experts noted that the amount of resources involved in single and bundled payments can sometimes be more or less the same, depending on the degree of automation. It was also highlighted that, in some States, sending bundled payments is not permitted as there is an obligation to disburse immediately upon receipt of the funds.

39 Experts reiterated the importance of automated solutions for disbursing bundled payments and agreed that iSupport could play a considerable role therein. Experts agreed that, while developing automated solutions for bundled payments, compatibility with iSupport should be kept in mind. Three experts agreed to pursue collaboration, between their States, in pilot projects of potential automated solutions for the disbursement of bundled payments.

40 The PB will proceed with preparatory work for the development of iSupport software that will connect banking data relevant to each case.

XIV. Other obligations of Central Authorities under Article 6(2)(f) and applications content under Article 11(1)(f)

41 The interpretation and extent of the obligations under Articles 6(2)(f) and 11 were mentioned. To that effect, paragraphs 105-108, 116-117, 154 and 160-161 of the Explanatory Report were recalled.

42 Experts were reminded that Central Authorities may choose to delegate functions under Article 6(3). It was noted that Central Authorities should promote close co-operation amongst the competent authorities they designate, to achieve the purposes of the 2007 Child Support Convention.

XV. Other obligations of Contracting States under Article 35

43 Experts agreed that it was extremely promising to note that a number of States are collaborating in order to facilitate the most cost-effective services available. It was agreed that such exchanges are to be encouraged. It was also noted that some States are enthusiastic about the prospect of iSupport.

XVI. Other business: Enforcement of payments in the currency of the State of the decision

44 A good practice was noted to the effect that the laws of some States provide for an adjustment of the amount to be enforced on a regular basis, in order to match the amount to be paid in the foreign currency as closely as possible. An expert noted that the best practice in this regard could be to make sure that the debtor understands that the obligation arose in a different currency. Another expert clarified the importance of not fixing the converted amount to be enforced for an indefinite period.

XVII. Other business: Next meeting

45 It is recommended that the EG meet again before the First Meeting of the SC, in order to further its work.

**Experts' Group on international transfer of maintenance funds
The Hague, 16-18 September 2019**

Conclusions and Recommendations

Introduction

At its meeting from 5 to 8 March 2019, the Council on General Affairs and Policy (CGAP) of the Hague Conference on Private International Law (HCCH) approved the establishment of an Experts' Group (EG) on international transfer of maintenance funds (see Conclusion & Recommendation No 30 of CGAP 2019).

The meeting of the EG took place from 16 to 18 September 2019 at the Permanent Bureau of the HCCH in The Hague. It was attended by experts from Australia (via teleconference), Brazil, Canada, the European Union, France, Germany, the Netherlands, Norway, Poland, Portugal, Switzerland and the United States of America. Experts from the Deutsche Bundesbank, National Child Support Enforcement Association, TransferWise and ING also attended.

The EG benefitted from written contributions that were submitted prior to the meeting by Australia, Bulgaria, Canada, Croatia, Estonia, Finland, Norway, Poland, the Slovak Republic, Switzerland, the United Kingdom and the United States of America to prepare a Background Note for the purpose of the meeting.

The EG elected Mr Arnaldo José Alves Silveira, General Coordinator for International Legal Cooperation at the Ministry of Justice and Public Security in Brazil, as Chairperson.

Background to the discussions

A. Members of the EG came together to learn from each other and identify good practices regarding the cross-border transfer of funds. Members of the EG also discussed different ways to facilitate the cross-border transfer of funds with a view to identifying possible solutions that are low cost, cost-effective, transparent, prompt, efficient and accessible.

B. The EG acknowledged the diversity of models for child support recovery such as direct transfers from the debtor to the creditor, transfers through an institution in the requested State (*e.g.*, bailiff and other enforcement authorities, court and / or Central Authorities) and sometimes through an institution in the requesting State (*e.g.*, public body and / or Central Authorities). It was recognised that the involvement of Central Authorities and the degree of centralisation of payments vary according to different legal systems, domestic and regional banking systems and available means.

C. In that context, the EG discussed the implementation and operation of Articles 6(2)(d)-(f), 8, 35 and 43 of the *HCCH Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (hereafter the 2007 HCCH Child Support Convention).

D. It was recognised that large amounts of child support are currently transferred internationally but also that difficulties persist related to high and non-transparent bank fees and / or currency conversion costs, loss of payment data between different payment formats, occasional communication problems between Central Authorities and lack of payments monitoring. In particular, it was underlined that the use of cheques is a major problem.

E. It was noted that the solutions and good practices discussed in the context of the 2007 HCCH Child Support Convention are equally relevant to the *United Nations Convention of 1956 on the Recovery Abroad of Maintenance Obligations*, Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, other regional or bilateral instruments.

F. It was underlined that effectively implementing the 2007 HCCH Child Support Convention would help States reach the United Nations Sustainable Development Goal No 16.3 (Rule of Law) as it assists parents with meeting their child support obligations in a cross-border context.

The EG agreed by consensus on the following Conclusions and Recommendations:

Cheques

1. Experts acknowledged that eliminating the use of cheques was a worthwhile goal, after an appropriate transition period, considering that certain States can no longer receive cheques or are under time constraints to stop using them.

Transfer costs

2. All participants agreed that there is a need to find solutions for the international transfer of funds which would result in increased transparency and cost reduction. Creditors should not bear the costs related to the transfer of funds. Consideration should be given to explore a future solution where the institution(s) facilitating the transfer of funds could cover the costs of such transfers by withholding the amounts for a few days.

3. A good practice is for the requested Central Authority to have arrangements with their bank to cover the fees (“details of charges: OUR”) and for the requested Central Authority to obtain confirmation from the requesting Central Authority that the amount received is the same as the amount sent and, where applicable, information on the reasons for any difference.

Centralised point for international transfers

4. Consideration should be given by each Contracting State to establish a centralised point for international transfers dedicated to both incoming and outgoing transfer of funds. Such centralised point could be as basic as a bank account. When possible, this bank account could be held with a public institution such as a central bank.

5. The value of such centralised point was underlined as it could:

- help with the standardisation of the international transfer of funds;
- increase transparency with regard to the costs of such transfers;
- reduce the costs associated with such transfers;
- assist the Central Authority in the monitoring of payments;
- simplify and accelerate the transfer of funds where payments are limited or need to be screened for regulatory purposes.

Consideration should be given to providing payment transfer services to any debtors transferring payments within the scope of the 2007 HCCH Child Support Convention.

Monitoring of payments

6. The monitoring of payments could:

- ensure an accurate payment record;
- assist with the enforcement of payments;
- support communication between Central Authorities to reconcile the amounts sent and received;
- help establish statistical reports, *e.g.*, to measure efficiency and increase understanding about money flows.

Data accompanying the transfer

7. Consideration should be given to using unique case references, known to both the requesting and requested State, attached to each transfer of funds. Such unique case references would link the transfer to an existing case. Consideration should be given, where possible, to use the iSupport case reference.

Currency conversion

8. Reference was made to the *Practical Handbook for Caseworkers under the 2007 Child Support Convention* (hereinafter *Caseworkers Practical Handbook*)³ in which it is stated that the good practice is where the currency conversion of payments be done by the relevant authority in the requested State at the time of transfer.

9. Reference was also made to the *Caseworkers Practical Handbook* in which it is stated that the maintenance debt is paid in full only if the full amount owed in the currency set out in the original maintenance decision has been paid.

10. A good practice should be to promote transparency of currency conversion costs.

Bundled payments

11. It was noted that bundled payments do result in savings on transfer costs, but may involve some delay resulting from processing time. It was noted that automation can alleviate these delays and could require fewer resources.

Existing solutions

12. The EG was grateful to the experts from TransferWise and ING for their useful presentations, explanations of their business models, and responses to questions on the use of blockchain and other payment transfer solutions. The EG welcomed the offer made by the experts from TransferWise and ING to provide assistance to the EG in their consideration of different international transfer of funds models. The EG agreed to develop different scenarios involving bundled payments and individual payments that would be reviewed by TransferWise and ING to compare, among other things, the cost implications.

Follow-up

13. It was recommended that the EG continue its work and meet on a regular basis through video and / or teleconference to share good practices, experiences implementing the above good practices and solutions and to continue the exploration and implementation of additional solutions.

³ Permanent Bureau of the Hague Conference on Private International Law, *Practical Handbook for Caseworkers under the 2007 Child Support Convention*, 1st ed., The Hague, 2013, at p. 174. Available at < www.hcch.net > under “Child Support Section”, then “HCCH publications”.

14. States Parties to the 2007 HCCH Child Support Convention should ensure that their Country Profile is up to date in relation to payment information (Part V, 1.) and their implementation of Article 6(2)(d)-(f) (Part I, 6.).
15. The membership of the EG remains open. Any contributions or proposals from States which have not yet participated in the work of the EG are always welcome.
16. The Permanent Bureau will continue to monitor innovations in this area.