

**First meeting of the Special Commission on the practical operation of the  
 2007 Child Support Convention and on the 2007 Maintenance Obligations Protocol  
 - June 2020 (tentative)**

<b>Document</b>	Preliminary Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	No 1 of August 2019
<b>Title</b>	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>	
<b>Author</b>	Permanent Bureau	
<b>Agenda item</b>		
<b>Mandate(s)</b>	C&R No 28 of the March 2019 meeting of the Council on General Affairs and Policy	
<b>Objective</b>	<ul style="list-style-type: none"> <li>- To seek information as to the implementation and practical operation of the 2007 Convention in Contracting Parties, including procedures that have been established to implement the Convention, the extent of co-operation between Contracting Parties, and the types of assistance provided to individuals;</li> <li>- To identify challenges or questions that have arisen and good practices regarding the practical operation of the 2007 Convention; and</li> <li>- To obtain views and comments on priority topics, including possible future work, for discussion at the upcoming meeting of the Special Commission.</li> </ul>	
<b>Action to be taken</b>	For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input type="checkbox"/> For Action <input checked="" type="checkbox"/>	
<b>Annexes</b>	n.a.	
<b>Related documents</b>	Prel. Doc. No 2 of August 2019 - Questionnaire on the practical operation of the <i>Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations</i>	

### ***Objectives of the Questionnaire***

This Questionnaire is being circulated in preparation for a possible meeting of the Special Commission on the practical operation of the *HCCH Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (hereinafter, the “2007 Convention”) and the *HCCH Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations* (hereinafter, the “2007 Protocol”), tentatively to be held in The Hague in June 2020 (dates to be confirmed). The Questionnaire focuses on the 2007 Convention; another Questionnaire will focus on the 2007 Protocol.

This Questionnaire is addressed primarily to Contracting Parties to the 2007 Convention, but certain questions (so marked) are also addressed to non-Contracting Parties (*e.g.*, Contracting Parties to the United Nations Convention on the Recovery Abroad of Maintenance concluded in New York on 20 June 1956 (hereinafter, the “1956 Convention”). The Questionnaire has the following broad objectives:

- a. To seek information as to the implementation and practical operation of the 2007 Convention in Contracting Parties, including procedures that have been established to implement the Convention, the extent of co-operation between Contracting Parties, and the types of assistance provided to individuals;
- b. To identify challenges or questions that have arisen and good practices regarding the practical operation of the 2007 Convention; and
- c. To obtain views and comments on priority topics, including possible future work, for discussion at the upcoming meeting of the Special Commission.

The Questionnaire is designed to facilitate an efficient exchange of information on these matters prior to the meeting of the Special Commission and assist with the drawing up of an agenda for the meeting.

### ***Scope of the Questionnaire***

The Questionnaire covers these topics:

- Statistics
- Operational issues
- Access to information
- Enforcement issues
- Feedback on the use of the mandatory and recommended forms
- Possible additional forms
- Country profile
- Possible additional tools
- Translation of documents and dissemination of information
- Training and training material
- Joining the 2007 Convention
- iSupport
- General

In considering the questions that follow, States may find it useful to refer in particular to the following resources:

- The text of the 2007 Convention<sup>1</sup>
- The Explanatory Report<sup>2</sup> (Borras and Degeling) on the 2007 Convention
- The Recommended Forms<sup>3</sup> under the 2007 Convention
- The Practical Handbook for Case Workers<sup>4</sup> under the 2007 Convention
- The Practical Handbook for Competent Authorities<sup>5</sup> on the 2009 EU Maintenance Regulation, the 2007 Hague Child Support Convention and its Protocol
- The Country Profile<sup>6</sup> for the 2007 Convention
- The Implementation Checklist<sup>7</sup> for the 2007 Convention

### ***Instructions for completion***

The Questionnaire is being sent to Central Authorities as well as National and Contact Organs. Central Authorities asked to co-ordinate as appropriate between themselves and other competent authorities. For Contracting Parties to the Convention, Central Authorities are ultimately responsible for submitting the completed questionnaire to the Permanent Bureau (PB).

In order to allow the PB to extract parts of the Questionnaire for a compilation and analysis of the responses, please use **this Word Version** of the document, and please **do not return a PDF version** of the completed Questionnaire.

We kindly request that replies to the Questionnaire be sent to the PB by e-mail to < [secretariat@hcch.net](mailto:secretariat@hcch.net) > **no later than 30 November 2019** with the following subject matter captioned in the heading of the e-mail: “[name of State] Response to the 2007 Convention Questionnaire – 2020 Special Commission”. Any questions concerning the Questionnaire may be directed to < [secretariat@hcch.net](mailto:secretariat@hcch.net) >.

We intend, except where expressly asked not to do so, to place all replies to the Questionnaire on the HCCH website ([www.hcch.net](http://www.hcch.net)). Please therefore clearly identify any responses which you do not want to be placed on the website.

Thank you for your kind co-operation as the PB prepares for the meeting of the Special Commission in 2020.

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<sup>1</sup> The text of the 2007 Convention is available at: < <https://assets.hcch.net/docs/14e71887-0090-47a3-9c49-d438eb601b47.pdf> >.

<sup>2</sup> The Explanatory Report is available at: < <http://assets.hcch.net/docs/09cfaa7e-30c4-4262-84d3-daf9af6c2a84.pdf> >.

<sup>3</sup> The 2007 Convention Recommended Forms are available at: < <https://assets.hcch.net/docs/7b1c5829-81a6-46f5-902e-d59b572dff8a.pdf> >.

<sup>4</sup> The Practical Handbook for Case Workers on the 2007 Convention is available at: < <https://assets.hcch.net/docs/5f160c92-b560-4b7f-b64c-8423f56c6292.pdf> >.

<sup>5</sup> The Practical Handbook for Competent Authorities on the 2009 EU Maintenance Regulation, the 2007 Hague Child Support Convention and its Protocol is available at: < <https://assets.hcch.net/docs/b4c58880-8e8a-41a4-a52e-6597e1a08b42.pdf> >.

<sup>6</sup> The Country Profile for the 2007 Convention is available at: < <https://assets.hcch.net/docs/7a6a8da3-4a7f-4367-89d6-f96e1e32c299.pdf> >.

<sup>7</sup> The Implementation Checklist for the 2007 Convention is available at: < <https://assets.hcch.net/docs/231f2415-e12b-4bd6-8f85-9f1fc25d2658.pdf> >.

**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**

Wherever your replies to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 2007 Convention, **please provide a copy of the referenced documentation** in (a) the original language and, (b) wherever possible, accompanied by a translation into English and / or French.

<b>Name of State or territorial unit:<sup>[1]</sup></b>	Germany
<i>For follow-up purposes</i>	
Name of contact person:	Katharina Lohse/ Natalie Faetan
Name of Authority / Office:	German Institute for Youth Human Services and Family Law
Telephone number:	+49-6221-9818-0
E-mail address:	csw@dijuf.de

Please note:

- Contracting Parties to the 2007 Convention are requested to complete ALL sections below.
- Non-Contracting Parties to the 2007 Convention are requested to complete those sections marked with an asterisk (\*).

**1. Statistics under the 2007 Convention**

1.1. How many active cases is your Central Authority handling at this moment under the 2007 Convention?

Outgoing cases:

[Please insert text here](#)

Incoming cases:

[Please insert text here](#)

1.2. How many new cases (outgoing and incoming) were added to your caseload under the 2007 Convention each year during the last three years?

Last year:

[Please insert text here](#)

Prior year:

[Please insert text here](#)

Prior year:

[Please insert text here](#)

Please specify the reference period for these statistics, *i.e.*, whether a calendar or fiscal year, and if the latter, the starting and ending dates:

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<sup>[1]</sup> The term "State" in this Questionnaire includes a territorial unit, where relevant.

- Calendar year
- Fiscal year:

starting:  
[Please insert text here](#)

ending:  
[Please insert text here](#)

1.3. How many requests for specific measures (Art. 7) has your Central Authority handled during the past 12 months?

Outgoing requests for specific measures:  
[Please insert text here](#)

Incoming requests for specific measures:  
[Please insert text here](#)

1.4. How many full-time employees (FTEs) are working in your Central Authority?  
[Please insert text here](#)

1.5. Please identify the countries that are your State's main partners in international child support cases under the 2007 Convention:

[USA, Norway, Turkey, Kasachstan, Ukraine, Brazil, Belarus, Bosnia-Herzegovina](#)

## 2. **Statistics under the 1956 Convention, regional instruments and bilateral arrangements\***

2.1. How many active cases is your State handling at this moment under international instruments other than the 2007 Convention?

Outgoing cases:  
[Please insert text here](#)

Incoming cases:  
[Please insert text here](#)

2.2. How many new cases (outgoing and incoming) were added to your caseload under international instruments other than the 2007 Convention each year during the last three years?

Last year:  
[Please insert text here](#)

Prior year:  
[Please insert text here](#)

Prior year:  
[Please insert text here](#)

Please specify the reference period for these statistics, *i.e.*, whether a calendar or fiscal year, and if the latter, the starting and ending dates:

- Calendar year
- Fiscal year

starting:  
[Please insert text here](#)

ending:  
[Please insert text here](#)

2.3. How many full-time employees (FTEs) are working in your Central Authority / Transmitting Agency / Receiving Agency under these other international instruments?

Please insert text here

2.4. Please identify the countries that are your State's main partners in international child support cases under the 1956 Convention, regional instruments or bilateral arrangements:

EU (Maintenance Regulation), Switzerland (Lugano Convention), Canada, New-Zeeland, South Africa (reciprocity), Australia, Israel, Morocco, Tunisia, Argentina, Republic of North Macedonia (UN Convention 1956), Mexico, China, Japan, Republic of North-Macedonia, Algeria, Colombia (national law)

### 3. Operational issues

3.1. Are acknowledgments of receipt received within the required timeframe?

- Always
- Almost always
- Half the time
- Rarely
- Never

3.2. Has your State encountered interpretation difficulties with regard to the term "residence" (Art. 9), which is broader than "habitual residence"?

- No
- Yes, please explain:

Please insert text here

If yes, please describe, if relevant, the practices your State has developed to overcome these difficulties:

Please insert text here

3.3. Has your State encountered problems with regard to applications made in the name of the child by a parent?

- No
- Yes, please explain:

The problems were due to the collision of different legal cultures. In Germany the child is the creditor of the maintenance claim, and consequently it is the applicant/ party in court and administrative proceedings. During the minority of the child, the custodial parent acts for the child on its behalf (as legal representative) when it comes to make an application for child support (establishment, declaration of enforceability, enforcement). The custodial parent cannot apply for child support on his/ her own behalf. With one exception: in certain special court proceedings (i.e. divorce proceeding, maintenance proceeding after a separation but before a divorce) the custodial parent is applicant and party of the proceeding - but still not the creditor.

In the states where the custodial parent is entitled to claim child maintenance (USA, UK, Italy), difficulties arose in explaining to the foreign authorities why the child himself was seeking the recognition and enforcement of the German support order (particularly in the US).

Generally, the foreign authorities accept to process the child's application but consider in their proceedings the custodial parent to be the applicant. This pragmatic approach has no negative consequence for the creditor - as long as child and custodial parent agree and cooperate with each other, and as long as the non-custodial parent doesn't argue that the party of the maintenance title and the party of the recovery-proceeding differ. If he/ she does, this could lead to procedural issues in cases of court proceedings filed by the debtor against the enforcement measures.

In cases of establishment of a support order, DIJuF adapts and prepares the application according to the law of the requested state. If, according to the law of this state, the custodial parent is entitled to claim child maintenance, the application is filed by the custodial parent notwithstanding the legal situation in Germany.

Do the problems concern lack of information in the relevant Country Profile?

Yes

No

Do the problems concern lack of clarity in the relevant Forms?

Yes

No

3.4. Has your State encountered problems with regard to a public body acting in place of an individual to whom maintenance is owed or a public body to which reimbursement is owed for benefits provided in place of maintenance (Art. 36)?

No

Yes, please explain:

One legal problem is the jurisdictional bases for the establishment of child maintenance orders after the payment of child maintenance advance by German public bodies. As the Convention does not contain any provisions concerning the international competence to deal with maintenance matters, the international competence is determined (from the German point of view) by the EU Maintenance Regulation. Currently the interpretation of Art. 3b) of the Regulation is not clear in regard to its application to public bodies and the possibility for them to file a maintenance proceeding at their seat in Germany. Where the local courts deny the applicability of Art. 3b), public bodies have no other choice than to apply for establishment of a maintenance order in the debtor's country of residence. In some cases, this makes the recovery of maintenance at least nonsensical from an economic point of view, if not impossible. One practical disadvantage with a legal consequence concerns the limited options for public bodies to make use of the assistance of the Central Authorities. According to the Convention (Art. 36: "for the purposes of applications for recognition and enforcement..."), public bodies can only be granted assistance in cases of recognition and enforcement, not in cases of establishment of a maintenance order. As a consequence, public bodies are not entitled to apply for specific measures in relation to an application for establishment of a maintenance order. It depends on the Central Authorities discretion whether or not it considers public bodies to be potential applicants for an application according to Chapter III of the Convention, and offer the service of specific measures. Where public bodies have the legal possibility to make use of the assistance of the Central Authorities or to file direct applications, problems can therefore occur in relation to the costs of proceedings. First of all, public bodies are faced with a lack of exemption from costs of proceeding. According to Art. 17 b) of the Convention, free legal assistance is automatically granted (it means without means and merits test) if free legal assistance has been granted in the state of origin but only under the same extent as provided by the law of the addressed state. From DIJuFs' experience (except in Austria under the Maintenance Regulation), German public bodies usually are not granted exemption from costs when they conduct proceedings abroad. Consequently, except in the states in which proceedings are free of costs (like Norway or Canada), public bodies hesitate to initiate steps against the maintenance debtor because, unlike the children who can have a personal interest in trying to recover their maintenance claim, public bodies only take measures when they are economically justified. A second considerable expense factor is the translation costs. According to German domestic law, applicants can namely apply for free legal assistance (more exactly: "exemption of reimbursement toward the Central Authority") if they fulfil the requirements of free legal aid according to the German code of civil procedure. As public bodies do not meet these conditions, they have to bear the costs of translation. This expense factor can be considerable in cases of enforcement in countries like Turkey, Kasachstan, Albania, where the official language is not a very usual one. All mentioned points (lack of competence of obtaining a maintenance order in the state of origin and limited options of obtaining the assistance of the central authorities, costs of proceedings) make the recovery of transferred rights by German public bodies particularly difficult and discourage them regularly to start a proceeding.

3.5. Has your State encountered problems with regard to a person 21 years or older seeking to obtain legal aid for the recovery of maintenance arrears that accrued before the child turned 21?

No

Yes, please explain:

In the USA it may happen that enforcement measures can no longer be taken after the 21<sup>st</sup> birthday of the maintenance creditor, even if maintenance arrears are still owed. From DIJuF experience it is not due to a special interpretation of the Convention but rather due to the fact that maintenance agencies do not receive Federal funding for children over 21. The compatibility of this practice with the requirements of the Convention could be discussed.

3.6. Does your State provide legal aid to public bodies acting on behalf of the applicant (child)?

- No  
 Yes

If yes, please explain if this has involved difficulties:

Please insert text here

3.7. Is the caseload in your Central Authority divided by regions or other case characteristics in order to promote a specialisation of case workers?

- No  
 Yes, please explain:

Each caseworker is responsible for one of several states depending on his language skills. As DIJuF files direct applications as far as it is justified from a procedural or economic point of view, language skills are particularly important to ensure an effective communication with foreign authorities and are consequently playing a decisive role in the distribution of work.

3.8. Has your State encountered any other operational issues with respect to the processing of cases?

- No  
 Yes, please explain:

DIJuF observed a considerable length of proceedings at the level of administrative assistance provided by certain requested Central Authorities. This problem is not necessarily due to any deficiencies of the Convention but to the national/internal states' organisation. Similar problems were identified in relation to the implementation of the 1956 UN Convention or the EU-Maintenance Regulation.

#### 4. Access to information

4.1. Has your State experienced difficulties in obtaining information required for processing cases under the Convention, as a result of restrictions on access to personal data held by the government or private institutions?

- No  
 Yes – as a requesting State, please explain:

Certain requested Central Authorities require applicants to provide information that most of them do not have before they start trying to locate the maintenance debtor. A good example could be Turkey, which requires applicants to provide the debtor's Turkish ID-Number, the complete name of the debtor's parents and the name of the local authority where he/ she is supposed to be registered.

- Yes – as a requested State, please explain:

Please insert text here

- If yes, please describe, if relevant, the practices your State has developed to overcome these difficulties:

#### 5. Enforcement issues

5.1. Has your State experienced difficulties in enforcing decisions that set the amount of maintenance obligations on the basis of a percentage of the salary of the debtor or of the requesting State's minimum wage?

- No  
 Yes, please specify:

In cases of decisions submitted in order to obtain a declaration of enforceability in Germany, the question of enforceability of decisions that set the amount of maintenance on the basis of a percentage of the salary of the debtor is checked at the level of the exequatur proceeding. According to German jurisprudence, such foreign decisions cannot be declared enforceable in Germany for lack of definiteness (see for example OLG Köln, 27.06.2011, 16 W 3/11, JAMt 2012, p. 112, BGH 06.11.1985 , IV b ZR). In this case, the debtor



has the right (and no other choice than) to apply for establishment of a new decision even if a enforcement order already exists (AG München, 21.08.2014, 514 F 2359/14, BeckRS 2014, 119052). Of course, it makes the recovery of maintenance more difficult for the creditor who has to conduct a new proceeding and apply for the new determination of the maintenance amount, instead of "simply" enforcing the existing decision. Furthermore, he/ she won't be able to obtain a new decision concerning the arrears accrued before the new proceeding was initiated.

If yes, please describe, if relevant, the practices your State has developed to overcome these difficulties:

Within the scope of the EU Maintenance regulation, maintenance creditors can file an application for specification of the foreign decision with the competent German court if the finding of the decision is not specific enough and the enforcement authority therefore refused to enforce the decision (Art. § 34 AUG). A similar rule does not exist concerning decisions submitted for exequatur. - With the expectation of directly enforceable decisions, no solution was developed. The declaration of enforceability remains impossible.

5.2. Has your State experienced difficulties in enforcing orders where the debtor does not have his / her habitual residence in your State but does have property there?

- Not applicable – we have not had any requests to enforce an order in this circumstance  
 No, we have been able to enforce orders in this circumstance. Please describe the processes used:

Please insert text here

- Yes, please specify the difficulties encountered:

According to DIJuF's experience, applications are not handled by the Central Authority in the USA if the debtor has no residence in the US. In Turkey, one of DIJUF's applications for seizure of a Turkish bank account of a debtor residing in Germany, was processed by the Central Authority but not by the court of exequatur because no serviceable address in Turkey could be provided. The child's mother finally appointed a Turkish lawyer with the exequatur.

5.3. Can your State enforce the payment of interest (Art. 19)?

- Yes  
 No, please explain why not:

If the payment of interest has been ordered in the maintenance order, no problem occurs. If not, only the late payment interest (according to German law) can be enforced.

## 6. Feedback on the use of the HCCH Mandatory and Recommended Forms

A. As the requesting State:

6.1. Are there specific problems that you want the Special Commission to address with regard to the content or completion of the HCCH Mandatory and Recommended Forms?

- No  
 Yes, please specify:

- From DIJuF's experiences as a representative of applicants and trainer of public bodies (who are not familiar with the completion of forms in cross-border cases), the forms are very long and not intuitive, particularly for occasional users. Sometimes very little information, particularly concerning the debtor, is known and a number of questions cannot be answered. Nevertheless, the whole form has to be printed. This makes the form very confusing to read and constitutes an unnecessary wastage of paper. Dynamic forms like the EU one would be helpful. - Concerning child maintenance, the forms assume the custodial parent to be the applicant. However, according to most German orders, the child is the entitled party and applicant. This makes it sometimes difficult to complete the forms correctly. - Furthermore, according to German law, the ordered child maintenance amount is mostly expressed as a dynamic amount (e.g.: 100% of the maintenance basic rate). This kind of formulation is quite difficult to integrate into the forms as the applicant is expected to mention a fixed amount. - Unlike the EU-forms, the Hague application forms do not contain any possibility to indicate the contact details of the applicant's representative in the country of origin (lawyer, NGO).

6.2. Is it a requirement under the domestic law of your State that the 2007 Convention application forms be signed by the applicant?

- No  
 Yes, please explain:  
Please insert text here

6.3. If you have responded yes to Question 6.2., please specify what other documents are required in combination with an unsigned application form in order for it to be acceptable under your State's law:

6.4. Can your State's competent authorities complete an abstract or extract of the decision using the HCCH recommended form in lieu of a complete text of the decision?

- Yes, please explain under which circumstances:

In Germany, the court or public body which has issued the maintenance order is also competent to establish the abstract of a decision. Basically, the competent authority is supposed to complete the form and send it to the applicant. In practice, the local courts are not used to establishing this kind of documents and often need a long time to process the application. Furthermore, they do not always know which form is requested (EU form, Lugano Convention form...). DIJUF has solved the problem to some degree by preparing the forms so that the courts just need to add their seal and sign them.

- No, please explain:  
Please insert text here

Is this covered in your State's Country Profile?

- Yes  
 No

6.5. Who is the competent authority in your State to complete the HCCH Mandatory and Recommended Forms?

Please specify:

Application for recognition or recognition and enforcement (Annex A or B), application for establishment of a decision, application for modification of a decision: the applicant or applicant's representative - Abstract of decision: the authority or court which has issued the maintenance order - Statement of enforceability of a decision: the authority or court which has issued the maintenance order - Statement of proper notice: the authority (bailiff) or court which has arranged the service of documents - Status of application report: central authority - Financial circumstances form: the applicant or applicant's representative

6.6. If the Central Authority or other competent authority in your State receives a handwritten form from an applicant, will it type the form in lieu of the applicant?

- Yes  
 No, please explain:

DIJuF prepares applications for the applicants and, of course, types the applications. More generally, the German central local courts are supposed to assist applicants in preparing the application paperwork but we do not know to which extent the assistance is actually provided.

6.7. Is it possible in your State to process non-certified documents for the purpose of recognition and enforcement (Art. 25)?

- Yes  
 No, please explain:  
Enforcement clause has to be issued by an official authority (court, notary public).

6.8. For applications other than those for recognition and enforcement, do requested States routinely require documents in addition to those listed in the available recommended forms?

- No  
 Yes, please specify:

Concerning applications for establishment of paternity in USA: paternity affidavit (from time to time) Concerning applications for recognition and enforcement: the "old" UIFSA forms (from time to time).

If yes,

- Only a few States have such requirements
- Many States have such requirements

B. As the **requested** State:

6.9. Are there specific problems that you would like the Special Commission to address with regard to the content or completion of the HCCH Mandatory and Recommended Forms?

- No
- Yes, please specify:  
[Please insert text here](#)

6.10. Is it a requirement under the domestic law of your State that the 2007 Convention application forms be signed by the applicant?

- No
- Yes, please explain:  
[Please insert text here](#)

6.11. If you have responded yes to Question 6.10, please specify what other documents are required in combination with an unsigned application form in order for it to be filed with a competent authority in your State?

[Please insert text here](#)

6.12. Do your State's competent authorities accept an abstract or extract of the decision under certain circumstances using the HCCH recommended form in lieu of a complete text of the decision?

- Yes, please explain under which circumstances:  
[Please insert text here](#)

- No, please explain:  
[Please insert text here](#)

If no, please explain what could be done to facilitate the acceptance of an abstract or extract of a decision in your State:

[Please insert text here](#)

Is this covered in your State's Country Profile?

- Yes
- No

6.13. Is it possible in your State to process non-certified documents for the purpose of recognition and enforcement (Art. 25)?

- Yes
- No, please explain:  
[Please insert text here](#)

6.14. Can the recommended forms developed under the 2007 Convention be used for the purpose of a direct request (Art. 37) in your State?

- Yes
- No, please explain:  
[Please insert text here](#)

**7. Possible additional forms – Is your State interested in the development of the possible following additional forms?\***

	Possible additional forms to be developed	No	Yes	Priority Level		
				Low	Med.	High
7.1.	Calculation form for maintenance arrears / statement of arrears	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.2.	Scalable model form for decision <sup>8</sup>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.3.	Statements of enforceability with respect to authentic instruments as well as private agreements (Art. 30(3)(b))	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.4.	Model form for Power of Attorney	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.5.	Form attesting that Art. 36 conditions are met	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.6.	Form for calculation of interest (with a table of interest or a link to a relevant website)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.7.	Dynamic forms (available on the HCCH website to be completed online, printed and sent by registered mail)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Possible dynamic mandatory (M) and recommended forms to be developed	No	Yes	Priority Level		
				Low	Med.	High
7.7.1.	Transmittal form (M) under Art. 12(2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.7.2.	Acknowledgement form (M) under Art. 12(3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.7.3.	Application for Recognition or Recognition and Enforcement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.7.4.	Abstract of a Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.7.5.	Statement of Enforceability of a Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.7.6.	Statement of Proper Notice	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.7.7.	Status of Application Report – Recognition or Recognition and Enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.7.8.	Application for Enforcement of a Decision Made or Recognised in the Requested State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.7.9.	Status of Application Report – Enforcement of a Decision Made or Recognised in the Requested State	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.7.10.	Application for Establishment of a Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.7.11.	Status of Application Report – Establishment of a Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>8</sup> For example, the abstract of a decision could be used as a template which could be converted into a full text decision with a simple click.

7.7.12.	Application for Modification of a Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7.7.13.	Status of Application Report – Modification of a Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.7.14.	Financial Circumstances Form	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

7.8. Are there any other forms that your State would like to be developed?

- No  
 Yes, please specify the form and level of priority:

Please insert text here

Priority:

- Low  
 Medium  
 High

Please insert text here

Priority:

- Low  
 Medium  
 High

Please insert text here

Priority:

- Low  
 Medium  
 High

## 8. Country Profile

8.1. Are there specific problems that you would like the Special Commission to address with regard to the content or completion of the Country Profile?

- No  
 Yes, please specify:

Country profiles are not always complete and not always available in English (the English version of the French profile was filled out in French!) Concerning the specific measures, one very important question for applicants is to know the databases the Central Authorities have recourse to or which sources they use to comply with applications because if the request proceeded by the Central Authorities is not successful, they need to check which other possibilities to inquire are existing. Unfortunately, this question was very often not or very superficially answered in the country profiles. Furthermore, more accurate information on the competent authorities/courts and proceeding concerning direct applications for establishment of an order, recognition and enforcement would be also helpful. Until now, only a tick box (judicial or administrative) can be chosen. Amendments and/or completion with respect to those points would be very helpful.

8.2. Is your State interested in extension of current Country Profile to cover spousal support (the current version of the Country Profile only covers children)?

- No  
 Yes  
If yes, please indicate a priority:  
 Low  
 Medium  
 High

8.3. Are there other areas that your State would like to see added or modified in the Country Profile?

- No  
 Yes, please specify:

Indication of the national authorities responsible for the service of documents could be helpful (in case that maintenance creditors need to organize the cross border service of documents by themselves).

**9. Possible additional tools – Is your State interested in the development of the possible following additional tools?\***

9.1. Guide to Good Practice for Central Authorities on the implementation of the 2007 Convention (a guide as to how the Convention can be implemented in a State, with examples from States as to the way that Central Authority responsibilities are carried out)

- No  
 Yes  
If yes, please indicate a priority:  
 Low  
 Medium  
 High

9.2. Guidance for the completion of Mandatory and Recommended Forms under the 2007 Convention

- No  
 Yes  
If yes, please indicate a priority:  
 Low  
 Medium  
 High

9.3. Standardised statistical report

- No  
 Yes  
If yes, please indicate a priority:  
 Low  
 Medium  
 High

If yes, would it be helpful to develop a Prel. Doc. in advance of the Special Commission meeting to outline the possible statistics that should be included, the benefits of having that information, and a suggested timeline for collection?

- Yes  
 No

9.4. Extension of current Country Profile to cover spousal support (the current version of the Country Profile only covers children)

- No  
 Yes  
If yes, please indicate a priority:  
 Low  
 Medium  
 High

**10. Translation of documents and dissemination of information**

10.1. Has the text of the 2007 Convention<sup>9</sup> been translated into your State's official language(s)?

- No
- Yes
- If yes, the document is available on the HCCH website.
- If yes, the document can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):

[Please insert text here](#)

10.2. Has the Explanatory Report<sup>10</sup> on the 2007 Convention been translated into your State's official language(s)?

- No
- Yes
- If yes, the document is available on the HCCH website.
- If yes, the document can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):

[Please insert text here](#)

10.3. Does your State require the use of the HCCH Recommended Forms<sup>11</sup> in your State's official language(s) (if not English or French)?

- No – Go to Question 10.4.
- Yes

If yes, have the HCCH Mandatory and Recommended Forms<sup>12</sup> under the 2007 Convention been translated into your State's official language(s)?

- No

If no, when will the translated forms be available? Are there steps that could be taken to facilitate the translation of forms into the official language(s) of your State?

Please explain:

[Please insert text here](#)

- Yes
- If yes, the document is available on the HCCH website.
- If yes, the document can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):

[Please insert text here](#)

10.4. Has the Practical Handbook for Case Workers<sup>13</sup> on the 2007 Convention been translated into your State's official language(s)?

- No
- Yes
- If yes, the document is available on the HCCH website.
- If yes, the document can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):

[Please insert text here](#)

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<sup>9</sup> See, *supra*, note 1.

<sup>10</sup> See, *supra*, note 2.

<sup>11</sup> See, *supra*, note 3.

<sup>12</sup> *Ibid.*

<sup>13</sup> See, *supra*, note 4.

10.5. Has the Practical Handbook for Competent Authorities<sup>14</sup> on the 2009 EU Maintenance Regulation, the 2007 Hague Child Support Convention and its Protocol (the Romanian project) been adapted and translated into your State's official language(s)?

- No  
 Yes  
 If yes, the document is available on the HCCH website.  
 If yes, the document can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):  
[Please insert text here](#)

10.6. Has the Implementation Checklist<sup>15</sup> for the 2007 Convention been translated into your State's official language(s)?

- No  
 Yes  
 If yes, the document is available on the HCCH website.  
 If yes, the document can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):  
[Please insert text here](#)

10.7. What actions to raise public awareness on the international recovery of child support (e.g., information leaflets,<sup>16</sup> institutional circulars, etc.) have been implemented in your State?

[The Institute has implemented: - information for practitioners via the Network "child support worldwide" - and the Institute's law journal "Das Jugendamt" - training for German public bodies - participation in international projects like EPAPFR](#)

Are such materials available on the HCCH website?

- Yes  
 No

If no, can the document be made available to the PB in pdf format or via hyperlink? Please specify:

[Please insert text here](#)

## 11. Training and training material

11.1. Has training regarding the 2007 Convention taken place in your State for members of the Central Authority?

- No  
If no, what are the obstacles to such training?

[Please insert text here](#)

- Yes  
If yes, what type of training?

[Please insert text here](#)

11.2. Has training regarding the 2007 Convention taken place in your State for members of the relevant competent authority(ies)?

- No

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<sup>14</sup> See, *supra*, note 5.

<sup>15</sup> See, *supra*, note 7.

<sup>16</sup> Examples of information leaflets are available at: < <http://assets.hcch.net/docs/a4e37173-54e8-4778-b8f5-e7aba66e6d98.pdf> >.



If no, what are the obstacles to such training?

[Please insert text here](#)

Yes

If yes, what type of training?

[Please insert text here](#)

11.3. Has training regarding the 2007 Convention taken place in your State for caseworkers?

No

If no, what are the obstacles to such training?

[Please insert text here](#)

Yes

If yes, what type of training?

[Please insert text here](#)

11.4. Have you developed training material regarding the 2007 Convention in your State?

No

Yes

If yes, the document(s) is available on the HCCH website.

If yes, the document(s) can be made available to the PB in pdf format or is available under the following hyperlink to be posted on the HCCH website. Please specify the language(s):

11.5. To assist with training, does your State favour having additional materials on the HCCH website?

No

Yes, please specify:

[Please insert text here](#)

## 12. Joining the 2007 Convention\*

12.1. Is your State a Contracting Party to the 1956 New York Convention on the Recovery Abroad of Maintenance?

Yes

No

(Note: Art. 49 of the 2007 Convention provides that such Convention replaces the 1956 New York Convention in relations between Contracting Parties in so far as the scope of application under each convention is the same.)

12.2. Has your State joined the 2007 Convention?

Yes

No, please explain:

[Please insert text here](#)

If no, what could be done to facilitate your State becoming a Party (e.g., the proposed [Guide to Good Practice](#) for Central Authorities on the implementation of the 2007 Convention)?

[Please insert text here](#)

If no, does your State have concerns regarding implementing the 2007 Convention?

No

Yes, please explain:

Please insert text here

### 13. iSupport\*

13.1. Has your State implemented iSupport, or is it in the process of implementing iSupport?

Yes

No

If no, please respond as appropriate:

Please insert text here

13.1.1. For Contracting Parties to the 2007 Convention: Does your State intend to implement iSupport?

Yes

If yes, when?

Please insert text here

If yes, please identify any assistance required:

Please insert text here

No, please explain:

Please insert text here

13.1.2. For Contracting Parties to the New York 1956 Convention which are not yet Parties to the 2007 Convention: Does your State intend to implement iSupport as it supports the New York 1956 Convention?

Yes

If yes, when?

Please insert text here

If yes, please identify any assistance required:

Please insert text here

No, please explain:

Please insert text here

13.1.3. For non-Contracting Parties to the 2007 Convention which are Parties to bilateral agreements: Does your State intend to implement iSupport as it supports bilateral agreements?

Yes

If yes, when?

Please insert text here

If yes, please identify any assistance required:

Please insert text here

No, please explain:

Please insert text here

### 14. General

14.1. Are there any other issues or topics not covered in this Questionnaire that you would like to see the Special Commission address?

No

Yes, please specify:

1. Costs of recovering maintenance In spite of the provisions made in Art. 15-17 of the

Convention, the anticipated costs of recovering maintenance claims remain hard to estimate, given that the income and other financial circumstances of the maintenance debtor and thus the prospects of success of the intended measures often only become known in the course of the proceedings. Here, maintenance creditors are particularly reliant on an accurate estimate of costs, as they lack the financial means of subsistence – namely the maintenance – either entirely or partially. In the practice we observed that the costs covered by legal aid differ significantly from one Member State to the next. For example, the costs of translation are generally not covered and can, in disputed cases, become a genuine obstacle for the maintenance creditor. Moreover, despite the granting of legal aid, proceeding costs are repeatedly incurred, such as for instance hearing fees, fees for issuing extracts from decisions, chargeable inquiries by enforcement authorities to official agencies or the costs of special enforcement measures like enforced entry to a property. In some cases, the costs of expert reports, e.g. on foreign maintenance law are similarly not covered by legal aid. Furthermore it is very difficult for applicants to find professionals willing to assist on the basis of legal aid. The question of the costs of recovering maintenance is, however, also a key issue for public bodies. Payment of advance maintenance to children in need is associated with considerable financial expense for national treasuries. To that extent, recourse against maintenance debtors is intended to serve the purpose of reimbursement and not to result in additional cost or to be disproportionate. Public bodies do not enjoy any exemption from costs for conducting proceedings abroad. As soon as the proceedings are not free of charge, the public bodies making the application must reckon with considerable court costs, solicitors' costs and/or enforcement costs, along with the costs of translation. Which costs are relevant generally depends on the stage in the proceedings at which recovery is sought. Most countries only grant advance payments for children if the maintenance creditor is already in possession of a maintenance order. Some others, though, may make advance payments of child maintenance irrespective of the existence of a maintenance order. This is the case in Germany and also in Latvia or Sweden. In the countries where the public body as the legal successor is required to establish a maintenance order, considerable costs must be reckoned with even at the level of obtaining a maintenance order. Assistance offered via Central Authorities pursuant to Chapter III of the Convention cannot be claimed in these circumstances, as Art. 36 of the Maintenance Regulation only relates to the procedure for declaration of enforceability and enforcement. Moreover, the determination of maintenance proceedings, in the absence of privileged place of jurisdiction, or in consideration of reservations made under Art. 20 (2), must be conducted abroad, and generally with a local solicitor being instructed to act. Under these arrangements not only the court and solicitor's costs, but also the costs of translation, add up to considerable sums, as the subrogation needs to be proven in the language of the court. As a consequence, it seems that it would serve the purpose of efficient implementation of maintenance, firstly to reduce the costs of recovering maintenance even further than already is the case, and secondly to better inform maintenance creditors regarding the anticipated costs, in order that a more accurate cost/benefit analysis can be conducted.

2. Length of proceedings A further significant obstacle is the length of proceedings until maintenance obligations are enforced. Concerning the cooperation between central authorities, it seems that some of the Central Authorities lack the necessary financial and human resources to comply properly with the duty to provide assistance laid down in the Convention. This can lead to the loss of parts of the maintenance claim in cases where the domestic law of the state addressed states periods of limitation for the enforcement of arrears (Norway 1 year, France 5 years). On the level of national proceedings, it appears that problems arise only in exceptional cases when it comes to obtaining decisions on declarations of enforceability and enforcement. Things become significantly more problematic when debtors defend themselves against the initiated enforcement. Depending on the country of enforcement, this can lead to court proceedings lasting for years. The considerable length of proceedings until maintenance is enforced constitutes an unreasonable and one-sided burden on maintenance creditors. Admittedly, the maintenance debtor must be given the opportunity of defence against any claim that abuses the law. Since the claim, which is the subject of these proceedings, represents the direct financial livelihood of the creditor party and delays in the proceedings give the debtor party opportunity to remove assets from enforcement, it appears essential that maintenance issues are addressed with a wholly different urgency - by implementing deadlines in the Convention and perhaps even implementing consequences for the failure to act within the deadline.

3. Difficulties related to the proceedings pursuant to Chapter III (cooperation between Central Authorities)

3.1. Inactivity of some Central Authorities

3.2. Support with extrajudicial negotiations It is our understanding that, with the exception of the Norwegian Central Authority, Central Authorities most of the time do not provide assistance in regard to the extrajudicial recovery of maintenance but immediately instigate formal steps. On the one hand, extrajudicial attempts at mediation in the country of enforcement can be considered a waste of time when applicants (like particularly some public bodies) only make an application for cross-border enforcement of maintenance once all efforts to find an extrajudicial solution have been exhausted. On the other hand, this often has the effect that voluntary payments are started, because the Central Authority of the country of enforcement is "taken more seriously" by the debtor than an authority based abroad. It is possible that express clarification would be desirable in the application form as to whether extrajudicial efforts are desirable or not helpful in this matter. Of course when national codes of procedure only permit enforcement if the debtor has received a request to pay via the extrajudicial route, possibly from the enforcement authority, the creditor won't have any choice other than to accept the requirement of the national enforcement law.

3.3. Representation of applicants interests Neither the

Convention nor domestic law of the states addressed provide an instrument for Central Authorities to the benefit of the maintenance creditor in the event of difficulties arising during the proceeding (silence of the local authorities, an adverse decision by a local court or local enforcement authorities, objections by the maintenance debtor). As a rule, applicants must become active themselves in order to bring the proceedings forward.

4. Defence proceedings by the maintenance debtor After enforcement measures have been initiated by the party entitled to maintenance, maintenance debtors often engage legal counsel in the country of enforcement to defend themselves against enforcement. They use the appeal procedures customary under their national law and introduce every conceivable objection against the enforcement measure itself, but equally against the claim for maintenance, without regard to whether the objections outlined constitute grounds for refusal of recognition and enforcement within the meaning of Art. 20, 22 of the Convention or grounds for modification within the meaning of Art. 18. The maintenance creditors thereby bear the disadvantages of conducting proceedings and providing evidence abroad. It is not uncommon to encounter incomprehension from the courts if reference is made to the fact that solely the reasons set out in Art. 22 of the Convention for refusing enforcement or recognition may be examined, but not, for example, the level of the claim for maintenance. Regarding this point, the Convention seems relatively clear. Therefore, it seems necessary that the national authorities make a considerable effort to provide information.

5. Determining the serviceable address, the income and other financial circumstances of the debtor. One of the most common obstacles to enforcing maintenance is the difficulty of determining the serviceable address and the income and other financial circumstances of the maintenance debtor. It is true that the Convention has created a new option for assistance via the introduction of specific measures pursuant to Art. 7. However, it should be noted that the search for information often proves difficult. Applicants are often faced with the following problems: - The offer of assistance from the Central Authorities is often subject to strict data protection regulations. - The results of requesting information about the debtor's financial circumstances often consist in the information whether or not the debtor owes assets/income. Because of data protection provisions, no information is provided as to the details of the existing assets or income and their seasability. - The option of requesting specific measures is open to public bodies solely for the purposes of enforcement, but not for obtaining a maintenance decision. Regarding this point, practice indicates a clear need for change, as state treasuries are spending considerable sums of money on combating child poverty through advance payments of child maintenance.

14.2. Are there any areas where research and/or a Preliminary Document would be helpful?

- No
- Yes, please specify:  
Please insert text here

14.3. If your State is interested in attending a possible meeting of the Special Commission, would it be interested in attending, prior to the meeting, a half-day information session for new States Parties, States interested in becoming Party to the 2000 Convention or States that have not yet attended a meeting of a Special Commission to review the practical operation of a Convention?

- Yes
- No