

<b>Title</b>	<b>Possible statistical report under the 2007 Child Support Convention</b>
<b>Document</b>	<b>Prel. Doc. No 6 of April 2020</b>
<b>Author</b>	Permanent Bureau (PB)
<b>Agenda item</b>	TBD
<b>Mandate(s)</b>	C&D Nos 22-24 of the 2020 CGAP
<b>Objective</b>	<ul style="list-style-type: none"> <li>– To discuss and decide on the development of a standard statistical report under the 2007 Child Support Convention</li> <li>– Members are invited to respond by e-mail before 29 May 2020 to the questions under para. 16 of the document with a view to assist the PB with the development of a standard statistical report for the attention of the Special Commission</li> </ul>
<b>Action to be taken</b>	For Approval <input type="checkbox"/> For Decision <input checked="" type="checkbox"/> For Information <input type="checkbox"/> For Discussion <input checked="" type="checkbox"/>
<b>Annex</b>	Examples of possible statistical reports
<b>Related documents</b>	<ul style="list-style-type: none"> <li>– Prel. Doc. No 1 of August 2019 – Questionnaire on the practical operation of the <i>Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance</i></li> <li>– Prel. Doc. No 3 of March 2020 – Planning for the First Meeting of the Special Commission</li> </ul>

## Introduction

1. The production of statistics on the *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (the 2007 Child Support Convention) would contribute to improved understanding of its practical operation. In turn, this would help the Central Authorities which have been designated in accordance with the Convention to review their operations. A number of Central Authorities may already be producing statistics, but a common format would make communication and experience sharing easier. It would also assist in providing a global picture of the monitoring of the operation of the Convention. Out of 21<sup>1</sup> respondents to a questionnaire in preparation of a possible First Meeting of the Special Commission to review the practical operation of the 2007 Child Support Convention, 11<sup>2</sup> respondents (out of 18<sup>3</sup>) showed interest in a standardised statistical report.

## Statistics under other HCCH Conventions

2. Among HCCH Conventions, an example of a standardised common format is offered by forms adopted by the Special Commission on the operation of the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (the 1980 Child Abduction Convention). Four forms are distributed and collected by the Permanent Bureau (PB):

- A1: Return applications as requesting Authority;
- A2: Return applications as requested Authority;
- B1: Access rights applications as requesting Authority;
- B2: Access rights applications as requested Authority.<sup>4</sup>

All four forms are relatively simple in their layout and seek numbers across 10 main questions at most: active cases, cases rejected by the Central Authority, cases where the child was located, cases where the child was not located, cases withdrawn, cases where voluntary return or agreement between the parties happened, cases where a judicial order was made or refused, average time between receipt of application and final judicial determination (abduction only), cases where the order was not enforced or difficulties in access rights persisted, and the number of cases pending at the end of the year. Figures are collected across a given calendar year and divided between outgoing cases (requesting State) and incoming cases (requested State).

3. Another example is provided by statistics collected in the context of the *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (the 1993 Adoption Convention). Data collected include:

- Total number of completed adoptions;
- Age and gender of child at adoption;
- Number of adoptions of special needs children;
- Number of intra-family adoptions;

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<sup>1</sup> As of 27 March 2020, the following Members of the HCCH had responded to Prel. Doc. No 1 of August 2019 – Questionnaire on the practical operation of the *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*: Australia, Austria, Brazil, Bulgaria, Canada, Croatia, Cyprus, Finland, France, Germany, Hungary, Lithuania, Luxembourg, Nicaragua, Norway, Poland, Portugal, Sweden, Switzerland, United Kingdom (England & Wales), United States of America.

<sup>2</sup> Prel. Doc. No 3 of March 2020 – Planning for the First Meeting of the Special Commission, Annex I, available on the HCCH website at < [www.hcch.net](http://www.hcch.net) > under Child Support: Brazil, Bulgaria, Croatia, Cyprus, Finland, Nicaragua, Poland, Portugal, Switzerland, United Kingdom (England & Wales), United States of America.

<sup>3</sup> Please note that Australia, Austria and Norway did not respond to Question No 9.3 of the Questionnaire.

<sup>4</sup> Examples of these tables can be found on the Child Abduction Section of the HCCH website under “Statistics”.

- Location of child prior to adoption or entrustment (State of origin only).

Data are collected as receiving State and divided per State of origin.<sup>5</sup>

### Statistics under the 2009 EU Regulation

4. In the field of international maintenance obligations, an example is provided by the questionnaire on *Council Regulation No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations* (the 2009 Regulation). Figures are collected for each calendar year by the European Commission in the context of the European Judicial Network on Civil and Commercial Matters. The questionnaire is thorough and detailed. It starts with incoming maintenance applications and questions cover:

- Recognition applications by a creditor.
- Recognition applications by a debtor.
- Recognition and enforcement applications.
- Enforcement applications

*All four sections on recognition and / or enforcement distinguish between the following: number of applications by a public body, number of applications based on a decision, number of applications based on a court settlement, number of applications based on an authentic instrument (i.e., maintenance arrangement), number of applications concerning maintenance obligations arising from a parent-child relationship, number of applications where the decision was not enforced, number of applications still pending.*

- Establishment applications where there is no decision.
- Establishment applications where the recognition and enforcement of a decision is not possible

*These two sections on establishment applications cover the following: number of applications including the establishment of parentage (only for applications where there is no decision), number of applications concerning maintenance obligations arising from a parent-child relationship, number of applications where free legal aid was refused, number of applications where a decision establishing maintenance was obtained, number of application still pending.*

- Modification applications by a creditor (including applications to modify a decision given in another State).
- Modification applications by a debtor. These sections cover *mutatis mutandis* the same questions as for establishment.
- Time requirements for processing applications, with the following questions: total number of applications, number of applications where the Regulation targets were respected, number of applications not processed as a result of the failure of the corresponding Central Authority to respect the Regulation deadline, number of applications fully processed within 6 months, number of applications fully processed within 9 months.
- Requests for specific measures, distinguishing between each type of specific measure. Also asked are the number of requests where the Central Authority recovered its costs and the number of requests which resulted in applications.
- Time for processing requests for specific measures.

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<sup>5</sup> Examples of these tables can be found on the Adoption Section of the HCCH website < [www.hcch.net](http://www.hcch.net) > under "Statistics".

The same questions are then asked for outgoing applications. It is to be noted that the report does not identify corresponding States as the forms for the 1980 Child Abduction Convention do. There is no indication about how many applications were sent to or received from each State.

## iSupport

5. The iSupport software,<sup>6</sup> the electronic case management and secure communication software designed to service the 2007 Child Support Convention, the 2009 Regulation and any other international instrument which Central Authorities are invited to install and operate, automatically generates the statistical report as collected for the operation of the 2009 Regulation according to the required format. Most of the data that could form the basis of statistical report on the operation of the 2007 Convention are already present in iSupport. In this respect the Explanatory Report on the 2007 Child Support Convention noted: “[iSupport] could also generate the required statistics as part of the means of monitoring the operation of the Convention”.<sup>7</sup> It is also to be noted that the PB will receive European Union funding, over the 2020-2022 period, in order to supplement iSupport to provide users with statistical overviews of their activities as well as, possibly, to develop a statistical report according to a format adopted by the Special Commission. Finally, it is also crucial to mention that iSupport is a uniform decentralised system: statistics are collected locally and are only visible to the Central Authority operating the system. However, as the format is common across all the iSupport databases, statistics could easily be compiled in a central location with a view to providing a global picture of the operation of the Convention.

6. For States not using iSupport, the data which are necessary to generate their statistical report would be available in the mandatory and recommended forms (including status report). These forms are used to transmit and receive applications or requests for specific measures under the Convention.

## INCASTAT

7. For the 1980 Child Abduction Convention, figures are collected using INCASTAT, a web-based database to which all Central Authorities under the Convention have access, which was developed from 2004 under PB administration with the assistance of voluntary contributions. Beforehand, the PB received the above-mentioned forms in paper form. As explained in a Preliminary Document No 9 of October 2006,<sup>8</sup> the examination of statistics reported using these Forms revealed that Central Authorities were treating and collecting statistical data in very different manners and were interpreting the Forms in different ways. These divergences showed that a uniform method had to be established in order to be able to meaningfully compare and analyse statistical information from the different States Parties to the Convention. The application of this uniform method was to be facilitated by the use of a common system such as INCASTAT for entry and consolidation. In addition, it proved very important to prepare instructions on the reporting of statistics as the electronic system to collect them was being developed. In its Conclusion and Recommendation No 1.1.18 of November 2006,<sup>9</sup> the

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<sup>6</sup> See the iSupport Section of the HCCH website.

<sup>7</sup> A. Borrás and J. Degeling, *Explanatory report on the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*, The Hague, 2013, p. 63

<sup>8</sup> [“Report on the iChild pilot and the development of the international child abduction statistical database, INCASTAT - Technology Systems in support of the Hague Convention of 25 October 1980”](#), Prel. Doc. No 9 of October 2006 for the attention of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (available on the HCCH website < [www.hcch.net](http://www.hcch.net) > under the Child Abduction Section).

<sup>9</sup> “Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (30 October – 9 November 2006)”, see path indicated in note 8.

Special Commission welcomed the development of INCASTAT, and invited all Central Authorities to make their annual returns of statistics using this database. In addition to the data mentioned in paragraph 2 above, INCASTAT also collects the following:

- Nationality of the applicant;
- Nationality of the alleged abductor;
- Reasons for non-return;
- Gender and age of the child;
- Relationship of the applicant to the child;
- Relationship of the abductor to the child.

The 1980 Convention was adopted to help bring about a reduction in the number of international abductions and a speedy solution to cases when abductions occur. These data, collected over a few years, allow for the identification of trends. These can be a global increase or decrease of the number of abductions, a likelihood that persons with a given relationship to children will engage in abduction, the relative number of judicial decisions resulting in return or non-return as well as voluntary agreements. The average time to reach a solution can also be monitored. These trends can be global or limited to certain countries. In turn, this allows Contracting Parties to review their operation of the Convention and implement measures in accordance.<sup>10</sup> Those measures can be related to international judicial or administrative cooperation as well as to national public policy measures such as judicial training and public information campaigns. Future statistics will also allow Contracting Parties to judge the efficacy of these measures.

#### **Possible statistical report for the 2007 Child Support Convention**

8. The signatories of the 2007 Child Support Convention intended to facilitate the recovery of international child support by putting in place a system of administrative cooperation and providing for applications for recognition, recognition and enforcement, enforcement, establishment and modification to be exchanged through a network of Central Authorities. The Convention highlights in its preamble the “need for procedures which produce results and are accessible, prompt, efficient, cost-effective, responsive and fair”. To monitor these objectives, the following indicators could be discussed by the Special Commission as the basis for a statistical report:

- Number of cases;
- Type and number of applications under Article 10;
- Length of time between application and establishment of a decision / decision modification / beginning of enforcement;
- Type and number of requests for specific measures under Article 7;
- Types of enforcement measures and percentage of cases subject to such enforcement measures.

Each of these indicators could be collected by each Contracting Party for both outgoing and incoming cases. The Special Commission could discuss the appropriate level of detail for each indicator, for instance whether to distinguish if applications are made by a creditor or a debtor, or to include the outcome of applications. A draft template for a statistical report can be found in the Annex to this document.

9. In addition, collecting data about outgoing and incoming payments could, when known to Central Authorities, allow Contracting Parties to evaluate the efficiency of their activities in application of the Convention. In this respect, the Experts' Group on international transfer of maintenance funds

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<sup>10</sup> For instance, this could include identifying that a type of application is little used.

noted, in its September 2019 Conclusions and Recommendations that: “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.”

10. Creating a statistical report under the 2007 Child Support Convention would help identify patterns and trends over time. It would also help measure the performance of case processing within Central Authorities. Finally, it would assist with the review of the operation of the Convention at the global level. Experience, notably from the 1980 Child Abduction and 1993 Adoption Conventions, shows there is added value in a common format and in a common consolidation tool. In the specific context of the 2007 Convention, there is also the example of the 2009 Regulation as well as the data collection that is already in place in iSupport.

### **Next steps**

11. With those examples in mind, the Special Commission is invited to consider the content and structure of a possible statistical report for the 2007 Child Support Convention. In recognition of the diversity of case management systems (using iSupport or not) and monitoring practices among Central Authorities, a gradual approach could be adopted, with the more essential indicators being included in the first stage and other indicators being added at a later stage.

12. The first stage indicators could be those described under paragraph 8 above. These indicators would allow the monitoring of the overarching objectives of the Convention to put in place “accessible, prompt, efficient, cost-effective, responsive and fair” procedures. These indicators would allow to identify trends such as the flow of applications between States and whether certain types of applications are used more than others. In addition, collecting statistics on the outcome of the applications, when known, may offer information on the quality of the applications, thus allowing authorities to adjust their training or communication efforts.

13. At a later stage, additional indicators with regard to payments, such as those described under paragraph 9 above, could be added to the first set of indicators. The tables shown in the Annex present a more comprehensive overview of what could be pursued at that later stage.

14. In the light of the available funding for iSupport during the 2020-2022 period, one possible way forward the Special Commission is invited to consider would be to agree at the December 2020 First Meeting of the Special Commission on both a basic standardised statistical report and a more comprehensive standardised statistical report, the former to be used as soon as possible and the latter to be used at a later stage. However, both standardised statistical reports would be developed and programmed in iSupport during the period 2020-2022.

15. National / Contact Organs and Central Authorities designated under the 2007 Convention are invited to co-ordinate as appropriate between themselves with a view to responding to the following questions.

16. Please inform the PB of your preference for a two-stage approach (paras 12 and 13) or a single stage approach (as described in the Tables shown in the Annex). Furthermore, in either scenario (*i.e.*, two-stage or single-stage approach), please indicate whether you would suggest adding or subtracting

some indicators. Responses to these questions will assist the PB with the development of a standard statistical report for the attention of the Special Commission.<sup>11</sup>

17. We kindly request that responses to these questions be sent to the PB by e-mail to < [secretariat@hcch.net](mailto:secretariat@hcch.net) > **no later than 5.00 p.m. CEST on Friday 29 May 2020** with the following subject matter captioned in the heading of the e-mail: “[name of State] Response to Prel. Doc. No 6 – 2020 Special Commission”. Any questions concerning the Questionnaire may be directed to < [secretariat@hcch.net](mailto:secretariat@hcch.net) >.

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<sup>11</sup> See the reference to Prel. Doc. No 10 (tentatively planned for July 2020), “Draft statistical report(s) for the 2007 Child Support Convention – Document for consultation”, in Prel. Doc. No 3 of March 2020, *op. cit.*, note 2.

## ANNEX



## I. Example of statistical report as requesting State

	Request for specific measures under Article 7 (number of cases)																
	Location of debtor		Location of creditor		Assets and income of debtor		Assets and income of creditor		Evidence		Establishment of parentage		Provisional measures		Service of documents		
	S	U	S	U	S	U	S	U	S	U	S	U	S	U	S	U	
State 1																	
State 2																	
State 3																	
State 4																	
State 5																	
State 6																	
State 7																	
State 8																	

S: Successful

U: unsuccessful

	Requests under Article 10 (number of cases)																																							
	Applications by a creditor																				Applications by a debtor																			
	Recognition and enforcement					Enforcement (10(1)(b))					Establishment <sup>1</sup> (10(1)(c))				Establishment 10(1)(d)				Modification <sup>2</sup> (10(1)(e))				Modification (10(1)(f))				Recognition				Modification (10(2)(b))				Modification (10(2)(c))					
	1	2	3	4	5	1	2	4	5	1	2	6	7	1	2	6	7	1	2	8	9	1	2	8	9	1	2	3	10	1	2	8	9	1	2	8	9			
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1	Requirements of Convention manifestly not fulfilled
2	Additional documents necessary
3	Decision could not be recognised
4	Decision could not be enforced
5	Decision was enforced
6	Decision could not be established
7	Decision was established
8	Decision could not be modified
9	Decision was modified
10	Decision was recognised

<sup>1</sup> Enforcement of establishment decisions will be reflected under enforcement applications.

<sup>2</sup> Enforcement of modification decisions will be reflected under enforcement applications.



## II. Example of statistical report as requested State

	Request for specific measures under Article 7 (number of cases)																
	Location of debtor		Location of creditor		Assets and income of debtor		Assets and income of creditor		Evidence		Establishment of parentage		Provisional measures		Service of documents		
	S	U	S	U	S	U	S	U	S	U	S	U	S	U	S	U	
State 1																	
State 2																	
State 3																	
State 4																	
State 5																	
State 6																	
State 7																	
State 8																	
State 9																	

S: Successful

U: unsuccessful

Requests under Article 10 (number of cases)																																					
Applications by a creditor																				Applications by a debtor																	
Recognition and enforcement					Enforcement (10(1)(b))					Establishment <sup>3</sup> (10(1)(c))				Establishment 10(1)(d)				Modification <sup>4</sup> (10(1)(e))				Modification (10(1)(f))				Recognition				Modification (10(2)(b))				Modification (10(2)(c))			
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7	Decision was established
8	Decision could not be modified
9	Decision was modified
10	Decision was recognised

<sup>3</sup> Enforcement of establishment decisions will be reflected under enforcement applications.

<sup>4</sup> Enforcement of modification decisions will be reflected under enforcement applications.

