

<b>Titre</b>	Synthèse des réponses au questionnaire de 2022 relatif à l'accès à la justice
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<b>Objectif</b>	Résumer les conclusions du Questionnaire de 2022 portant sur la <i>Convention du 25 octobre 1980 tendant à faciliter l'accès international à la justice</i> (Convention Accès à la justice)
<b>Mesure à prendre</b>	Pour décision <input type="checkbox"/> Pour approbation <input type="checkbox"/> Pour discussion <input checked="" type="checkbox"/> Pour action / achèvement <input type="checkbox"/> Pour information <input checked="" type="checkbox"/>
<b>Annexes</b>	Annexe : Compilation des réponses (questionnaire destiné aux Parties contractantes) – les réponses ont été compilées dans la langue dans laquelle elles ont été reçues
<b>Document(s) connexe(s)</b>	<a href="#">Doc. préL. No 5 de décembre 2022</a> – Questionnaire portant sur la <i>Convention du 25 octobre 1980 tendant à faciliter l'accès international à la justice</i> (Convention Accès à la justice)

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# Synthèse des réponses au questionnaire de 2022 relatif à l'accès à la justice

## I. Introduction

- 1 Conformément au mandat confié par le Conseil sur les affaires générales et la politique (CAGP) lors de ses réunions de 2021 et 2022<sup>1</sup>, le Bureau Permanent (BP) a publié en décembre 2022 deux questionnaires sur le fonctionnement pratique de la *Convention du 25 octobre 1980 tendant à faciliter l'accès international à la justice* (Convention ou Convention Accès à la justice). L'un des questionnaires visait à obtenir des informations auprès des Parties contractantes à la Convention<sup>2</sup> tandis que le second visait à obtenir des informations auprès de Parties non contractantes.
- 2 Le questionnaire destiné aux Parties contractantes couvrait divers sujets, notamment le champ d'application et le fonctionnement de la Convention, l'utilisation des technologies de l'information dans la transmission et le traitement des demandes d'assistance judiciaire, les questions susceptibles d'être examinées lors de la prochaine réunion de la Commission spéciale (CS), ainsi que les données et statistiques relatives à la Convention. Les informations reçues des Parties contractantes, en réponse à ce questionnaire, aideront à établir l'ordre du jour de la réunion de la CS. Le questionnaire destiné aux Parties non contractantes visait à déterminer si ces États envisageaient de devenir Partie à la Convention Accès à la justice.
- 3 Les questionnaires ont été envoyés à l'ensemble des Membres de la HCCH et aux Parties contractantes respectives à la Convention, avec une date limite de réponse fixée au 31 mars 2023. En raison du report de la réunion de la CS à l'EF 2024-2025 décidé par le CAGP<sup>3</sup>, le BP a reporté la date limite de réponse au 9 juin 2023 et a continué à accepter les réponses après cette date. Cette synthèse comprend toutes les réponses reçues jusqu'au 30 novembre 2023.
- 4 Le BP a reçu un total de 30 réponses au questionnaire : seize d'entre elles provenaient de Parties contractantes<sup>4</sup>. Cela signifie que sur les 28 Parties contractantes à la Convention, environ 57 % ont répondu au questionnaire. Treize réponses ont été reçues de la part de Parties non contractantes<sup>5</sup>. Le BP exprime sa gratitude envers ces États pour le temps et les efforts qu'ils ont consacrés à répondre aux questionnaires.
- 5 Le présent document ne résume que les réponses des Parties contractantes au questionnaire. Les réponses reçues des Parties non contractantes seront utilisées dans le cadre des efforts continus de promotion et d'engagement bilatéral et ne sont donc pas incluses dans le présent document pour analyse.
- 6 La synthèse a été élaborée à partir des informations disponibles dans les réponses fournies. Lorsque les répondants n'ont pas répondu à certaines questions, le BP n'a pas pris en compte ces réponses dans le calcul des pourcentages de réponses. Dans l'ensemble, la synthèse ne se veut pas définitive ou exhaustive ; comme l'ont indiqué plusieurs réponses, les réponses des États ne fournissent pas toujours un aperçu complet de leurs lois et pratiques.

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<sup>1</sup> C&D No 36 du CAGP de 2021 ; C&D No 32 du CAGP de 2022.

<sup>2</sup> « Questionnaire relatif à la *Convention du 25 octobre 1980 tendant à faciliter l'accès international à la justice* (Convention Accès à la justice) », Doc. prélim. No 5 de décembre 2022 (ci-après, le « questionnaire de 2022 sur l'accès à la justice »).

<sup>3</sup> C&D No 39 du CAGP de 2023. Lors de sa réunion de mars 2024, le CAGP a confirmé que la réunion de la CS se tiendrait du 2 au 5 juillet 2024 (C&D No 46 du CAGP de 2024).

<sup>4</sup> Brésil, Bulgarie, Costa Rica, Croatie, France, Kazakhstan, Lettonie, Monténégro, Pays-Bas, République tchèque, Roumanie, Serbie, Slovaquie, Slovénie, Suède et Suisse. L'Union européenne (UE) a également fourni des informations supplémentaires concernant la législation européenne en matière d'accès à la justice.

<sup>5</sup> Allemagne, Andorre, Australie, Belgique, Canada, États-Unis d'Amérique, Hongrie, Japon, Nicaragua, Portugal, République populaire de Chine (continentale et RAS de Macao), Royaume-Uni, Union européenne et Viet Nam.

- 7 L'annexe comprend une compilation des réponses des Parties contractantes à chaque question. Les réponses individuelles fournies par chaque Partie contractante (lorsque les Parties contractantes ont autorisé la publication) seront publiées sur l'Espace Accès à la justice du site web de la HCCH<sup>6</sup>.

## II. Commentaires généraux

- 8 La plupart des répondants a qualifié le fonctionnement global de la Convention Accès à la justice de « bon ». Parmi les 14 répondants, cinq ont indiqué que le fonctionnement de la Convention était « satisfaisant »<sup>7</sup>.
- 9 En ce qui concerne l'évaluation du fonctionnement des Formulaires modèles<sup>8</sup>, 93 % des répondants ont jugé les Formulaires comme étant « bons ». Un répondant a exprimé la nécessité d'améliorer les Formulaires modèles, soulignant qu'ils devraient être plus « conviviaux »<sup>9</sup>.
- 10 Il a été suggéré par 27 % des répondants que le BP devrait élaborer de nouvelles orientations sur le fonctionnement de la Convention Accès à la justice. Deux répondants ont mentionné la nécessité de disposer d'un Manuel pratique, tandis qu'un autre a mis en avant l'importance de promouvoir et de « clarifier » davantage le fonctionnement de la Convention. En revanche, le reste des répondants du (73 %) a estimé qu'il n'était pas nécessaire d'élaborer d'autres documents explicatifs<sup>10</sup>.

## III. Fonctionnement de la Convention

- 11 Les réponses révèlent que 93 % des répondants n'ont rencontré aucune difficulté dans l'application d'un des chapitres de la Convention Accès à la justice<sup>11</sup>. Un État a signalé des difficultés à appliquer les articles 1 à 13 de la Convention (portant sur l'assistance judiciaire) en raison du rejet de demandes pour défaut d'informations<sup>12</sup>.
- 12 De même, aucune des répondants n'a rencontré de difficultés d'interprétation ou d'application de la notion de « résidence habituelle » telle qu'utilisée dans la Convention<sup>13</sup>.
- 13 Les Parties contractantes ont été interrogées sur l'octroi d'une assistance judiciaire à des personnes morales (par opposition aux personnes « physiques ») en vertu du chapitre I de la Convention Accès à la justice. L'ensemble des répondants ont répondu « non ». Un répondant a fait part des limites de sa législation interne quant à l'octroi d'une assistance judiciaire aux personnes morales et a noté que celle-ci était réservée aux personnes « physiques »<sup>14</sup>.
- 14 Trois répondants ont indiqué que l'assistance judiciaire n'était offerte que pour les affaires civiles et commerciales. Toutefois, la plupart des réponses indiquent que, outre les questions civiles et commerciales, les répondants fournissent également une assistance judiciaire pour les affaires administratives, sociales ou fiscales. De manière significative, certains répondants ont précisé que l'assistance judiciaire était disponible pour toutes les affaires, y compris les affaires pénales<sup>15</sup>.

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<sup>6</sup> Les réponses seront disponibles sur le site web de la HCCH, à l'adresse [www.hcch.net](http://www.hcch.net), sur l'Espace Accès à la justice puis sous la rubrique « Questionnaires et Réponses ».

<sup>7</sup> Questionnaire de 2022 sur l'accès à la justice, question 1.

<sup>8</sup> En vertu de l'art. 4 de la Convention Accès à la justice, les demandes d'assistance judiciaire sont transmises au moyen du Formulaire modèle annexé à la Convention.

<sup>9</sup> Questionnaire de 2022 sur l'accès à la justice, question 2.

<sup>10</sup> Questionnaire de 2022 sur l'accès à la justice, question 3.

<sup>11</sup> Questionnaire de 2022 sur l'accès à la justice, question 4.

<sup>12</sup> La réponse indique que « les demandes sont rejetées faute d'information. L'autorité nationale chargée de l'assistance judiciaire envoie des demandes d'information mais reçoit rarement des ajouts ».

<sup>13</sup> Questionnaire de 2022 sur l'accès à la justice, question 5.

<sup>14</sup> Questionnaire de 2022 sur l'accès à la justice, question 6.

<sup>15</sup> Questionnaire de 2022 sur l'accès à la justice, question 8.

15 Soixante-sept pour cent des répondants ont déclaré que leur législation et leur pratique ne prévoient pas le paiement de cautions ou de dépôts par certaines catégories de personnes, telles que les ressortissants étrangers ou les personnes qui ne résident pas ou ne sont pas domiciliées sur leur territoire. En revanche, le reste des répondants (33 %) a signalé une telle exigence dans leur législation interne<sup>16</sup>.

#### IV. Utilisation des technologies de l'information

16 Seuls trois répondants, sur 14, ont mentionné avoir pris des mesures (y compris législatives) pour permettre ou promouvoir l'utilisation des technologies ou des moyens électroniques dans la transmission ou le traitement des demandes d'assistance judiciaire au titre de la Convention Accès à la justice. Les mesures adoptées incluent l'utilisation du courrier électronique ou d'autres plateformes électroniques pour l'envoi et la réception des demandes, ainsi que pour la communication avec les Autorités centrales étrangères<sup>17</sup>.

17 Quarante pour cent des répondants ayant répondu ont rapporté avoir reçu et envoyé des demandes d'assistance judiciaire par voie électronique au cours de la période de cinq ans entre 2017 et 2022. Les réponses ont montré une préférence pour l'utilisation du courrier électronique ordinaire, suivi par le courrier électronique sécurisé / crypté et les plateformes en ligne administrées par le gouvernement<sup>18</sup>.

18 Parmi les répondants n'ayant ni reçu ni envoyé de demandes d'assistance judiciaire par voie électronique, les raisons les plus souvent citées étaient i) l'absence de demandes transmises en vertu de la Convention ; et ii) les limites imposées par le droit interne. Un répondant a noté l'impossibilité d'utiliser des moyens électroniques en raison de l'exigence selon laquelle les demandes doivent être signées manuellement, tandis que deux autres ont indiqué l'absence de système informatique permettant de transmettre les demandes par voie électronique.

19 Il a été demandé aux Parties contractantes si elles avaient rencontré des difficultés concernant l'utilisation des technologies de l'information dans le cadre de la Convention et les réponses ont été réparties de manière égale<sup>19</sup>. La moitié des Parties ayant répondu a indiqué qu'elles avaient rencontré des difficultés et ont mentionné un ou plusieurs des éléments suivants :

Limites du droit interne	43 %
Structures judiciaires ou administratives	29 %
Difficultés de mise en œuvre (par ex., manque de ressources, manque d'infrastructures)	43 %
Coûts	0 %
Interopérabilité / compatibilité des systèmes	14 %
Préoccupations en matière de sécurité	14 %
Autres	29 %

<sup>16</sup> Questionnaire de 2022 sur l'accès à la justice, question 9.

<sup>17</sup> Questionnaire de 2022 sur l'accès à la justice, question 11.

<sup>18</sup> Questionnaire de 2022 sur l'accès à la justice, questions 12 et 13.

<sup>19</sup> Questionnaire de 2022 sur l'accès à la justice, question 14. Les répondants avaient la possibilité de choisir plus d'une option pour répondre à cette question.

- 20 Comme indiqué dans le tableau ci-dessus, les limites du droit interne et les difficultés de mise en œuvre sont les principales difficultés informatiques rencontrées dans le cadre du fonctionnement de la Convention. Un répondant a notamment souligné les difficultés rencontrées pour vérifier l'identité de l'autorité de transmission et / ou l'intégrité des documents transmis.

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## **ANNEXE**

## Annex: Compilation of responses (Questionnaire for Contracting Parties)

### I. General Feedback

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

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

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



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

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## II. Operation of the Convention

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

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

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(6) Has your State granted legal aid to legal persons (as opposed to “natural” persons) under Chapter I of the Convention (noting comments in the Explanatory Report by Gustaf Möller, which excludes legal persons from Chapter 1).

Brazil	No
Bulgaria	No
Croatia	No
Czech Republic	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	Yes – “In fact, no, because the Legal Aid Authority has not provided such legal aid because under the Slovak law, Legal Aid Centre have competences in providing legal aid only for natural persons (Act. No. 327/2005 col. on Legal Aid)”
Slovenia	No
Sweden	No

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(7) If your State has made a reservation under Article 28(1), please indicate whether your State has exercised the power granted by that Reservation.

Brazil	No
Bulgaria	No
France	No
Kazakhstan	No
Latvia	No
Montenegro	No
Romania	No
Serbia	No
Slovakia	Yes
Slovenia	No
Sweden	No

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(8) In your State, is legal aid made available only in civil and commercial matters, or also in administrative, social or fiscal matters? (Art. 1(3))

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

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

be granted in cases in administrative courts if there is a need for legal assistance. The administrative courts substance process management and investigation responsibilities mean tahat the need for council in these courts is not as great as in cases befor the general courts”

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(9) In judicial proceedings before the courts of your State, does the law or practice of your State impose any security, bond or deposit upon certain categories of persons such as foreign nationals or persons who are not resident or domiciled in your State?

**Brazil** No

**Bulgaria** No

**Croatia**

Yes - “[https://narodne-novine.nn.hr/clanci/sluzbeni/2017\\_10\\_101\\_2319.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2017_10_101_2319.html) Insurance of the costs of the procedure Article 61 (1) A plaintiff who is not a citizen of the Republic of Croatia or any other member state of the European Union or a contracting state of the Treaty on the European Economic Area or another international agreement that regulates the exemption from the insurance of the costs of the procedure, and has a place of residence or headquarters in a state that is not a member of the European Union or a contracting state of the Treaty on the European Economic Area or another international agreement that regulates the exemption from the insurance of costs of the procedure, is obliged, at the defendant's proposal, to deposit the insurance of litigation costs, unless the decisions of the courts of the Republic of Croatia on costs are recognized in the country where the plaintiff has his residence or headquarters procedure. (2) The provisions of Article 8 of this Act shall be applied in an appropriate manner to determine foreign law. (3) The defendant is obliged to submit the request from paragraph 1 of this article no later than at the preliminary hearing, and if the preliminary hearing was not held, at the first hearing for the main hearing before starting to discuss the main case. (4) Insurance for litigation costs is given in money, but the court can approve that the insurance is given in another suitable form. Article 62. The defendant does not have the right to insurance for litigation costs: 1. if the claim refers to the plaintiff's claim from his employment in the Republic of Croatia, or 2. if it is a question of matrimonial disputes or disputes about establishing or contesting motherhood or paternity and if it is a matter of legal maintenance, or 3. if it is a counterclaim, or 4. if the plaintiff has the right to asylum in the Republic of Croatia. Article 63. (1) In the decision approving the request for insurance of litigation costs, the court determines the amount of insurance and the period in which the insurance must be provided, and warns the plaintiff of the consequences provided by law if it is not proven that the insurance was provided within a certain period. (2) If the plaintiff does not prove within a certain period that he has provided insurance for litigation costs, it is considered that the lawsuit has been withdrawn. (3) A defendant who has submitted a timely request that the plaintiff insure him for litigation expenses is not obliged to continue the proceedings in the main case until his request has been legally decided, and if the request is accepted, until the plaintiff has deposited insurance. (4) If the court rejects the request for litigation costs insurance, it may decide to continue the procedure even before the rejection decision becomes final”

<b>Czech Republic</b>	Yes – “Act on Private International Law (published under No. 91/2012 Coll.) – § 11 (1) The court may, upon a defendant’s proposal, order a foreigner with habitual residence abroad and a foreign legal entity seeking a decision on a property right, to provide a security deposit set by a court to cover the costs of proceedings. Should the security deposit not be provided within the set time limit, the court shall not continue in the proceedings against the defendant’s will and shall dismiss the proceedings. The plaintiff needs to be informed thereof. (2) The security deposit shall not be ordered if a) the proposal to provide the security deposit was submitted after the defendant has already acted in the case or has undertaken a procedural step, while knowing that the plaintiff is not a citizen of the Czech Republic or a Czech legal entity, or that the plaintiff has lost the Czech citizenship or ceased to be a Czech legal entity, or the plaintiff is not habitually resident in the Czech Republic, b) in similar cases, in the state of the plaintiff’s domicile a provision of a security deposit is not required from the citizens of the Czech Republic or the Czech legal entities, c) the plaintiff owns an immovable property in the Czech Republic in a price sufficient to cover the costs incurred by the defendant in the proceedings, d) the proposal to initiate the proceedings is processed by means of a payment order, or e) the plaintiff is exempt from court fees and deposits. (a) (3) The obligation to provide a security deposit shall not be ordered to the citizens of the European Union Member States and other countries of the European Economic Area”
<b>France</b>	No
<b>Kazakhstan</b>	No
<b>Latvia</b>	No
<b>Montenegro</b>	No
<b>Romania</b>	No
<b>Serbia</b>	Yes – “If there is no reciprocity with state in question regarding the costs of Serbian citizens”
<b>Slovakia</b>	No
<b>Slovenia</b>	Yes – “The Private International Law and Procedure Act of the Republic of Slovenia provides in Article 90 that when a foreign citizen or a person without citizenship who does not have permanent residence in the Republic of Slovenia initiates a suit before a court in the Republic of Slovenia, he shall pay the defendant, upon the defendant's request, a deposit towards the costs of the suit. The defendant must make the request described in the first paragraph of Article 90 before the preliminary hearing at the latest, and if there is no such hearing then by the first hearing of the main hearing, before addressing the main matter, or as soon as when learning that the conditions for requesting a deposit have been met. The deposit towards the court costs shall be made in cash; the court may permit the deposit to be made in another appropriate form. Article 91 of the Private International Law and Procedure Act provides that the defendant shall not be entitled to a deposit towards court costs: 1) if citizens of the Republic of Slovenia are not obliged to pay deposits in the country that the defendant is a citizen of; 2) if the plaintiff has the right to asylum in the Republic of Slovenia; 3) if the claim made in the suit by the plaintiff arose from work relations in the Republic of Slovenia; 4) in cases of matrimonial suits, paternity or maternity suits or maintenance suits; 5) in cases of suits concerning bills of exchange or cheques, counter-suits or suits requesting issuance of a payment order. When in doubt as to whether under point 1 of the

	first paragraph of this Article citizens of the Republic of Slovenia do have to pay a deposit in the country of the plaintiff, the instructions shall be issued by the ministry responsible for justice”
<b>Sweden</b>	No

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

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### III. Use of Information Technology

(11) Has your State taken any steps (including through legislation) to enable or increase the use of technology or electronic means to facilitate the transmission or processing of applications for legal aid under the Convention, including in response to the COVID-19 pandemic?	
<b>Brazil</b>	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”
<b>Bulgaria</b>	No
<b>Croatia</b>	No
<b>Czech Republic</b>	Yes – “The COVID-19 pandemic has improved informal electronic communication between Central Authorities (e.g. email communication)”
<b>France</b>	No
<b>Kazakhstan</b>	No
<b>Latvia</b>	No
<b>Montenegro</b>	No

<b>Romania</b>	No
<b>Serbia</b>	No
<b>Slovakia</b>	No
<b>Sweden</b>	Yes – “The European Commission has adopted a proposal for a Regulation on the digitalisation of judicial cooperation and the access to justice in cross-border civil, commercial and criminal matters and amending certain acts in the field of judicial cooperation such as the Legal Aid Directive. The main objective of the proposal for a Regulation is to make the digital communication channel between competent authorities mandatory. Negotiations between the Council and the Parliament is pending”

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

<b>Brazil</b>	Yes (E-mail (regular); E-mail (secured / encrypted)
<b>Bulgaria</b>	No
<b>Croatia</b>	No
<b>Czech Republic</b>	No
<b>France</b>	No
<b>Kazakhstan</b>	No
<b>Latvia</b>	No
<b>Montenegro</b>	Yes (E-mail (regular))
<b>Romania</b>	Yes (E-mail (regular))
<b>Serbia</b>	Yes (E-mail (regular))
<b>Slovakia</b>	Yes (E-mail (regular); Electronic transmission via online platform administered by the government; Other: “The new complex IT system with expanded functionality and phone app is currently developed with expected operational status by fall 2023”)
<b>Slovenia</b>	No
<b>Sweden</b>	No

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

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



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(13) In the past five years, has your State <b>sent</b> any applications using electronic means? If yes, please select the means.	
<b>Brazil</b>	Yes (E-mail (regular); Electronic transmission via online platform administered by the government)
<b>Bulgaria</b>	No
<b>Croatia</b>	No
<b>Czech Republic</b>	No
<b>France</b>	No
<b>Kazakhstan</b>	No
<b>Latvia</b>	No
<b>Montenegro</b>	Yes (E-mail (regular))
<b>Romania</b>	Yes (E-mail (regular))
<b>Serbia</b>	No
<b>Slovakia</b>	Yes (E-mail (regular); Electronic transmission via online platform administered by the government)
<b>Slovenia</b>	No
<b>Sweden</b>	Yes (E-mail (regular))

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(13.1) If no, please provide further information about why this is not yet possible.	
<b>Bulgaria</b>	"No applications under the Convention"
<b>Croatia</b>	"There was no application to send"
<b>Czech Republic</b>	"The Czech Central and Transmitting Authority has not forwarded any application based on this Convention yet"
<b>France</b>	"L'Autorité centrale française n'a pas encore dématérialisé, pour des raisons technologiques et budgétaires, ces procédures qui s'effectuent toujours par voie papier"
<b>Kazakhstan</b>	"It's impossible under our national law"
<b>Latvia</b>	"In last 5 years there were no applications received"
<b>Slovenia</b>	"We have not sent any applications regarding this convention, not via post nor via e-mail or other electronic means"

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(14) What challenges, if any, has your State faced regarding the use of information technology under the Access to Justice Convention?	
<b>Brazil</b>	None
<b>Bulgaria</b>	None
<b>Croatia</b>	Implementation challenges (e.g., lack of resources, lack of infrastructure)
<b>Czech Republic</b>	Internal law limitations; Implementation challenges (e.g., lack of resources, lack of infrastructure); System interoperability / compatibility; Other: "It is necessary to verify the request sender and the origin and integrity of received documents from non-EU countries"
<b>Kazakhstan</b>	None
<b>Latvia</b>	None
<b>Montenegro</b>	Implementation challenges (e.g., lack of resources, lack of infrastructure)



<b>Romania</b>	None
<b>Serbia</b>	Judicial or administrative structures
<b>Slovakia</b>	Internal law limitations; Judicial or administrative structures; Security concerns
<b>Slovenia</b>	None
<b>Sweden</b>	Internal law limitations

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(15) In addition to the Access to Justice Convention, is your State a party to any bilateral, regional, or multilateral agreements that provide rules for access to justice in a cross-border context?

<b>Brazil</b>	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)"
<b>Bulgaria</b>	Yes - "Within the EU, the matter is governed by the Legal Aid Directive that had to be transposed by 30 November 2004 / 30 May 2006 -European Agreement on the Transmission of Applications for Legal Aid, 1977 - Treaty between the People's Republic of Bulgaria and the Union of Soviet Socialist Republics on legal assistance in civil, family and criminal matters; (Moscow, 19 February 1975; EIF: 18 January 1976) - Treaty on judicial and legal assistance in civil, commercial, family and criminal matters between the People's Republic of Bulgaria and the People's Democratic Republic of Algeria (Algeria, 20 December 1975; EIF: 1 April 1985) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and the Republic of Albania (Sofia, 17 November 2003; EIF: 19 January 2006) - Treaty between the Government of the Republic of Bulgaria and the Government of the Republic of Lebanon on legal assistance in civil matters (Beirut, 20 March 2001; EIF: 10 April 2004) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and Georgia (Sofia, 19 January 1995; EIF: 6 June 1996) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and the Republic of Armenia (Sofia, 10 April 1995; EIF: 7 December 1997) - Treaty on legal assistance in civil matters between the Republic of Bulgaria and the Republic of Azerbaijan (Sofia, 29 June 1995; EIF: 26 September 1997) - Treaty between the People's Republic of Bulgaria and the State of Kuwait on legal and judicial assistance in civil and criminal matters; (Kuwait, 26 December 1988; EIF: 6 July 1989) - Treaty between the People's Republic of Bulgaria and Great Socialist People's Libyan Arab Jamahiriya on legal assistance (Tripoli, 8 March 1984; EIF: 5 August 1985) - Treaty between the People's Republic of Bulgaria and the People's Democratic Republic of Yemen on legal assistance in civil and criminal matters; (Sofia, 13 May 1988; EIF: 22 January 1989) - Treaty on legal assistance in civil and criminal matters between the People's Republic of Bulgaria and the Republic of Turkey (Ankara, 2 September 1975; EIF: 27 October 1978) - Treaty on legal assistance in civil, family and criminal matters between the People's Republic of Bulgaria and the Socialist Republic of Vietnam; (Sofia, 3 October 1986; EIF: 5 July 1987) - Treaty between the People's Republic of Bulgaria and the Democratic People's Republic of Korea on

	rendering of mutual legal assistance in civil, family and criminal matters (Pyongyang, 17 May 1989; EIF: 15 February 1990) - Treaty between the Republic of Bulgaria and the Republic of Uzbekistan on legal assistance in civil matters. (Sofia, 24 November 2003; EIF: 11 November 2004) - Treaty between the People's Republic of Bulgaria and the Republic of Cuba on legal assistance in civil, family and criminal matters (Havana, 11 April 1979; EIF: 25 July 1980) - Treaty the People's Republic of Bulgaria and the People's Republic of Mongolia on rendering of mutual legal assistance in civil, family and criminal matters; (Sofia, 27 November 1968; EIF: 10 April 1969)”
<b>Croatia</b>	Yes – “Republic of Croatia is not party to any bilateral, regional, or multilateral agreements that provide rules for access to justice in a cross-border context. In European Union this is regulated by Directive 2003/8/EC – improved access to justice in cross-border disputes by establishing minimum common rules relating to legal aid”
<b>Czech Republic</b>	Yes – “Hague Convention of 1 March 1954 on civil procedure • Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes • European Agreement on the Transmission of Applications for Legal Aid (Strasbourg, 27.1.1977) • bilateral treaties on legal aid in civil and commercial matter”
<b>France</b>	Yes – “Accord européen de Strasbourg du 27 janvier 1977 et son protocole additif du 4 octobre 2001 - Directive 2003/8/CE du 27 janvier 2003 - Convention de La Haye de 1954 (ex azéri) - Conventions bilatérales d'entraide judiciaire: Algérie (1962), Australie (1922), Bahamas (1922), Belgique (1956), Bénin (1975), Brésil (1996), Bulgarie (1989), Burkina Faso (1961), Cameroun (1974), Canada (1922 et Entente franco-québécoise du 9 septembre 1977), Chine (1987), Congo, Côte d'Ivoire (1961), Djibouti (1986), Égypte (1982), Émirats arabes unis (1991), Fédération de Russie (1936), Gabon (1963), Hongrie, Italie (1955), Lituanie (1928), Luxembourg (1870), Madagascar (1973), Mali (1962), Maroc (1957), Mauritanie (1961), Monaco (1949), Mongolie (1994), Niger (1977), Nouvelle-Zélande (1922), République centrafricaine (1965), République démocratique populaire lao (1956), République tchèque (1984), République-Unie de Tanzanie (1922), Roumanie (1974), Saint-Marin (1967), Sénégal (1974), Slovaquie (1984), Suisse (1913), Tchad (1976), Togo (1976), Tunisie (1972), Uruguay (1991), Vietnam (1999)”
<b>Kazakhstan</b>	Yes – “we have some bilateral agreements”
<b>Latvia</b>	No
<b>Montenegro</b>	Yes
<b>Serbia</b>	Yes
<b>Slovakia</b>	Yes – “Within the EU, the matter is governed by the Legal Aid Directive (Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in crossborder disputes by establishing minimum common rules relating to legal aid for such disputes, OJ L 26, 31.1.2003, p. 41–47) that had to be transposed by 30 November 2004 / 30 May 2006 (depending on the specific provisions). Apart from that a wide spread of bi-, tri- or multilateral treaties as shown here: <a href="https://www.justice.gov.sk/agenda-ministerstva/medzinarodne-pravo/justicna-spolupraca/pramene-prava/">https://www.justice.gov.sk/agenda-ministerstva/medzinarodne-pravo/justicna-spolupraca/pramene-prava/</a> ”
<b>Slovenia</b>	Yes – “- EU: Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes that has been transposed in our

	national legislation Bilateral conventions on judicial co-operation: Bosnia and Herzegovina (21 September 2009); Croatia (7 February 1994); Republic of North Macedonia (6 February 1996); Russian federation (24 February 1962); Turkey (3 July 1934); United Kingdom (27 February 1936 - applicability extended to Australia, the Bahamas, Barbados, Bermuda, Borneo, Sri Lanka, Honduras, Fiji, Falkland Islands, Gambia, Gibraltar, Hong Kong, Jamaica, Canada, Kenya, Malta, Mauritius, Nigeria, Papua New Guinea, New Zealand, Uganda, Tonga, Somalia, Seychelles)”
<b>Sweden</b>	Yes - “Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes - European Agreement on the transmission of applications for legal aid, Strasbourg 1977”

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

<b>Slovenia</b>	No
<b>Sweden</b>	Yes – “Please see response of the EU”
<b>European Union</b>	<p>“The Legal Aid Directive is technology neutral as to the means of communication. However, on 1 December 2021, the European Commission adopted a proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in crossborder civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation and a proposal for a Directive amending certain acts in the field of judicial cooperation (Digitalisation proposals). These proposals also apply to the Legal Aid Directive. The main objective of the proposal for a Regulation is to make the digital communication channel between competent authorities mandatory. The intention is to build upon our achievements to date, namely to extend existing IT tools such as e-CODEX and the eEvidence Digital Exchange System (eEDES), which already support digital exchanges of European Investigation Orders and Mutual Legal Assistance (in criminal matters) requests. The Service of Documents / Taking of Evidence IT systems will also be based on the eEDES and will start applying from May 2025.</p> <p>Additionally, in civil and commercial matters the proposed Regulation will provide natural and legal persons with the option to communicate with competent authorities digitally through a European electronic access point (on the e-Justice Portal) or existing national IT portal.</p> <p>The Council adopted its General Approach in December 2022 and the European Parliament is expected to adopt its position in March 2023 after which the trilogies can start.</p> <p>For information on the challenges faced regarding the use of information technology prior to the adoption of the Digitalisation proposals please see Impact assessment report - Proposal for a Regulation on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial, criminal matters”.</p>

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