

Questionnaire relating to the *Convention of 25 October 1980 on International Access to Justice (Access to Justice Convention)*

Responding State:

Brazil

I. General Feedback

1. How does your State rate the general operation of the Access to Justice Convention?
(b) Good.
2. How does your State rate the operation of the Model Forms?
(a) Good.
3. In your State's opinion, should the PB develop further guidance or explanatory material on the operation of the Access to Justice Convention?
(b) No.

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?
(b) No.
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?
(b) No.
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).
(b) No.
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.

(Art. 28(1) allows a Contracting Party to exclude the obligation of Article 1 of the Convention:

(1) in the case of persons who are not nationals of a Contracting Party, but who have their habitual residence in a Contracting Party other than the reserving State, and / or

(2) in the case of persons who formerly had their habitual residence in the reserving State, if, in either of these cases, there is no reciprocity of treatment between the reserving State and the State of nationality of the applicant.)

(b) No.

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))
- (a) Civil and commercial.
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?
- (b) No.
10. Is your State able to provide the PB with an example or case of the Convention operating effectively in practice?
- (a) Yes.

III. Use of Information Technology

The questions below seek information from Contracting Parties on the use of technology and in light of the COVID-19 pandemic.

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?
- (a) 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.”
12. In the past five years, has your State **received** any applications using electronic means?
- (a) Yes.
(i) E-mail (regular).
(ii) E-mail (secured / encrypted).
- 12.1. If no, please provide further information about why this is not yet possible.
- N/A
13. In the past five years, has your State **sent** any applications using electronic means?
- (a) Yes.
(i) E-mail (regular).
(iii) Electronic transmission via online platform administered by the government.
- 13.1. If no, please provide further information about why this is not yet possible.
- N/A
14. What challenges, if any, has your State faced regarding the use of information technology under the Access to Justice Convention?
- (a) None.

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?

(a) 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).”

For Parties that answered yes to Q15 above:

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?

(a) Yes.

“Request to France, Spain and Italy are usually sent by e-mail.”

IV. 2024 Meeting of the Special Commission & Monitoring

16. What are the three key topics or practical issues related to the Access to Justice Convention that your State would like discussed at the 2023 meeting of the Special Commission?

1. *“Electronic transmission of requests and communication”*
2. *“Communication between central authorities”*
3. -

16.1 Please indicate whether the information provided in Q16 above may be published.

(a) Yes.

17. Does your State have any suggestions that could assist in the promotion, implementation, or operation of the Access to Justice Convention?

(b) No.

17.1. If the answer to Q17 above is “yes”, please indicate whether the information provided may be published.

N/A

DATA & STATISTICS FOR CONTRACTING PARTIES

I. General Application

1. Please indicate, by numbering from 1 to 4, the Access to Justice Convention chapters which have been most frequently applied in your State (1 representing the highest, 4 the lowest)

- [1] Legal aid, including legal advice (Arts 1-13)
 [2] Copies of entries and decisions (Art. 18)
 [3] Security for costs and enforceability of orders for costs (Arts 14-17)
 [4] Physical detention and safe-conduct (Arts 19-20)

II. Application for Legal Aid

A. Chapter 1 – Legal Aid

1. Incoming Requests

2. How many **incoming applications** for legal aid has your State received and granted?

Year	Number of requests received	Number of requests granted
2017	-	-
2018	-	-
2019	-	-
2020	-	-
2021	-	-
2022	-	-
Unknown – <i>please explain.</i> <i>“Brazil has not received any application under the Convention so far.”</i>		

3. Which three States made the most requests?

N/A

4. If possible, please provide a breakdown of how long (in months) it took to execute incoming requests.

	< 1	1-3	3-6	6-12	> 12
2017	-	-	-	-	-
2018	-	-	-	-	-
2019	-	-	-	-	-
2020	-	-	-	-	-
2021	-	-	-	-	-

2022 (if data available)	-	-	-	-	-
Unknown – <i>please explain.</i>					
-					

5. Please select the categories of persons that have been granted legal aid in your State (as a requested State) in the past five years under the Convention.

Please also indicate the total number of persons in each category.

Category	Number granted	Total Number
Nationals of a Contracting Party (Art. 1(1))	-	-
Persons habitually resident in a Contracting Party (Art. 1(1))	-	-
Persons who formerly had habitual residence in your State	-	-
Persons seeking the recognition and enforcement of a decision in circumstances of Article 13.2	-	-
Unknown – <i>please explain.</i>		
-		

2. Outgoing Requests

6. How many **outgoing applications** for legal aid has your State sent?

Year	Number of requests sent
2017	1
2018	-
2019	1
2020	-
2021	2
2022	2
Unknown – <i>please explain.</i>	
-	

7. To which three States did your State send the most requests?

Requested State	Number
Spain	4
France	4
Switzerland	1

8. If possible, please provide a breakdown of how long (in months) it took to have outgoing requests executed.

Year	< 1	1-3	3-6	6-12	> 12
2017	-	-	-	1	-
2018	-	-	-	-	-
2019	-	-	-	-	1
2020	-	-	-	-	-
2021	-	1	-	-	1
2022 (if data available)	-	-	2	-	-
Unknown – <i>please explain.</i>					
-					

9. Please indicate the categories of persons in your State (as the requesting State) that have been granted legal aid abroad in the past five years and indicate the number in each category.

Year	Nationals of your State	Habitual residents of your State	Seeking recognition or enforcement of a decision (Art. 13(2))
2017	1	1	-
2018	-	-	-
2019	1	1	-
2020	-	-	-
2021	3	3	-
2022	1	1	-
Unknown – <i>please explain.</i>			
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B. Chapter II - Security for Costs and Enforceability of Orders for Costs

1. Incoming Applications

This question applies if your State has not excluded the application of Chapter II.

10. Please indicate how many applications for the enforcement of orders for costs and expenses (“Article 15 Applications”) have been **received** annually by the Central Authority(ies) of your State, in the past five years?

Year	Number of applications
2017	-
2018	-
2019	-
2020	-
2021	-
2022	-
Unknown – <i>please explain.</i>	
-	

11. Which three States made the most requests?

N/A

12. If possible, please provide a breakdown of how long (in months) it took to have incoming requests executed.

Year	< 1	1-3	3-6	6-12	> 12
2017	-	-	-	-	-
2018	-	-	-	-	-
2019	-	-	-	-	-
2020	-	-	-	-	-
2021	-	-	-	-	-
2022 (if data available)	-	-	-	-	-
Unknown – <i>please explain.</i>					
-					

2. Outgoing Applications

This question applies if your State has not excluded the application of Chapter II.

13. Please indicate how many applications for the enforcement of orders for costs and expenses (“Article 15 Applications”), have been **sent** annually by the authorities of your State to the Central Authorities of other Contracting Parties in the past five years?

Year	Number of requests
2017	-
2018	-
2019	-
2020	-
2021	-
2022	-
Unknown – <i>please explain.</i>	
-	

14. To which three States has your State sent most requests?

N/A

15. If possible, please provide a breakdown of how long (in months) it took to have outgoing requests executed.

Year	< 1	1-3	3-6	6-12	> 12
2017	-	-	-	-	-
2018	-	-	-	-	-
2019	-	-	-	-	-
2020	-	-	-	-	-
2021	-	-	-	-	-
2022 (if data available)	-	-	-	-	-
Unknown – <i>please explain.</i>					
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CASE LAW, ADDITIONAL INFORMATION & SUPPORTING DOCUMENTS

I. Case Law

Please list all your State's judicial decisions that have considered the Access to Justice Convention since 2014 and provide a link to or upload the decisions (in PDF format only).

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II. Additional Documents

Please provide links to and / or any additional information or documentation to support your response (in PDF format only). This may include:

- ⇒ resources for the general public or guidelines for Central or other Authorities' staff;
- ⇒ implementation legislations, recent legislative developments; or
- ⇒ books, articles, or other published work.

*<https://www.gov.br/mj/pt-br/assuntos/sua-protecao/cooperacao-internacional/cooperacao-juridica-internacional-em-materia-civil/acesso-internacional-a-justica>
<https://direitoshumanos.dpu.def.br/coordenacao-de-assistencia-juridica-internacional-caji/>*

PUBLICATION OF RESPONSES

Please confirm whether your responses to this questionnaire can be published on the HCCH website.

- (a) Yes.