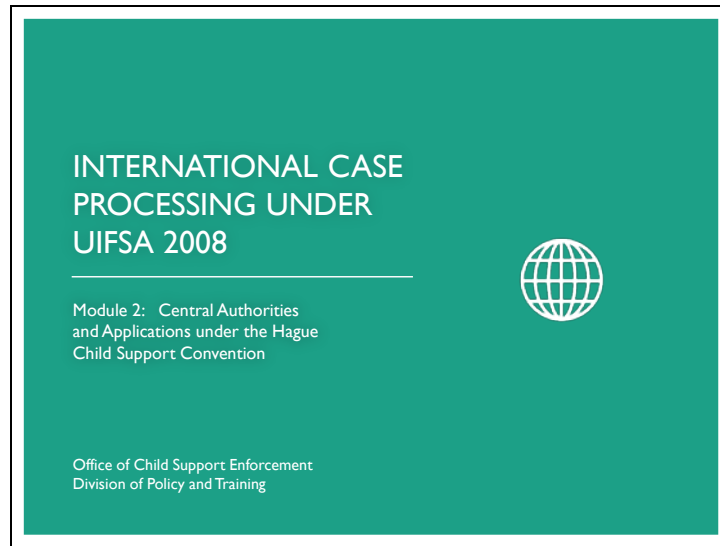


## Slide 1




## Notes:

Welcome to the Webinar Series on International Case Processing Under UIFSA 2008.

## Slide 2

### Webinar Series

- Targeted Audiences
  - Caseworkers and central registry staff
  - Experienced as well as novice
- Content
  - Background information
  - Case processing information
- Resources
  - PowerPoint with notes
  - Trainer notes



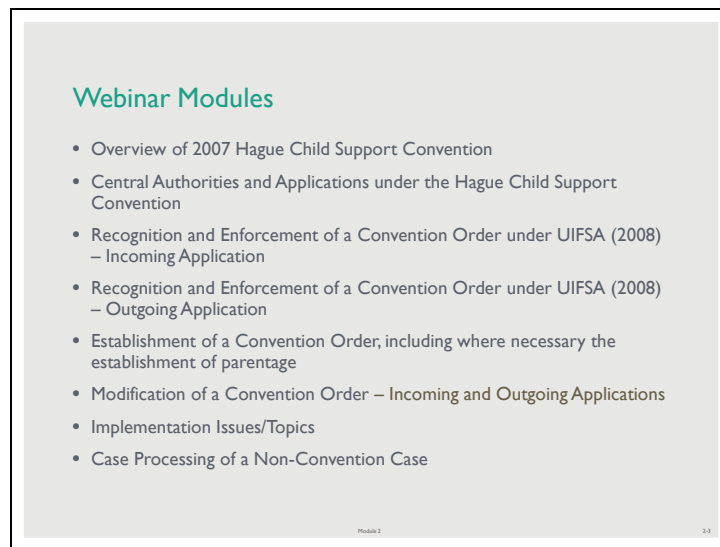
Module 22-2

### Notes:

Some people in the audience may have attended multiple conference presentations where speakers have explained the background of the Convention or presented an overview of UIFSA (2008). For others, this information will be brand new. The webinar content has been designed to cover both audiences.

The webinar resources include the PowerPoint presentation with notes for the slides and a set of trainer notes that provide supplemental information. The resources related to a particular module will be available on OCSE's website.

## Slide 3

A slide titled "Webinar Modules" with a list of nine topics. The slide has a light gray background and a black border. The title is in a teal color. The list items are in black. At the bottom, there is a small "Module 2" label on the left and a "2-3" label on the right.

**Webinar Modules**

- Overview of 2007 Hague Child Support Convention
- Central Authorities and Applications under the Hague Child Support Convention
- Recognition and Enforcement of a Convention Order under UIFSA (2008) – Incoming Application
- Recognition and Enforcement of a Convention Order under UIFSA (2008) – Outgoing Application
- Establishment of a Convention Order, including where necessary the establishment of parentage
- Modification of a Convention Order – Incoming and Outgoing Applications
- Implementation Issues/Topics
- Case Processing of a Non-Convention Case

Module 2 2-3

### Notes:

The first two modules of the webinar series are overview modules. They provide background information about the 2007 Hague Child Support Convention so that you will better understand the U.S. goals during treaty negotiations, the process used for negotiating an international treaty, and terminology in the Convention. They also discuss the scope of the Convention and services that a Central Authority must provide so that you will have a better idea of what to expect on **outgoing** cases to a Convention country.

Beginning with Module 3, we will focus on case processing. The most likely application under the Convention is an application to recognize and enforce a support order issued by a Convention country. For that reason, there is one module explaining the process and forms for incoming applications and a separate module explaining the process and forms for outgoing applications.

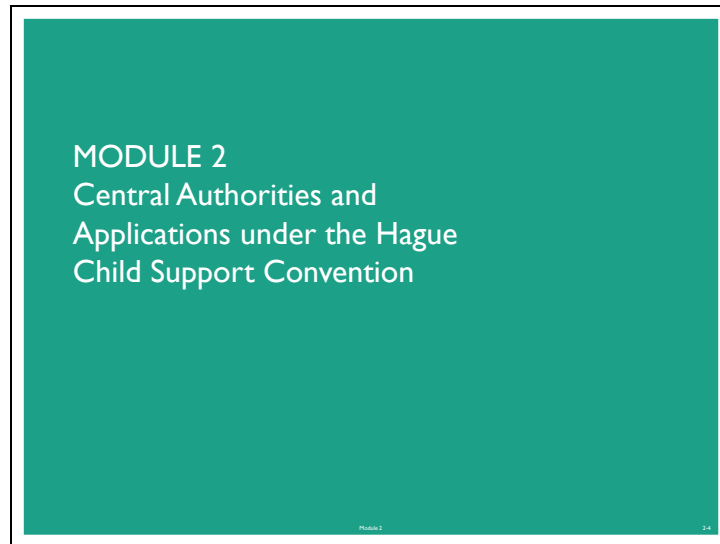
Module 5 examines incoming and outgoing applications for establishment of a support order, including establishment of parentage when necessary to obtain support.

Modules 6 and 7 examine incoming and outgoing applications for modification under the Convention.

Module 8 addresses implementation issues and questions that have arisen.

Finally, in Module 9 we will discuss processing international support cases from countries with bilateral reciprocity arrangements that are not Convention countries.

## Slide 4



### Notes:

Module 1 of the webinar series provided an overview of the Hague Child Support Convention. Today we are presenting Module 2, which focuses on the role of the Central Authority under the Convention as well as available applications.

## Slide 5

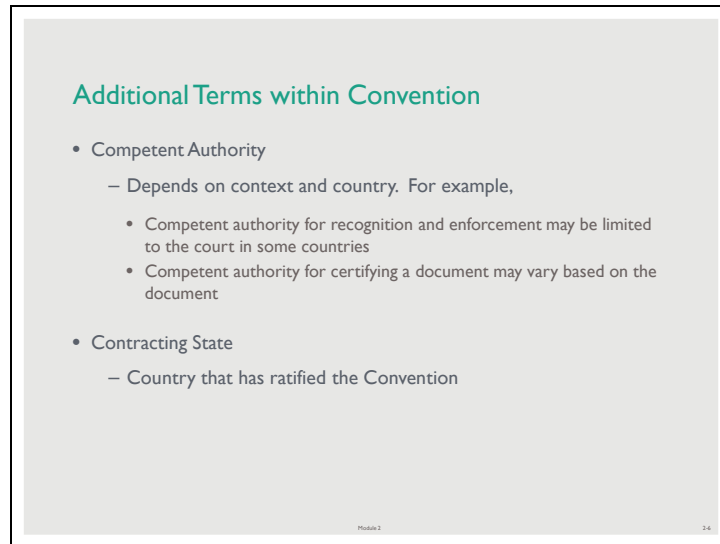
Terms within Hague Child Support Convention	
Convention Terms	U.S. Equivalent
• Creditor	• Obligee
• Debtor	• Obligor
• State	• Country
• Maintenance	• Support
• Requesting State	• Initiating state
• Requested State	• Responding state
• Recognition and Enforcement of a Decision	• Recognition and Enforcement of Registered Order
• Maintenance Arrangement	• Foreign Support Agreement

### Notes:

Because the Convention applies to countries with various legal systems, it includes terminology that differs from the terms we use in the United States. This slide “converts” Convention terms to their equivalent U.S. terms. We discussed these terms in Module 1 but thought it important to review them again. [See the supplemental Trainer Notes for an explanation of each term on the slide.]

For the most part, UIFSA (2008) uses words that are familiar to IV-D agencies. The new Article 7 contains some additional definitions based on the Convention.

## Slide 6



**Additional Terms within Convention**

- Competent Authority
  - Depends on context and country. For example,
    - Competent authority for recognition and enforcement may be limited to the court in some countries
    - Competent authority for certifying a document may vary based on the document
- Contracting State
  - Country that has ratified the Convention

Module 2 24

### Notes:

There are two additional terms we will use during this presentation.

The Convention often refers to the “competent authority.” There is no definition within the Convention because the identity of the competent authority will vary among Convention countries. It also depends on the context of the action. For example, the Convention requires the competent authority in the requested state to declare without delay whether a decision registered for recognition and enforcement is in fact enforceable. Depending upon the country, the competent authority may be the court, an administrative agency, or both. Another provision within the Convention provides that if there is a challenge to a document submitted for recognition and enforcement, a complete copy of the document concerned, certified by the competent authority in the State of origin, shall be provided promptly. It will be up to the State of origin to determine who the competent authority is to certify the requested document.

Some of the slides in Module 2 refer to a Contracting State. That term is a shorthand reference to a country that has ratified the Hague Child Support Convention.

## Slide 7

### Definition of Central Authority

- Entity designated by a State to perform certain functions specified under an Administrative Cooperation Convention
- Central Authorities under the Hague Child Support Convention
  - Cooperate with each other to achieve the purposes of the Convention
  - Seek as far as possible solutions to difficulties that arise in the application of the Convention
  - Serve as point of contact between Contracting States to transmit and receive applications made under the Convention
  - Provide and facilitate a number of services
- Most functions of the Central Authority may be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State

Module 2 27

### Notes:

Each Administrative Cooperation Convention negotiated by the Hague Conference on Private International Law requires a Contracting State to designate a Central Authority. The Central Authority is an agency or organization that is designated to play a key role in the implementation and operation of the international treaty.

Article 5 of the Hague Child Support Convention lays out general functions of Central Authorities: they must cooperate with each other to achieve the Convention's purposes and they must try to resolve as much as possible any difficulties that arise in the implementation of the Convention. Article 6 of the Convention lists specific functions of a Central Authority. For example, the Central Authority must both transmit and receive applications. Other Convention provisions place additional mandatory obligations on the Central Authority. These obligations emphasize the need for international cooperation among Contracting States.

The functions of the Central Authority may be performed by public bodies, or other bodies subject to the supervision of the competent authorities of the Contracting State. That means that countries will vary regarding what entity serves as the Central Authority. However, each country is required to keep the Permanent Bureau informed of the identity of its Central Authority. That information is listed on the Hague website, as well as in the Country Profile that we discussed in Module 1.

## Slide 8

### U.S. Central Authority

- HHS who, in turn, has delegated Central Authority functions to OCSE
- OCSE's primary Article 6 function – location of debtor or creditor
  - U.S. state of residence
- HHS has designated state IV-D child support agencies as public bodies to perform functions under Article 6, under the supervision of OCSE
  - Transmission and receipt of Convention applications
  - Initiation or facilitation of institution of proceedings in respect of such applications

Module 2 28

### Notes:

In the United States, the Central Authority is the Department of Health and Human Services. The Secretary of HHS has in turn delegated the responsibilities of the Central Authority to OCSE.

Article 6 of the Hague Convention lists two specific functions of Central Authorities:

- They must transmit and receive applications under Chapter III. We will discuss those applications in a bit.
- They must initiate or facilitate the institution of proceedings in respect of such applications.

Article 6 also requires the Central Authority to take all appropriate measures with regard to those applications. The U.S. delegation played a major role in ensuring that the list of measures is comprehensive. One of the specific measures is helping to locate the debtor or creditor. As it does now, OCSE will use the FPLS to assist Convention countries when they do not know the U.S. state in which the creditor or debtor resides. However, the information OCSE returns to the Convention country is the state of residence. It will not provide residential or employment address information.

HHS has formally designated state IV-D agencies as public bodies to provide the majority of specific Central Authority functions under Article 6, which are case processing functions. That means that applications for Convention cases will continue to be received and transmitted at the state level. And state child support agencies will be responsible for initiating the appropriate proceedings related to those applications, subject to OCSE supervision.



## Slide 9

### Other OCSE Activities in Convention Cases

- Provide policy guidance, tools, and training to both state child support workers and Convention countries
- Respond to customer service inquiries
  - Parents living in Convention countries
  - Parents from U.S. when other parent lives in Convention country
  - State and local child support offices
  - Central Authority in Convention country
  - Congressional inquiries on behalf of parents
  - Other inquiries (attorneys, researchers, etc.)



Model 2 2-9

### Notes:

In addition to locate assistance to Convention countries, OCSE will play a critical role with regard to implementing the treaty in the United States.


It will provide policy guidance on implementation issues.

It will provide both state child support workers and Convention countries with tools and training resources on implementation in the United States.

It will continue to respond to customer service inquiries from a number of constituents.

## Slide 10

### Role of Requesting Central Authority



- Responsibilities – Article 12 of Convention
  - Must assist applicant in ensuring that application is accompanied by all necessary information and documents
  - Review application to ensure it complies with Convention
- Mandatory functions - Article 6 of Convention
  - Transmit application on behalf of applicant to Central Authority of requested State
    - Include Transmittal
    - Upon request, send certified documents under Articles 16, 25, and 30
- Translations – Article 45 of Convention
  - May charge an applicant for translation costs of an application and related documents, unless those costs may be covered by its system of legal assistance

Module 2 2-10

### Notes:

The Convention outlines a number of responsibilities that the requesting Central Authority has when transmitting applications to a Convention country. This slide summarizes them.

In its role in the U.S. as a requesting Central Authority, a IV-D agency must help the petitioner complete the application and ensure that the Convention application includes all the necessary information and documents. The Country Profile is an excellent resource for identifying forms and information needed by the requested State. The IV-D agency must also review the application to ensure it complies with the Convention. States need to decide who will be conducting that review. Will it be at the local level or centralized with a unit that focuses on Convention cases? Note that this review is limited to compliance with the Convention; it is not a determination about the merits of the application.


Once it is satisfied that the application complies with the Convention, the requesting Central Authority (the IV-D agency in the U.S.) must transmit the application on behalf of the applicant to the requested Central Authority. The application must include a transmittal – one of two mandatory forms under the Convention. There is no need to include certified documents unless the requested Contracting State asks for them.

Article 45 of the Convention addresses translation. It authorizes the requesting Central Authority to charge an applicant translation costs unless those costs are covered by the country's system of legal assistance. That means that IV-D agencies should apply federal regulations regarding recovery of costs related to translation of documents. We will discuss translation issues during Module 8 of the webinar.

## Slide 11

### Role of Requested Central Authority

- Mandatory Functions – Article 6 of Convention
  - Legal assistance, where needed
  - Location of debtor or creditor
  - Financial information about debtor or creditor
  - Amicable solutions
  - Ongoing enforcement, including any arrears
  - Collection and expeditious transfer of payments
  - Obtaining of documentary or other evidence
  - Assistance in establishing parentage
  - Proceedings to obtain any necessary provisional measures that are territorial in nature, in order to secure outcome of pending application
  - Service of documents



Module 2 2-11

### Notes:

The Convention also outlines responsibilities that the Central Authority has when receiving applications from a Convention country. This slide summarizes measures that Article 6 requires a Central Authority to take, as appropriate, upon receipt of an application under Chapter III.


In its role in the U.S. as a requested Central Authority, a IV-D agency must:

- provide or facilitate the provision of legal assistance, where circumstances require;
- help locate the debtor or the creditor;
- help obtain relevant financial information about the debtor or creditor, including income and the location of assets;
- encourage amicable solutions with a view to obtaining voluntary payment of support. Examples are the use of mediation, conciliation, or similar processes;
- facilitate the ongoing enforcement of support orders, including any arrears;
- facilitate the collection and expeditious transfer of support payments;
- facilitate the obtaining of documentary or other evidence;
- provide assistance in establishing parentage where necessary to recover support;
- initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application. So what does this mean? You may be asked to freeze the debtor's assets pending the outcome of any legal proceeding. The measure must be "provisional," meaning temporary, and "territorial" in nature, meaning the effect must be confined to the territory of the requested State. The purpose of freezing assets is to secure the outcome of the child support proceeding, in other words, to ensure that there is income or assets against which the child support can be enforced.
- facilitate service of documents.

## Slide 12

### Role of Requested Central Authority (cont'd)

- Responsibilities – Article 12 of Convention
  - Within 6 weeks from receipt of application
    - Send acknowledgment
    - Inform requesting Central Authority of steps taken
    - Request any needed documents and information
    - Provide requesting Central Authority with name and contact details of person/unit responsible for answering questions about application
  - Within 3 months of acknowledgment
    - Inform requesting Central Authority of application status



Module 22-12

### Notes:

You will notice a lot of verbs like “help,” “encourage,” and “facilitate” in that list. The United States would have preferred stronger language but that was one of the compromises we made in order to ensure the Convention included a detailed list of responsibilities.

Article 12 of the Convention was also important to the United States. It contains timeframes. This is unusual for a Hague Convention and another example of how important it was to the U.S. that the treaty address the practical issue of delays in case processing.

The Convention requires the requested Central Authority to acknowledge receipt of the application within 6 weeks. There is a mandatory Acknowledgment form that must be used. The acknowledgment also informs the requesting State what initial steps have been taken, identifies any needed additional documents, and provides contact information. As you can see, it’s patterned after the acknowledgment form we use in the U.S. in intergovernmental cases. So you can expect to receive such information from other Convention countries within the 6 week timeframe.

In the United States, IV-D agencies are subject to tighter timeframes because of federal regulations. 45 CFR 303.7 requires the central registry in an intergovernmental case to acknowledge receipt and identify any missing documents within 10 working days of receipt.

Within 3 months of the Acknowledgment, the Central Authority in the requested State is required by the Convention to provide a status update to the requesting State.

### Requested Central Authority and Review of Application – Article 12 of Convention

- May not reject application solely on basis that additional documents or information are needed
  - May ask requesting Central Authority for additional documents or information
  - If not provided within 3 months (or longer specified period), may decide not to process application; but must inform requesting Central Authority of that decision
- May refuse to process application only if “manifest” that Convention requirements are not met
  - Must promptly inform requesting Central Authority of reasons for refusal

Module 2 2-13

Notes:

In its review of an application, there are two important provisions that govern the requested Central Authority.

The requested Central Authority may not reject an application solely because additional documents or information are needed. It may ask the requesting Central Authority for the additional information. The Convention allows a country to suspend processing the application until the information or document is received. Keep in mind, however, that federal regulations governing IV-D agencies require the agency to continue processing the case to the extent possible. Notice the timeframes in the Convention that Contracting States will be following. They are longer than timeframes governing IV-D agencies in an intergovernmental case.

Second, the requested Central Authority may refuse to process an application only if it is manifest that Convention requirements are not met. According to the Explanatory Report, “manifest” means it must be clear on the face of the documents that the requirements are not fulfilled. The stringent standard recognizes that the requesting Central Authority should have already reviewed the application to ensure that it complies with the Convention. The Explanatory Report gives the following example of when it might be manifest that the Convention process is abused: the party previously submitted an application concerning the same debtor that had failed on a specific ground and now the applicant is submitting the same application with no change of circumstances. If the requested Central Authority decides to refuse to process the application, there must be prompt notice to the requesting State. According to the Explanatory Report, if it’s unclear whether the application satisfies Convention requirements, it is preferable for the requested Central Authority to go ahead and process it and not make any decision that is more properly left to the competent authority acting on the application.

## Slide 14

### Central Authority and Power of Attorney in Incoming Applications – Article 42 of Convention

Central Authority of requested State may require a power of attorney from the applicant only if:

- It acts on applicant's behalf in judicial proceedings or before other authorities, or
- It needs power of attorney in order to designate a representative to act on applicant's behalf in such proceedings

Module 2 2-14

### Notes:

Article 42 of the Convention will not come into play in incoming Convention cases in the United States. IV-D agencies and attorneys do not represent an individual applicant. However, you need to be aware of Article 42 because of your outgoing cases.

Ordinarily, a requested Central Authority will process applications quickly without the need for any additional formal documents requesting assistance. However, under certain countries' domestic law, there must be a power of attorney in order for the Central Authority to act on behalf of the applicant. In that limited circumstance, Article 42 permits a Central Authority of the requested State to require a power of attorney from the applicant in order to represent the applicant before authorities.

## Slide 15

### Responsibilities of Central Authorities in Requesting and Requested States – Article 12 of Convention

- Keep each other informed of
  - Person or unit responsible for case
  - Progress of case
- Provide timely responses to inquiries
- Process a case as quickly as a proper consideration of the issues will allow
- Employ most rapid and efficient means of communication at their disposal



Module 22-15

### Notes:

Article 12 of the Convention outlines basic requirements for effective and efficient case management that apply to Central Authorities in both the requesting and requested States. Look at the adverbs that emphasize speed during the process: “timely,” “quickly,” and “rapid.”

When you couple this language with the timeframes discussed earlier, it’s evident how important it was to delegates that this Convention result in more streamlined case processing.

As noted in Article 1 of the Convention, one of the main goals was to establish a comprehensive system of cooperation between the authorities of the Contracting States.

Applications through Central Authority	
CREDITOR	DEBTOR
<ul style="list-style-type: none"><li>• Establishment of a Decision, including, if necessary, Determination of Parentage<ul style="list-style-type: none"><li>– No existing order</li><li>– Recognition of foreign support order refused for certain reasons</li></ul></li><li>• Recognition or Recognition and Enforcement of a Foreign Decision</li><li>• Enforcement of a Decision Made or Recognized in Requested State</li><li>• Modification of a Decision<ul style="list-style-type: none"><li>– Decision made in requested State</li><li>– Decision made in State other than requested State</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Recognition of a Foreign Decision leading to the suspension, or limiting the enforcement, of a previous decision in the requested State</li><li>• Modification of a Decision<ul style="list-style-type: none"><li>– Decision made in requested State</li><li>– Decision made in State other than requested State</li></ul></li></ul>

Notes:

Applications available through a Central Authority are listed in Article 12 of the Convention. In the United States, we implemented this Article in Section 704 of UIFSA (2008).

Although the U.S. delegation urged that the same applications be available to both creditors and debtors, that position was ultimately not successful. The consensus reached was that the following applications must be available to a creditor in a requesting State seeking to recover maintenance under the Convention:

- Establishment of a support decision, including, if necessary, determination of parentage;
- Recognition and enforcement of a support decision;
- Enforcement of a decision issued, or already recognized by, the requested State; and
- Modification of a decision.

There was also consensus that the following applications must be available to a debtor in a requesting State:

- Recognition and enforcement of a decision suspending or limiting enforcement of a prior decision in the requested State; and
- Modification of a decision.

Under the Convention, there is no application available to a debtor through a Central Authority to establish support or determine parentage.

Later modules will discuss each of these applications.



## Slide 17

**Residence of Applicant**

Does it matter where the applicant resides?

- Yes. The Convention requires that the applicant reside in a Contracting State.

Custodial parent does not reside in Contracting State.

Model 2 2-17

### Notes:

Does it matter where the applicant lives? Yes, it does.

Article 10 of the Convention sets the threshold criteria the creditor or debtor must meet when seeking the assistance of a Central Authority under that Article:

- The applicant must be in the requesting Contracting State;
  - The applicant must be the creditor (or a person acting for the creditor) who is seeking to recover maintenance in another Contracting State (the requested State) OR must be the debtor against whom there is already a maintenance decision; and
- 3) The application must be one of the applications described in Article 10(1) a) to f).

In the example depicted on the slide, the custodial parent has an order issued by France, which is a Convention country. However, because she resides in Switzerland, which is not a Convention country, she cannot file an application under the Convention.

## Slide 18

**Application vs. Direct Request**

Can an applicant request services from any Central Authority?

- No. In order to receive services of a Central Authority under the Convention, the applicant must transmit the application through the Central Authority of the Contracting State in which the applicant resides to the Central Authority of the requested State.

Modulo 2 2-18

### Notes:

The Convention distinguishes between an application and a direct request to a competent authority. A Central Authority is only required to assist with an application.

Can an applicant request services from any Central Authority?

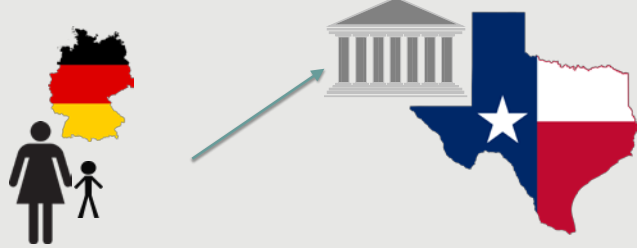
No. In order for an applicant to receive the free services of a Central Authority under the Convention, the application must be made through a Central Authority in accordance with Article 9. Article 9 requires that an application must be made through the Central Authority of the Contracting State in which the applicant resides to the Central Authority of the requested State. Residence excludes mere presence.

In the case scenario depicted on the slide, the applicant will work with the Central Authority in Germany, which is where she resides. The Central Authority in Germany is the Federal Office of Justice. Once it is satisfied that the application complies with the Convention, the Federal Office of Justice will transmit the application to the Central Authority in Spain, where the debtor resides.

### Application vs. Direct Request (cont'd)

Can an applicant proceed without using Central Authority services?

- Yes. An applicant from a Contracting State can also make a direct request to a competent authority in the requested State without Central Authority services.



The diagram shows a stylized map of Germany on the left, with a black silhouette of a family (a woman and a child) in front of it. A green arrow points from the Germany map towards a stylized map of Texas on the right. Above the Texas map is a classical building with columns, representing a court or competent authority. The Texas map is colored with the state flag (blue, white, and red with a white star). At the bottom of the slide, there is small text that reads 'Module 2' on the left and '2-19' on the right.

Notes:

The Convention also allows an applicant to make certain requests directly to a competent authority in the Contracting State. In other words, the applicant can file directly to a tribunal. Such cases do not involve any services by the Central Authority. And in the United States, such cases filed directly with a court would not receive any IV-D services. Section 705 of UIFSA (2008) addresses direct requests to a tribunal under the Convention. Keep in mind that a direct request under the Convention is not the same thing as a direct application for IV-D services.

## Slide 20

### Duties of Support Enforcement Agency – Sec. 307, UIFSA (2008)

- State legislature may choose between 2 alternatives:
  - Alternative A

**Must**, upon request, provide services to all petitioners; or
  - Alternative B

**Must**, upon request, provide services to a petitioner residing in a state or requesting services through a Central Authority (Hague Convention country or foreign reciprocating country) AND **may**, upon request, provide services to an individual petitioner not residing in a state

    - Petitioner files directly to support enforcement agency from a country that is not a Hague Convention country or an FRC
    - Petitioner from a Hague Convention country or an FRC files directly to support enforcement agency rather than through Central Authority in that country

### Notes:

Applying through a Central Authority is also important under UIFSA.

When a state legislature enacted UIFSA (2008), it could choose between Alternative A and Alternative B of the Model Act. Both alternatives are based on language in the federal Preventing Sex Trafficking and Strengthening Families Act that Congress passed in 2014.

If your state enacted Alternative A, you as the support enforcement agency must provide services in a UIFSA proceeding to all petitioners regardless of where they reside. That includes all direct applications for IV-D services received from petitioners living in other countries.

If your state enacted Alternative B, you as the support enforcement agency must provide services in a UIFSA proceeding to a petitioner who resides in a state, as defined by UIFSA. You must also provide services in a UIFSA proceeding to a petitioner who requests services through a Central Authority. That Central Authority may be in a Hague Convention country or a foreign reciprocating country (FRC).

However, under Alternative B, if you receive a direct application for IV-D services from a petitioner who lives in a foreign nation that is **not** a Hague Convention country or an FRC, your state has discretion about providing services in a UIFSA proceeding. Similarly, your state may – but is not required – to provide services in a UIFSA proceeding to a petitioner who lives in a Hague Convention country or an FRC and applies directly for IV-D services rather than going through his or her Central Authority.

### Issuing Country – Recognition and Enforcement

If a Convention application requests recognition and enforcement of an order, does it matter which country issued the order?

- Yes. The Convention requires that the issuing country be a Contracting State
  - A Contracting State may seek recognition and enforcement of its own order; or
  - A Contracting State may seek recognition and enforcement of an order issued by another Contracting State

Module 2 2-22

Notes:

If there's an existing order that the applicant wants the requested State to recognize and enforce, does it matter which country issued the order? Yes, it does matter!

An applicant may use the Convention's procedures for recognition and enforcement of an order only if a Contracting State issued that order. However, it need not be a decision of the requesting State. For example, let's assume the creditor was living in France and got a support order there. Later the creditor moves to Germany. The debtor is living in Austria. France, Germany, and Austria are all Contracting States to the Hague Child Support Convention. Therefore, the creditor living in Germany can request recognition and enforcement in Austria of the decision made in France.

### Issuing Country – Modification

If a Convention application requests modification of an order, does it matter which country issued the order?

- No. An applicant in a Contracting State may request modification of an order issued by a non-Contracting State. HOWEVER ...
  - Any modification will be processed under the law of the requested State
    - In the United States, a foreign support order issued by a non-Contracting State would be registered for modification under Article 6 of UIFSA
  - If the order is modified by a Contracting State, the applicant may seek recognition and enforcement of the order in any Contracting State because the modified order is an order issued by a Contracting State

Module 2 2-22

Notes:

If there's an existing order that the applicant wants the requested State to modify, does it matter which country issued the order? No.

In contrast to an application for recognition and enforcement, an application for modification under Article 10(1)(f) or 10(2)(c) of the Convention can be based on an order issued in any country. However, whether a non-Contracting State decision can be modified depends on the law of the requested Contracting State.

Let's talk about how that will work in the United States. Let's assume the creditor in a Contracting State requests modification in the U.S. of an order issued by a non-Contracting State. That is an authorized application under the Convention. However, in the U.S. the foreign support order must first be recognized before it can be modified. Because the order was not issued by a Contracting State, the mandatory recognition provisions of the Convention do not apply. That means that the U.S. tribunal should apply Article 6 of UIFSA with regard to recognition and enforcement of that underlying order – not Article 7. If the tribunal is able to recognize the order, it will then apply its state law regarding modification. If the tribunal modifies the order, Sec. 615(b) of UIFSA 2008 provides that the order issued modifying the foreign child support order is the controlling order. Accordingly, the new, modified decision can later be sent to any Contracting State for recognition and enforcement because – at that point – it's an order issued by a Contracting State.

### Specific Measures – Article 7(1)

- Request by Central Authority to another Central Authority for assistance when no Article 10 application is pending
  - Location of debtor or creditor
  - Financial information about debtor or creditor
  - Obtaining of documentary or other evidence
  - Assistance in establishing parentage
  - Institution of proceedings to obtain any provisional measures that are territorial in nature and necessary to secure the outcome of a pending support application
  - Service of documents
- Must be supported by reasons
- Requested Central Authority must take appropriate measures if satisfied they are necessary to help a potential applicant:
  - Make an application under Article 10, or
  - Determine whether such an application should be initiated

Module 22-23

Notes:

A request for specific measures is a request for limited assistance rather than a Convention application. It is similar to the Child Support Transmittal #3 that we use in the United States.

Article 7(1) of the Convention lists two possible situations in which a request for specific measures might be made by a Central Authority and the Convention **requires** action by the requested Central Authority. The first is a request that is preliminary to a Convention application, for example, a request for assistance made to a Central Authority to verify whether the debtor resides in the State to which the requesting Central Authority wants to send a support application. The second is a request for assistance that will help determine whether an application will be filed in the future. For example, the request could be for information about the debtor's income that will allow the requesting State to establish a support order that it will later seek to be recognized and enforced in the requested State.

A request for specific measures under Article 7(1) is limited to the six Article 6 functions noted on the slide. The requesting Central Authority should list reasons as to why the measures are needed. If the requested Central Authority is satisfied that the measures are necessary to assist a potential applicant in making an application under Article 10 or in determining whether such an application should be initiated, it **must** take appropriate measures.

### Specific Measures – Article 7(2)

- Request by Central Authority to another Central Authority for assistance with a domestic child support case in the requesting State that has an international element
- Request not limited to measures listed in Article 7(1)
- Requested Central Authority has discretion


Module 2 2-24

Notes:

Article 7(2) applies even if both the debtor and creditor lived in the requesting State so long as there is an international element to the child support case. When a request is submitted under Article 7(2), the Central Authority has discretion in deciding whether to take the requested specific measures. One reason for the discretion is that the specific measures referred to in subsection 2 are not restricted to the six measures mentioned in Article 7(1).



### Central Authority Costs – Article 8



- Each Central Authority must bear its own costs in implementing the Convention
- Central Authorities may not charge an applicant for their services under the Convention except for exceptional costs arising from a request for a specific measure under Article 7
  - Requested Central Authority may not recover exceptional costs related to a specific measure without prior consent of the applicant

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Notes:

Requests for specific measures under Article 7 do not have the same benefits, such as cost-free services, as Chapter III applications have.

Article 8 prohibits Central Authorities from imposing any charge on an applicant for their services under the Convention. The exception is for exceptional costs arising from a request for a specific measure under Article 7. A requested Central Authority may recover such exceptional costs but only if the applicant provides prior consent to the services at that cost. The consensus of Convention delegates was to require prior consent because Article 7 requests for specific measures may trigger considerable costs, even though it is possible that the result will be that no application is made.

## Slide 26



### Notes:

You probably have lots of questions about implementing the Convention in the United States. OCSE's Division of Policy and Training will continue to issue guidance on these implementation issues.

To address immediate needs, the Division is hosting this webinar training series. This module presented an overview of the responsibilities of the Central Authority under the Convention and identified available applications under the Convention. In Module 3, we begin our focus on case processing – starting with the most common application – recognition and enforcement of a Convention order. At any point, please do not hesitate to contact OCSE at the address on the slide with questions you may have or feedback on the webinar content.

Thank you for attending this webinar.