

Module 7

Modification of a Support Order under the Convention – Outgoing Application

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 7-1: International Case Processing under UIFSA 2008: Module 7** (title slide). After introducing the webinar course, display **PowerPoint Slide 7-2: Webinar Series**. Explain the targeted audience, the content of the webinar modules, and the webinar resources.
2. Display **PowerPoint Slide 7-3: Webinar Modules** as you explain the focus of each module.
3. Display **PowerPoint Slide 7-4: Module 7: Modification of a Support Order under the Convention – Outgoing Application** (title slide).
4. Beginning with **PowerPoint Slide 7-5: Terms within Hague Child Support Convention**, follow the content of these Trainer Notes, displaying the appropriate PowerPoint slide.
5. In addition to trainer notes at the bottom of each PowerPoint slide, there is more background information in these Trainer Notes. You may use this information to supplement the slide content, based on the amount of training time you have.

What you need to know

1. It takes approximately 1.5 hours to complete this module.

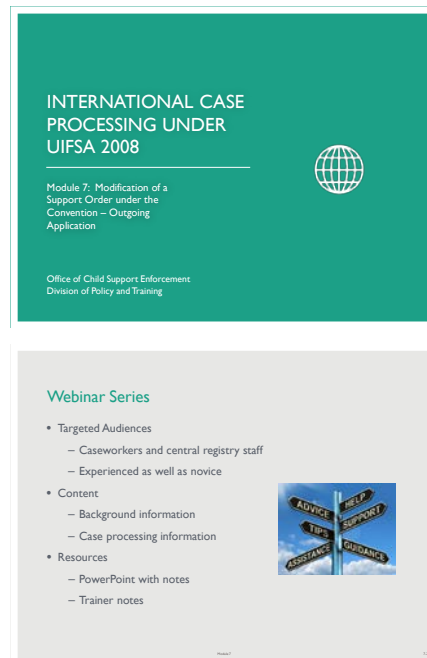
PowerPoint Slides:

- 7-1 through 7-65

Handouts:

- None

WEBINAR INTRODUCTION: INTERNATIONAL CASE PROCESSING UNDER UIFSA 2008



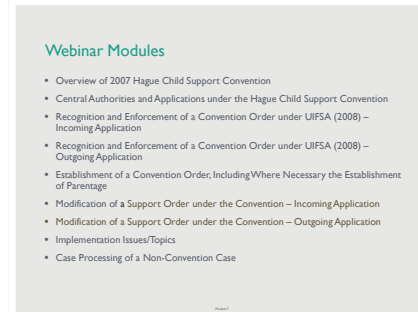
INTRODUCTION: TARGETED AUDIENCE

Welcome to the Webinar Series on International Case Processing under UIFSA 2008. Some people in the audience may have attended multiple conference workshops where speakers discussed the background of the Convention or presented an overview of UIFSA (2008). For others, this information will be brand new.

This webinar content is designed to cover both audiences.

The webinar resources for each module include the PowerPoint slides and notes, and an expanded set of trainer notes. These resources will be available on OCSE's website.

INTRODUCTION: OVERVIEW OF WEBINAR SERIES



The first two modules of the webinar series are overview modules. They provide background information about the Hague Child Support Convention so 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, the focus shifts to 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, Module 4, 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 the discussion turns toward processing international support cases from countries with bilateral reciprocity arrangements that are not Convention countries.

MODULE 7: MODIFICATION OF A SUPPORT ORDER UNDER THE CONVENTION - OUTGOING APPLICATION

Time: 1.5 hours

7.1 MODIFICATION OF A SUPPORT ORDER UNDER THE CONVENTION – OUTGOING APPLICATION



Today we are presenting Module 7, which focuses on an outgoing Convention application to modify a support order. We will discuss your role as the requesting Central Authority when preparing and transmitting an application to a Convention country. We will also discuss the steps a Convention country will take to process that application.

7.2 TERMS WITHIN HAGUE CHILD SUPPORT CONVENTION

Terms within Hague Child Support Convention	
Convention Terms	U.S. Equivalent
• Creditor	• Oblige
• 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

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. Modules 1 and 2 explained the terms, and we will not review them again. However, if there are new participants to today’s

webinar, please check the Trainer Notes for Module 1 or 2 for an explanation of each term on the slide.

[Note to Trainer – The following information is provided in the Trainer Notes for Modules 1 and 2: When the Convention refers to a creditor, it is referring to the individual entitled to receive support – the person in the U.S. that most states would refer to as the obligee or custodial parent. In some cases, the creditor may be a public body. When the Convention refers to a debtor, it is referring to the individual responsible for payment of support. In the United States, most states use the term obligor or noncustodial parent.

Probably the most confusing term to us in the United States is the Convention’s use of the word “State.” This is State with a capital “S” and means a country. A Contracting State is a country that has ratified or approved the Convention. In the United States we often refer to that country as a Convention country.

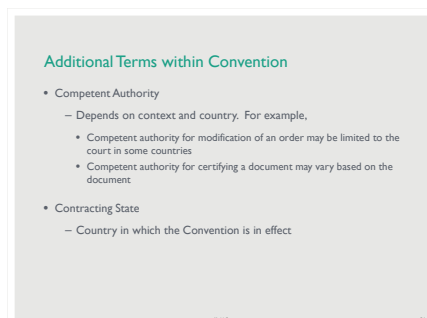
The Convention uses the term “maintenance” whereas in the United States we use the term “support.”

When the Convention refers to a “requesting State,” it is referring to the Contracting State (i.e., country) that is requesting services from another Contracting State. The Convention country receiving and responding to the request is called the “requested State.” As you can tell, the equivalent terminology in UIFSA is an initiating state and a responding state.

For the most part, in implementing the Hague Child Support Convention, UIFSA (2008) uses words that are familiar to child support agencies. For example, the process that the Convention outlines for recognition and enforcement of a support decision is equivalent to the process in Article 7 for recognition and enforcement of a registered support order.

However, there are a few additional definitions in Article 7 based on the Convention. Earlier, we discussed the definitions of Central Authority and direct request to a tribunal. Another new definition is the term “foreign support agreement.” The drafters of UIFSA were trying to rephrase the definition in the Convention for “maintenance arrangement,” using words more familiar to the United States. A “foreign support agreement” is an agreement for support in a record that is enforceable as a support order in the country of origin and has been authenticated by, registered, or filed with a foreign tribunal, and may be reviewed and modified by a foreign tribunal. It is not the same thing as a U.S. separation agreement, which is enforceable as a contract. Section 710 of UIFSA discusses the process for recognition and enforcement of a registered foreign support agreement.]

7.3 ADDITIONAL TERMS WITHIN CONVENTION



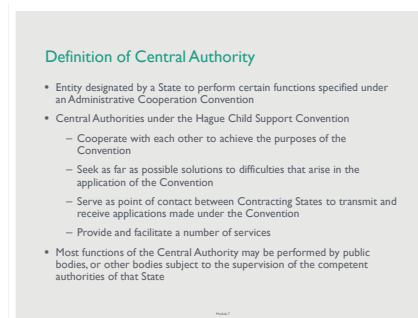
There are two additional terms we will use during this presentation.

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. The competent authority for modifying a support order may or may not be the same authority as the one that declares whether a decision registered for recognition and enforcement is in fact enforceable. Depending on the country, the competent authority might be the court, an administrative agency, or both. The identification of competent authority may also depend on the context. For example, if

there is a challenge to the integrity of a document, it will be up to the State of origin to determine the competent authority for certifying the requested document.

When we refer to a “Contracting State,” we are talking about a country in which the Hague Child Support Convention is in effect. That is the term used by the Convention. In the United States, we often refer to a Contracting State as a Convention country.

7.4 DEFINITION OF CENTRAL AUTHORITY



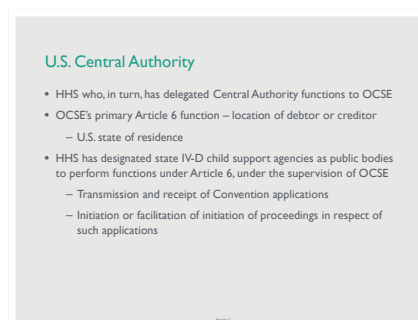
Each Administrative Cooperation Convention negotiated by the Hague Conference on Private International Law requires a Contracting State to designate a Central Authority. The Central Authority is an agency or organization that is designated to play a key role in the implementation and operation of the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

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 Convention country is required to keep the Permanent Bureau

informed of the identity of its Central Authority. That information is accessible from the Child Support Section of the Hague website; in the right hand column, click on the word “Authorities.” A Contracting State also identifies its Central Authority in the Country Profile that we discussed in Module 1. The Country Profile is maintained on the Child Support section of the Hague Conference website. It is the resource that most Contracting States use to inform the Permanent Bureau and other Convention countries of their child support laws and procedures.

7.5 U.S. CENTRAL AUTHORITY



In the United States, the Central Authority is the Department of Health and Human Services, with authority in the Secretary to perform the lawful acts necessary to execute the functions of the Central Authority. See Section 459A of the Social Security Act (42 U.S.C. § 659a) and [Executive Order 13752](#) of December 8, 2016, published in 81 Fed. Reg. 90,181 (Dec. 13, 2016). The Secretary has delegated the responsibilities of the Central Authority to OCSE.

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

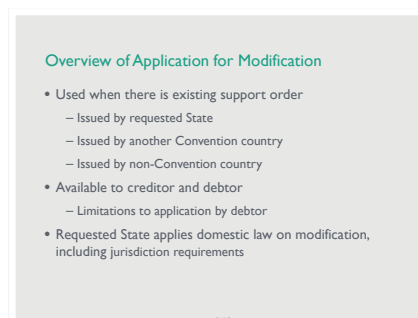
- (1) They must transmit and receive applications under Chapter III. We will discuss those applications in a bit.
- (2) They must initiate or facilitate the institution of proceedings in respect of such applications.

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.

The Executive Order specifically authorizes the designation of IV-D agencies as public bodies authorized to perform specific functions in relation to applications under the Convention. Consistent with that authorization, on December 29, 2016, HHS formally designated state IV-D agencies as public bodies to perform functions related to applications under the Convention in accordance with UIFSA 2008, Title IV-D of the Social Security Act and implementing federal regulations, and OCSE guidance and instructions. See [82 Fed. Reg. 850](#) (Jan. 4, 2017). 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 in relation to those applications. State child support agencies perform these specific Convention functions subject to the supervision of OCSE.

7.6 OVERVIEW OF APPLICATION FOR MODIFICATION



An application for modification of a child support order is appropriate when there is an existing support order. According to the Convention Explanatory Report, the order may have been issued by the requested State, by a Contracting State other than the requested State, or even by a non-Contracting State.¹ In that regard it differs from an

¹ See Para. 262 of the Explanatory Report, Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance [hereinafter Explanatory Report]:

application for recognition and enforcement, which is limited to orders by a Contracting State. Although there is no requirement in the Convention that the decision being modified be issued by a Contracting State, the decision must be one that falls within the scope of the Convention, in other words, child support up to age 21.²

Under the Convention, an application to modify a child support order is available to both creditors and debtors. The distinction is that as long as the creditor is residing in the issuing State, the debtor cannot seek modification in a different State unless one of three exceptions applies. That is a rule familiar to us because it is similar to the UIFSA concept of continuing, exclusive jurisdiction (CEJ). Under the Convention, however, there is no limitation regarding where a creditor may seek modification.

The requested State will use its domestic law, including its jurisdiction requirements,³ when responding to a Convention application for modification. We will focus on UIFSA's jurisdiction requirements during this module. If your state is the appropriate forum for modifying an order under UIFSA, it will be your state's domestic law that applies regarding the availability of, and defenses to, modification, as well as the applicable support guidelines. If you send an application to modify to a Convention country, it will be that country's law that applies regarding the availability of, and defenses to, modification, as well as determination of the support amount.

7.7 OUTGOING APPLICATION FROM THE UNITED STATES



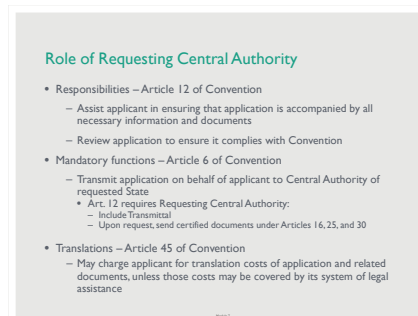
"The decision to be modified could have been made in a Contracting State or a non-Contracting State, but whether it can be modified depends on the law of the requested State." See *also* Hague Conference on Private International Law, Practical Handbook for Caseworkers under the 2007 Hague Child Support Convention (2013) (hereinafter Practical Handbook), Para. 794.

² See Para. 263 of the Explanatory Report.

³ See Article 10(3) of the Hague Child Support Convention. See *also* Para.275 of the Explanatory Report.

Let's review the steps involved in preparing and transmitting an outgoing Convention application for modification.

7.8 ROLE OF REQUESTING CENTRAL AUTHORITY



This slide summarizes the responsibilities of a requesting Central Authority under the Convention.

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. State child support agencies 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.

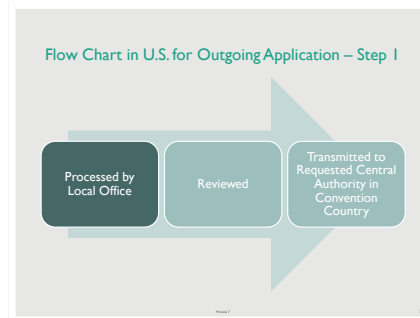
Once it is satisfied that the application complies with the Convention, the requesting Central Authority (the IV-D agency in the U.S.) must transmit the application on behalf of the applicant to the requested Central Authority. The application must include a transmittal form. There is no need to include certified documents unless the requested Contracting State asks for them.⁴

If the order to be modified is in English, and is being sent to a country requiring documents in a different language, the order must be translated. Article 45 of the

⁴ See Para. 856 of the Practical Handbook.

Convention, which addresses translation, authorizes the requesting Central Authority to charge an applicant translation costs unless those costs are covered by the country's system of legal assistance. We will briefly discuss translation requirements again later in this presentation but will wait until Module 8 of the webinar for a more in-depth examination of translation issues.

7.9 FLOW CHART IN U.S. FOR OUTGOING APPLICATION – STEP ONE

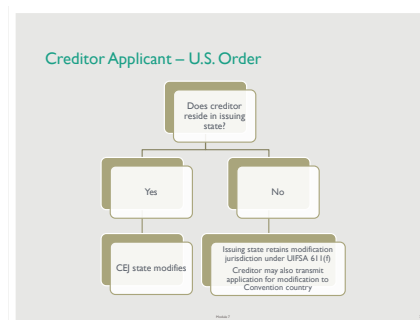


In the United States, Convention cases will continue to be processed at the local level. OCSE will not be involved in the transmission of applications.

Let's talk about the first step of that process. There are a number of critical considerations for the caseworker. The main questions are:

- Where was the decision made?
- Where does the creditor now reside?
- Where does the debtor reside?
- Where will the modified decision need to be recognized and enforced?

7.10 CREDITOR APPLICANT – U.S. ORDER



Let's assume there is a U.S. support order, the creditor in your state is the applicant, and the debtor resides in a Convention country.

If the order was issued by a U.S. tribunal, you do not need to send a Convention application for modification. You should generally seek modification in the United States. We discussed this at length during Module 6.

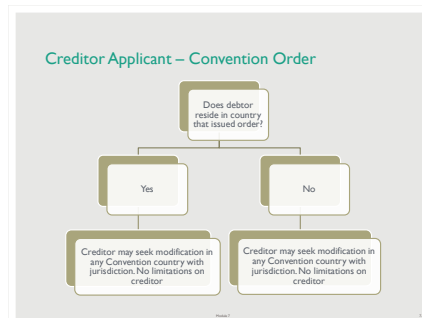
If the creditor resides in your state and your state issued the order, the tribunal in your state has continuing, exclusive jurisdiction to modify its order. Of course, you must provide notice to the debtor according to your state's law, or request that the debtor submit to jurisdiction. If you need assistance from another country, you may be able to make a request under Article 7 of the Convention for another Central Authority to help locate or contact the debtor or facilitate the service of documents.

If a different U.S. state issued the order and the creditor resides in your state, Section 611(f) of UIFSA applies. Under that section, if one party lives outside the U.S. but one party still lives in a U.S. state, the tribunal that issued the order retains jurisdiction to modify its order.

If a U.S. tribunal modifies the U.S. order and the creditor wants to enforce the modified order in the country where the debtor is now living, you will need to send a Convention application for recognition and enforcement of the modified order to the requested Central Authority of the country where the debtor resides. We discussed outgoing applications for recognition and enforcement during Module 4.

Keep in mind that modification jurisdiction under Section 611(f) of UIFSA is not exclusive. So, for various reasons, you may decide to file a Convention application for modification of the U.S. order in the debtor's country rather than in the United States.

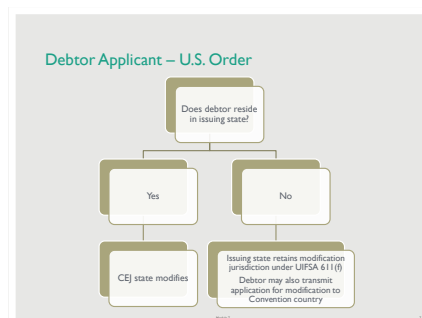
7.11 CREDITOR APPLICANT – CONVENTION ORDER



Although UIFSA has rules regarding modification of a U.S. order, there are no restrictions in the Convention on where a creditor may seek modification of a Convention order. Usually you will send a Convention application for modification to the country in which the debtor resides.

Should the debtor later move to a different Convention country, it may be necessary to use the Convention's procedures for recognition and enforcement to enforce the modified order in the debtor's new country of residence.

7.12 DEBTOR APPLICANT – U.S. ORDER



Let's assume there is a U.S. support order, the debtor in your state is the applicant, and the creditor resides in a Convention country. Decisions of where to send the application are the same as those for when the applicant was the creditor.

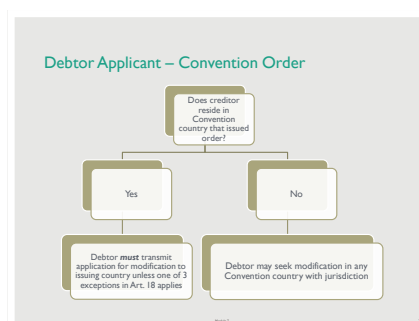
That means if the order was issued by a U.S. tribunal, you do not need to send a Convention application for modification. You can seek modification in the United States. We discussed this at length during Module 6.

If the debtor resides in your state and your state issued the order, the tribunal in your state has continuing, exclusive jurisdiction to modify its order. As noted earlier, you must provide notice to the creditor according to your state's law, or request that the creditor submit to jurisdiction. If you need assistance from another country, you may be able to make a request under Article 7 of the Convention for another Central Authority to help locate or contact the creditor or facilitate the service of documents.

If a different U.S. state issued the order and the debtor resides in your state, Section 611(f) of UIFSA applies. Under that section, if one party lives outside the U.S. but one party still lives in a U.S. state, the tribunal that issued the order retains jurisdiction to modify its order.

Keep in mind that modification jurisdiction under Section 611(f) of UIFSA is not exclusive. So UIFSA would permit modification of the U.S. order in the creditor's country rather than in the United States. However, it would be rare that a debtor would seek modification in the creditor's country rather than in the United States. One barrier is that the requested country is not required by the Convention to provide a debtor with free legal assistance so the proceeding could be costly. The second barrier is that the debtor would then have to request the U.S. tribunal to recognize the modification of its order; such recognition would not be automatic.

7.13 DEBTOR APPLICANT – CONVENTION ORDER



If the applicant is the debtor and the local office determines a Convention application for modification is appropriate, the caseworker must identify where the application can be sent. Although there are no restrictions in the Convention on where a creditor may seek modification, there **are** restrictions on where a debtor may seek modification if the order was issued by a Contracting State.

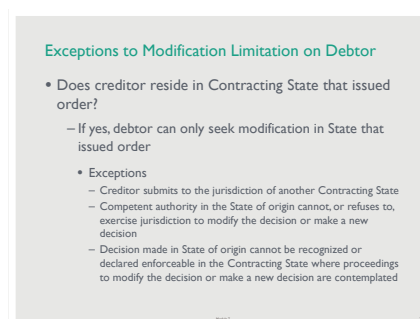
Based on Article 18 of the Convention, if the creditor habitually resides in the Contracting State that issued the order, the obligor **must** send a Convention application for modification to that country. There are limited exceptions, which we will discuss on the next slide.

The Convention does not define “habitual residence.”⁵ According to the Explanatory Report, it is a case-by-case determination, looking at the connection between the individual and the State of origin.⁶

If the creditor does not habitually reside in the Contracting State that issued the order, the debtor may transmit an application for modification to any Contracting State with jurisdiction over the creditor.

If the application is sent to a Contracting State that did not issue the order and the order is modified, it may be necessary to use the Convention’s procedures for recognition and enforcement to have the modified order recognized in another Contracting State.

7.13.1 Exceptions to Modification Limitation on Debtor



⁵ See Para. 63 of the Explanatory Report.

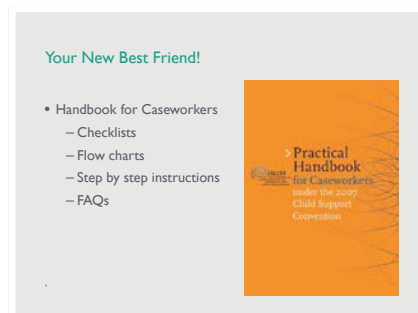
⁶ See Para. 444 of the Explanatory Report.

As noted on the prior slide, if the creditor habitually resides in the Contracting State that issued the order, the debtor should usually seek modification in that Contracting State. The Convention permits a debtor to bring a proceeding to modify a decision or make a new decision in a different Contracting State only in three situations:

- Where the creditor submits to the jurisdiction of that other Contracting State either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;
- Where the competent authority in the State of origin cannot, or refuses to, exercise jurisdiction to modify the decision or make a new decision; or
- Where the decision made in the State of origin cannot be recognized or declared enforceable in the Contracting State where proceedings to modify the decision or make a new decision are contemplated.

We talked about each of these exceptions during Module 6.

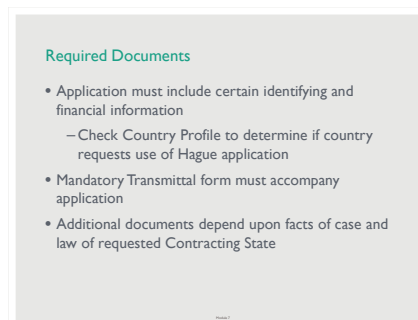
7.14 HANDBOOK FOR CASEWORKERS ON PROCESSING CONVENTION CASES



In Module 1 we explained how to reach Convention resources published by the Hague Conference on Private International Law. First, go to its website at www.hcch.net. There are two official languages used by the Hague Conference: English and French. For resources in English, click on the word "English." That takes you to a page containing a list of topics for which the Hague Conference has developed Conventions. Click on "Child Support" in order to reach all the resources related to the Hague Child Support Convention.

Included on that Child Support page is a wonderful resource for child support caseworkers and lawyers. In fact, its title is the Practical Handbook for Caseworkers! It was written by Hannah Roots, a child support attorney in British Columbia who often speaks at U.S. child support conferences. The handbook contains detailed information about processing each application under the Hague Child Support Convention. Chapters discuss incoming and outgoing applications, and include flow charts, instructions on how to complete Convention forms, and responses to frequently asked questions.

7.15 REQUIRED DOCUMENTS NEEDED FOR MODIFICATION OF SUPPORT ORDER UNDER THE CONVENTION



Whether the applicant is the creditor or the debtor, the next step is to make sure the agency has all the documents that need to be transmitted to the requested State.

Every Convention application must include a Transmittal. This is a mandatory Convention form. However, there is no mandatory form for the application. Nor does the Convention require specific documents to accompany an Application to Modify a Decision.

Each country may specify by declaration any documents that **must** accompany an incoming application to modify a maintenance decision. That information would be on the Status Table on the Child Support page of the Hague website. In the Country Profile, a country may also identify any form, information, and supporting documents it needs in order to process an application for modification. In reviewing the Country Profiles listed on the Hague Conference website, it appears that almost all of the countries want applicants to use the recommended Convention Application for

Modification. Countries also require financial information about the parties. Other documents vary, depending on a country's laws, support guidelines, and procedures.

Outgoing Application for Modification of a Support Order – Documents/Information		
Required by Convention	When Used	Form/Document Used unless Requested State Requests Different Form
Transmittal	Always	Convention Transmittal (required form)
Application	Always <ul style="list-style-type: none">• If risk of harm	Convention Application <ul style="list-style-type: none">• Convention Restricted Information on the Applicant

This slide and the next two identify the documents and information required by the Convention.

The first column lists the document or information. The second column explains when the document or information is needed. And the third column identifies the applicable Convention form unless the country has identified an alternative preferred form in its Country Profile.

Outgoing Application for Modification of a Support Order – Documents/Information (cont'd)		
Required by Convention	When Used	Form/Document Used unless Requested State Requests Different Form
Information about creditor	Always	Convention Financial Circumstances Form
Information about debtor	Always	Convention Financial Circumstances Form

Information about the creditor, especially financial information, is needed for determination of any new or modified support obligation.

Information about the debtor, to the extent known, is also important – especially financial information. The information is critical in determining a modified support amount. The information may also be needed for determining eligibility for legal assistance when the debtor is the applicant. With limited exception, a requested State must provide free legal assistance, if needed, with respect to all applications by a creditor in respect of a child below the age of 21. However, there is no automatic right to

cost-free legal assistance to a debtor.⁷ Under Article 17 of the Convention, for applications other than child support applications by a creditor, a Contracting State may make the provision of free legal assistance subject to a means or a merit test. The information contained in the Financial Circumstances Form will assist the requested State in making any determination concerning the entitlement of the debtor to assistance if it uses a means test.

We will discuss the applicable Convention forms in a minute.

Outgoing Application for Modification of a Support Order – Documents/Information (cont'd)		
Required by Convention	When Used	Form/Document Used unless Requested State Requests Different Form
Complete text of order	Always, unless requested State allows an abstract of order	Order itself or Abstract/Extract, if acceptable • Requested State can require certified order

The requested State will need the complete text of the order, unless it has indicated in its Country Profile that an abstract of the order is acceptable. If an abstract is acceptable, that will help reduce translation costs. Consult the Country Profile to also determine whether the requested State requires a certified copy of the order. If a certified copy is not routinely required, a simple copy is fine.

In addition to Convention required documents, a country may require specific forms, documents, or information under domestic law that governs modification. As already noted, the best resource is the Country Profile. However, not every country has completed a Country Profile. Another resource is the Status Table on the Child Support page of the Hague Conference website. The Status Table lists all the countries that have ratified or acceded to the Convention, as well as the country's reservations, declarations, and notifications. Often the notifications include special document requirements.

⁷ The debtor applicant is entitled, however, to Central Authority assistance under Article 6 and to effective access to procedures in accordance with Article 14. See Para. 266 of the Explanatory Report.

7.15.1 Transmittal – Required Form

Transmittal – Required Form – Page I

ANNEX I
Transmittal form under Article 12(2)
CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE
Personal data gathered or transmitted under the Convention, shall be used only for the purposes for which it was gathered or transmitted, after carefully protecting such data shall ensure its confidentiality, in accordance with the law of the State.
An authority shall not disclose or transfer information gathered or transmitted in application of this Convention if it determines that to do so could jeopardize the health, safety or liberty of a person in accordance with article 10.
☐ a determination of non-disclosure has been made by a Central Authority in accordance with article 10.

1. Requesting Central Authority: a. Address: b. Telephone number: c. Fax number: d. E-mail: e. Reference number:	2. Contact person in requesting State: a. Address (if different): b. Telephone number (if different): c. Fax number (if different): d. E-mail (if different): e. Surname(s):
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Every Application for Modification must be accompanied by the Convention Transmittal form. The form identifies the parties and the type of application. It also indicates the documents that accompany the application. It is very similar to the Child Support Enforcement Transmittal #1 that we use in the United States in intergovernmental cases.

The preamble to the Transmittal recognizes that there are situations where the release of any personal information could jeopardize the health, safety, or liberty of a person. If your agency, as the requesting Central Authority, has determined that this case presents such a risk, you should check the tick box indicating a determination of non-disclosure has been made.

Sections 1 and 2 provide information about the requesting Central Authority and the person who should be contacted if the requested State has any follow-up questions. For the address of the requesting Central Authority, use the address of the local agency working the case. Presumably that will also be the address of the contact person so there would be no need to add an address in Section 2.

Transmittal – Page I (cont'd)

3. Requested Central Authority:
Address: _____

4. Particulars of the applicant:
a. Family name(s): _____
b. Given name(s): _____
c. Date of birth: _____ (dd/mm/yyyy)
or
a. Name of the public body: _____

Section 3 is self-explanatory. You can find the address of the requested Central Authority in the country's Country Profile. Because not all countries have completed a Country Profile, you can also find the Central Authority's address by clicking on the word "Authorities" on the right-hand column of the Child Support page of the Hague Conference website.

Section 4 requests the name and date of birth of the applicant. In an application for modification of a child support order, the individual applicant may be the person for whom support is sought or payable, such as a parent of a child, or the child. In the United States, we usually refer to that person as the obligee. The applicant may be the legal representative of the person for whom support is sought or payable. The applicant may also be the debtor or the debtor's representative.

Note that under the Convention a public body cannot be an applicant for purposes of an Application for Modification. As outlined in Article 36 of the Convention, a public body may be regarded as a creditor only in an application for recognition and enforcement under Article 10(1) *a*) or an application for enforcement under Article 10(1) *b*).⁸ It may also be a creditor for the purpose of an application for establishment, but only in the situation where Article 20(4) arises. Pursuant to Article 20(4), if the application of a public body for recognition and enforcement of a decision is not possible as a result of a reservation made under Article 20(2), and if the debtor is habitually resident in the State addressed, that State must take all appropriate measures to establish a decision for the benefit of the creditor, even though the application has been brought by a public body.⁹

⁸ See Para. 67 of the Explanatory Report.

⁹ See Para. 590 of the Explanatory Report. See *also* Para. 591 of the Explanatory Report: "After some discussion, it was evident that public bodies would rarely, if ever, need to establish or modify a decision in a requested State. Rather, it would always be preferable if the public body obtained such decisions in its own country, to be followed by recognition and enforcement in the requested State. Therefore, the Diplomatic Session saw no need to extend to public bodies the full range of applications."

Transmittal – Page 2

5. Particulars of the person(s) for whom maintenance is sought or payable

a. ☐ The person is the same as the applicant named in point 4

b. i. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

ii. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

iii. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

6. Particulars of the debtor¹

a. ☐ The person is the same as the applicant named in point 4

b. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

Page 2

Section 5 requests information about the person for whom support is sought or payable. This person may be the same individual as the applicant. However, if you list the custodial party's name as the applicant and you want modification of a child support order, in Section 5 you would provide the names and dates of birth of the children who benefit from the support order. The Transmittal provides space for the names of three children.

In Section 6, you should provide details about the debtor. As you can tell, this is basic information. More information about the debtor will be included in the application form and in the Financial Circumstances Form.

Transmittal – Page 2 (cont'd)

7. This transmittal form concerns and is accompanied by an application under:

☐ Article 10(1) a)
☐ Article 10(1) b)
☐ Article 10(1) c)
☐ Article 10(1) d)
☐ Article 10(1) e)
☐ Article 10(1) f)
☐ Article 10(2) a)
☐ Article 10(2) b)
☐ Article 10(2) c)

8. The following documents are appended to the application:

a. For the purpose of an application under Article 10(1) a), and:
In accordance with Article 25:

☐ Complete text of the decision (Art. 25(1) d)
☐ Abstract or extract of the decision drawn up by the competent authority of the State of origin (Art. 25(3) b) if applicable)

Page 2

Section 7 contains tick boxes for you to indicate which application the transmittal is accompanying. The Article references are to the Hague Child Support Convention, not UIFSA. Use the Practical Handbook as a quick reference to the correct Article. You may also view the text of the Convention itself. Both are available on the Child Support page of the Hague Conference website.

If the creditor is the applicant, check the tick box for Article 10(1) e) if the debtor resides in the Contracting State that issued the order. That means you are sending an

Application for Modification of a Decision Made in the Requested State. Check the tick box for Article 10(1) *f*) if the debtor does not reside in the issuing State. That means you are sending an Application for Modification of a Decision Made in a State Other Than the Requested State.

If the debtor is the applicant, check the tick box for Article 10(2) *b*) if the creditor resides in the Contracting State that issued the order. That means you are sending an Application for Modification of a Decision Made in the Requested State. Check the tick box for Article 10(2) *c*) if the debtor does not reside in the issuing State. That means you are sending an Application for Modification of a Decision Made in a State Other Than the Requested State.

Section 8 of the Transmittal lists the documents that must be included with the application. Subsection a) only applies to an application for recognition and enforcement.

Transmittal – Page 3

☐ Document stating that the decision is enforceable in the State of origin and, in the case of a decision by an administrative authority, a document stating that the requirements of Article 25(2) are met unless that State has specified its compliance with Article 10. That document or an administrative authority always meet these requirements (Art. 25(1) b) or if Article 25(2) it is applicable.

☐ If the respondent did not appear and was not represented in the proceedings in the State of origin, a document or documents attesting or explaining, either that the respondent had proper notice of the proceedings and no opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or appeal it in law and fact (Art. 25(1) c).

☐ Where necessary, a document showing the amount of any arrears and the date such amount was calculated (Art. 25(1) d).

☐ Where necessary, a document providing the information necessary to make appropriate calculation in case of a decision providing for automatic adjustment by instalments (Art. 25(1) e).

☐ Where necessary, a document showing the extent to which the applicant received free legal assistance in the State of origin (Art. 25(1) f).

In accordance with Article 26(2):

☐ Complete text of the maintenance arrangement (Art. 26(2) a).

☐ A document stating that the particular maintenance arrangement is enforceable in a decision in the State of origin (Art. 26(2) b).

☐ Any other documents accompanying the application (e.g., if required, a document for the purpose of Art. 26(4)).

Article 30 of the Convention addresses recognition and enforcement of a maintenance arrangement so none of the tick boxes at the bottom of the third page of the transmittal are applicable to an application to modify a child support order.

Transmittal – Page 3 (cont'd)

b. For the purpose of an application under Article 10(1) b), c), d), f) and (2) a), b) or c), the following number of supporting documents (including the transmittal form and the application itself) in accordance with Article 11(3):

☐ Article 10(2) b) _____

☐ Article 10(2) c) _____

☐ Article 10(2) d) _____

☐ Article 10(2) e) _____

☐ Article 10(2) f) _____

☐ Article 10(2) a) _____

☐ Article 10(2) b) _____

☐ Article 10(2) c) _____

Name: _____ (in block letters) Date: _____

Authorized representative of the Central Authority: _____ (signature)

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-19)

Take reporting burden for the collection of information in this survey (1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Service, Paperwork Project (0198-0101), Washington, DC 20543-4147.

Section 8(b) **does** apply to a modification application. Check the box related to Article 10(1) e) or f), if the applicant is the creditor. Note the number of supporting documents, excluding the transmittal form and the application itself. Check the box related to Article 10(2) b) or c) if the applicant is the debtor and you are sending supporting documents. Again, note the number of supporting documents. The Country Profile is your best resource for determining what supporting documents the requested State needs or requires.

Finally, note the Transmittal does not require a signature. Rather there is a block for the name of the authorized representative of the requesting Central Authority who is completing the form. In most states, that will be the caseworker handling the case.

7.15.2 Application for Modification

Application – Page 1

Application for Modification of a Decision

Original documents or copies of documents shall be submitted for the purpose of the application for modification of a decision. The applicant shall submit the following documents:

1. Original documents or copies of documents

2. Original documents or copies of documents

3. Original documents or copies of documents

4. Original documents or copies of documents

5. Original documents or copies of documents

6. Original documents or copies of documents

7. Original documents or copies of documents

8. Original documents or copies of documents

9. Original documents or copies of documents

10. Original documents or copies of documents

11. Original documents or copies of documents

12. Original documents or copies of documents

13. Original documents or copies of documents

14. Original documents or copies of documents

15. Original documents or copies of documents

16. Original documents or copies of documents

17. Original documents or copies of documents

18. Original documents or copies of documents

19. Original documents or copies of documents

20. Original documents or copies of documents

21. Original documents or copies of documents

22. Original documents or copies of documents

23. Original documents or copies of documents

24. Original documents or copies of documents

25. Original documents or copies of documents

26. Original documents or copies of documents

27. Original documents or copies of documents

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30. Original documents or copies of documents

31. Original documents or copies of documents

32. Original documents or copies of documents

33. Original documents or copies of documents

34. Original documents or copies of documents

35. Original documents or copies of documents

36. Original documents or copies of documents

37. Original documents or copies of documents

38. Original documents or copies of documents

39. Original documents or copies of documents

40. Original documents or copies of documents

41. Original documents or copies of documents

42. Original documents or copies of documents

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92. Original documents or copies of documents

93. Original documents or copies of documents

94. Original documents or copies of documents

95. Original documents or copies of documents

96. Original documents or copies of documents

97. Original documents or copies of documents

98. Original documents or copies of documents

99. Original documents or copies of documents

100. Original documents or copies of documents

Most Convention countries have indicated in their Country Profiles that they want Contracting States to use the recommended Application form published by the Hague Conference. As is true for all applications, the first section of the Application for Modification provides a confidentiality and personal data protection notice. If there is concern that disclosure of identifying information would jeopardize the applicant's health, safety, or liberty, place a check mark in the appropriate box on the Application form and do not provide the personal information requested in Section 2. Instead, include the applicant's personal information on the separate Restricted Information form, which is found at the end of the application form.

Section 1 asks for your file reference number; in the U.S., that will be your IV-D case number.

In Section 2, you provide information about the individual applicant. The applicant can be the person for whom support is sought or payable, such as a parent of a child or the child. In the United States, we usually refer to that person as the obligee. The applicant can be the representative of the person for whom support is sought or payable. The applicant can also be the debtor or the debtor's representative. In the United States, we usually refer to the debtor as the obligor.

The family name is the applicant's last name. The given name is the applicant's first name. The form also asks for the applicant's address, phone number, fax number, and email address. Pursuant to OCSE guidance, you should use the agency address as the address for an individual applicant in all IV-D cases, both public assistance and non-public assistance. That ensures the agency receives notices required by the Convention. The agency will be responsible for promptly forwarding notices to the applicant, as appropriate.

Application – Page 1 (cont'd)

3. Particulars of the person(s) for whom maintenance is sought or payable

3.1 ☒ Maintenance is sought or payable for the applicant named above

Maintenance basis:

<input type="checkbox"/> parentage	<input type="checkbox"/> in fact parent or equivalent relationship
<input type="checkbox"/> marriage	<input type="checkbox"/> analogous relationship to marriage
<input type="checkbox"/> affinity (same identity)	<input type="checkbox"/> sibling
<input type="checkbox"/> grandparent	<input type="checkbox"/> grandchild
<input type="checkbox"/> other	

This slide shows the bottom half of page 1 of the Application.

Section 3 provides information about the individual for whom support is sought or payable. If you listed the parent as the applicant in Section 2, do not complete subsection 3.1. Instead, complete subsection 3.2.

Application – Page 2

3.2 ☐ Maintenance is sought or payable for the following child(ren):

a. Family name(s): _____
Given name(s): _____ (children/years)
Maintenance basis: _____
☐ percentage ☐ in loco parentis or equivalent relationship

b. Family name(s): _____
Given name(s): _____ (children/years)
Maintenance basis: _____
☐ percentage ☐ in loco parentis or equivalent relationship

c. Family name(s): _____
Given name(s): _____ (children/years)
Maintenance basis: _____
☐ percentage ☐ in loco parentis or equivalent relationship

Subsection 3.2 is where you provide information regarding the children for whom support is sought or payable. As you can see, there is space for information about three children. If the order you want modified is for more than three children, the application has space later on the form where you can list them.

Application – Page 3

4.2 If the debtor is the applicant, particulars (if known and applicable) of the representative of the person(s) for whom maintenance is sought or payable

a. Family name(s): _____
b. Given name(s): _____
c. Address: _____
d. Telephone number(s): _____
e. Fax number: _____
f. E-mail: _____

4.3 Information that may assist with the location of the respondent

a. Personal identification number (including name of country or territory (if not that issued the number)) _____
b. Any other information that may assist with the location of the respondent _____

Section 4.1 of the form (not shown) asks for particulars about the debtor (obligor). This slide shows subsections 4.2 and 4.3. Complete subsection 4.2 if the debtor is the applicant. Items (a) – (f) are seeking information about the representative of the person(s) for whom support is sought or payable; in most cases, that will be the obligee parent.

In subsection 4.3, you should provide information that may assist locate efforts about the respondent. Complete this section regardless of whether the creditor or the debtor is the applicant. The personal identification number is a government issued number that may help the Central Authority verify the respondent's identity in government or other databanks. For example, it may be the Social Security number (if the respondent is from the U.S.), National Insurance Number (if the person is from the U.K.), Social Insurance Number (if the person is from Canada), or Tax File Number (if the person is from Australia).

Application – Page 3 (cont'd)

5. Payments

a. Details for electronic transfer of payments (if applicable)

Name of the bank: _____

SWIFT address: _____

IBAN: _____

Account number: _____

Name of account holder: _____

Reference: _____

b. Details for payments by cheques (if applicable)

Cheque payable to: _____

Cheque to be sent to: _____

(address) _____

Reference: _____

Section 5 of the application details payment information. Subsection (a) relates to electronic transfer of payments. If a state prefers child support payments by check, provide details for the check and the state disbursement unit (SDU) in subsection (b). In both subsections, make sure you provide the correct file or account reference number so that payments can be properly identified.

Regarding types of payments, some countries are having major difficulty accepting and issuing paper checks and are moving toward only processing electronic payments. OCSE and several states are currently looking at international electronic payment processing solutions. We will discuss international payments more in Module 8.

Do not complete Section 5 if there is concern that identification of the bank or SDU location would create a risk to the applicant. In that case you would use the Restricted Information Form, which includes an entire section on financial circumstances.

Application – Page 4

6. The decision

6.1 Type of authority: ☐ judicial authority or ☐ administrative authority

6.2 Name and place of authority: _____

6.3 (Indicate if applicable) _____

6.4 Date of the decision: _____ (dd/mm/yyyy)

6.5 Date of effect of the decision: _____ (dd/mm/yyyy)

6.6 Reference number of the decision: _____

6.7 Name of the parties: _____

7. The following changes have occurred since the decision was made or last modified:

☐ Change in the income of the debtor or in financial situation

☐ Change in the income or financial situation of the person who has care of the child

☐ Change in circumstances of the person for whom maintenance is sought

☐ Change in child care arrangements

☐ Change in cost of living

☐ Change of currency exchange rate

☐ Decision was made by consent, and the amount ordered to be paid is no longer appropriate or adequate

☐ Other (Please specify): _____

Section 6 of the application provides details about the order you want modified. The items are self-explanatory. Subsection 6.5 asks for the effective date of the order. Usually that will be the date current support payments become effective.

Section 7 is important because it relates to changes that support the request for modification. Such changes include a change in income or financial situation and a change in child care arrangements. Please check any box that is applicable. Some of the listed changes may or may not be grounds for modification in the requested State. Keep in mind, it is the requested State's law that applies with regard to the grounds for, and defenses to, modification.

Application – Page 4 (cont'd)

8. The following modifications are sought by the applicant:

- ☐ Increasing the amount of maintenance
Please specify the new amount and currency: _____
- ☐ Decreasing the amount of maintenance
Please specify the new amount and currency: _____
- ☐ Modifying the frequency of payments, please specify:
☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months
☐ year ☐ other (specify): _____
- ☐ Modifying the method of payment
Please specify: _____
- ☐ Modifying the nature of payments
Please specify: _____
- ☐ Reducing or cancelling arrears
Please specify reasons: _____
- ☐ Terminating the maintenance obligation
Please specify reasons: _____
- ☐ Please specify termination date: _____ (dd/mm/yyyy)
- ☐ Other, Please specify: _____

Section 8 contains tick boxes for noting what modifications are sought by the applicant. Again, check any that apply. You will note that one of the tick boxes is reducing or cancelling arrears. Other countries' laws may allow for the cancellation of arrears. However, a IV-D agency should never check the box asking for reduction or cancellation of arrears because U.S. law does not allow retroactive modification of support arrears. Another tick box relates to termination of the support obligation. If the child support agency is helping a debtor applicant, this tick box may be particularly relevant.

Application – Page 5

9. The following documents are attached to establish the basis for modification of the maintenance decision and to assist in establishing, where necessary, the amount of the maintenance:

- ☐ Complete text of the decision from the State of origin
- ☐ Evidence establishing a change in income or other change in circumstances
- ☐ Written agreement between the parties related to modification of the maintenance
- ☐ Financial Circumstances Form
- ☐ Written submissions in support of application
- ☐ Other evidence in accordance with the law of the requested State

10. ☐ Please initiate enforcement measures once the decision is established

11. Other information: _____

In Section 9, check the appropriate boxes to indicate the documents included with the application. You should always include the decision itself and the Financial Circumstances Form. You should also include evidence that supports the change in

circumstances. Such evidence may include copies of pay stubs or income tax returns showing a change in income, medical bills to demonstrate increased health expenses, and bills related to changes in child care or school expenses.

If the creditor is the applicant, presumably you will always check the tick box in Section 10, requesting enforcement of the modified order.

Section 11 allows you to provide additional information to the requested Central Authority. You may also want to use this space to make any requests not otherwise noted on the application. For example, if the modified decision made in the requested State will have to be recognized in another State after it is made, and a certified copy of the decision will be required for that step, it is a good practice to ask the requested Central Authority to provide a certified copy of the decision along with the Status Report, when the modification application is concluded.¹⁰ In such a case, you should also request a Statement of Enforceability and Statement of Proper Notice, if applicable, which are required documents for recognition and enforcement of a Convention order.

The screenshot shows a portion of a legal application form titled "Application – Page 5 (cont'd)". It contains two main sections with checkboxes:

10. If the applicant is the debtor in the case of an application under Article 19(2) it shall be stated whether:

- ☐ The creditor is not habitually resident in the State of origin.
- ☐ The creditor is habitually resident in the State of origin, but the following provisions of Article 19 apply or may apply:
 - ☐ The parties agreed in writing to the jurisdiction of the requested State in accordance with Article 19(2) of the Convention.
 - ☐ The creditor has chosen to the jurisdiction of the requested State in accordance with Article 19(2) of the Convention.
 - ☐ The requested authority in the State of origin cannot or refuses to exercise jurisdiction in accordance with Article 19(2) of the Convention.
 - ☐ The decision made in the State of origin cannot be recognized or declared enforceable in the Contracting State where proceedings for a new or modified decision are contemplated in accordance with Article 19(2) of the Convention.

11. Information:

- ☐ This application was completed by the applicant and reviewed by the requesting Central Authority.
- ☐ This application complies with the requirements of the Convention (Article 19(2)). The information contained in this application and the attached documents is true and accurate and is consistent with the information and documents provided by the applicant to the requesting Central Authority. The application is forwarded by the Central Authority on behalf of and with the consent of the applicant.

At the bottom, there are fields for "Name" and "Date" for the authorized representative of the Central Authority.

If you are helping a debtor and sending an Application for Modification of a Decision Made by a State Other Than the Requested State, you need to complete Section 12. Check the first tick box if the creditor does not habitually reside in the issuing country. If you are unable to check that box because the creditor does reside in the issuing country, then you must check the second tick box and indicate in the lower tick boxes which exception applies. As we've discussed earlier, in a child support case, if the creditor habitually resides in the Contracting State that issued the order, a debtor is not

¹⁰ See Para. 831 of the Practical Handbook.

allowed to seek a modification of that order in a State other than that Contracting State unless one of the exceptions applies. Those are the four exceptions listed on the form.

Finally, the application ends with the attestation that is on every application. There is a tick box to indicate whether the applicant completed the application. You should always check the final tick box. It indicates that the named authorized representative of the Central Authority – which, in the U.S., would be a representative of the IV-D agency – attests that the application complies with Convention requirements, the information contained in the application and supporting documents correspond to the information and documents provided by the applicant, and the application is forwarded by the Central Authority on behalf of and with the consent of the applicant.

7.15.3 Restricted Information if Applicable

Restricted Information if Applicable – Page 1

Restricted Information on the Applicant

Information for Modification of Decision

Article 16(1) – 16(2) Article 16(3) – 16(4) Article 16(5) – 16(6) Article 16(7) – 16(8)

16. The requesting Central Authority has determined that information under Article 16(1) is not available for the purpose of the Convention or is not available for the purpose of the Convention or is not available for the purpose of the Convention.

1. Requesting Central Authority (the address number)

2. Particulars of the applicant

a. Name (last, first, middle)

b. Date of birth

c. Sex

d. Telephone number

e. E-mail address

f. Other

3. Parents

a. Name (last, first, middle)

b. Date of birth

c. Sex

d. Telephone number

e. E-mail address

f. Other

4. Other persons to whom the Convention applies

a. Name (last, first, middle)

b. Date of birth

c. Sex

d. Telephone number

e. E-mail address

f. Other

5. Other persons to whom the Convention applies

a. Name (last, first, middle)

b. Date of birth

c. Sex

d. Telephone number

e. E-mail address

f. Other

Page 1

If you have determined that certain identifying information should not be disclosed or confirmed for the protection of the health, safety, or liberty of a person, you will include the Restricted Information form with the Application for Modification of a Decision. Under the Convention, the determination by the requesting Central Authority has the same purpose as the allegation by a party under Section 312 of UIFSA (2008). The Restricted Information on the Applicant form segregates personal and financial information about the applicant, and is similar to the revised intergovernmental form we use in interstate U.S. cases.

Note that the numbering is not sequential; it conforms with the section numbers on the Application for Modification where identifying information is provided. Because bank

account information may help identify the location of a person, Section 5 segregates that information.

There is a separate Restricted Information form for the Financial Circumstances Form.

The remaining tick boxes are the attestation ones that are at the bottom of all Convention applications. The name of an authorized representative of the child support agency should appear at the bottom of the page.

7.15.4 Financial Circumstances Form

Financial Circumstances Form – Page I

Financial Circumstances Form

N.B. Section II of F2 should be completed only in accordance with the purpose of the information it seeks. This form is intended and to be used in the last of the application. When completing the Financial Circumstances Form, please consult Chapter 10 of the requested form to verify each requirement in respect of each group of information.

COMMERCIALITY INFORMATION AND RELEVANT FACTS TABLE

Personal data gathered or concerned under the Convention shall be used only for the purposes for which it was gathered or concerned and shall not be used for any other purpose, including, but not limited to, the assessment of, or the granting of, social advantages and services or the delivery of social benefits or rights. It shall not be used for any other purpose, including the assessment of, or the granting of, social advantages and services or the delivery of social benefits or rights, except in accordance with the Convention of 4 November 1961 on the Central Agreement for the health, rights, or welfare of a person in another country who is ill.

1. A statement of one or more facts that can be used as a factual indicator in accordance with Article 10 of the Convention is listed below. The statement of one or more facts that can be used as a factual indicator is required in the Financial Circumstances Form in the application of this form.

A. RELEVANT INFORMATION	
1. Relevant fact or factual indicator A. Address 1. Telephone number: 2. Fax number:	C. Contact person to Request Form 1. Address (if different): 2. Telephone number (if different): 3. Fax number (if different):

The Financial Circumstances Form is another recommended form published by the Hague Conference. It should be included with every Application for Modification unless the requested State has identified a different form in its Country Profile.

Like the application, there is a place on the form to indicate whether there is a concern that the disclosure or confirmation of the information would jeopardize the health, safety, or liberty of a person. In such a case, the personal information will then only appear in the Restricted Information form.

Financial Circumstances Form – Page I (cont'd)

Because the Financial Circumstances Form has been designed for use with all applications, Section 3 has tick boxes to indicate whether the applicant is the creditor, a representative of the person for whom maintenance is sought or payable, or the debtor.

Section 4 identifies the application that is being made. You should check the box “Modification of a decision” regardless of whether the applicant is the creditor or the debtor. You do not need to check the box about applying for legal assistance when a creditor is seeking modification of a support order for a child up to age 21. Legal assistance is mandatory, if necessary in the requested State. However, if the applicant is the debtor, you will need to check the box “Applying for legal assistance” and follow the instructions about other sections to complete. As previously discussed, there is no Convention requirement to provide free legal assistance to a debtor.

In Section 5 indicate the currency that is used throughout the Financial Circumstances Form. Currency conversion is not required. However, if you have converted all amounts to the currency of the requested State, indicate the exchange rate used and the date of the conversion.

Financial Circumstances Form – Page 2

II. GENERAL INFORMATION ABOUT THE CREDITOR OR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR PAYABLE (IF KNOWN)

A. Information about the creditor or the person(s) for whom maintenance is sought or payable

1. The creditor or the person for whom maintenance is sought is:

☐ Father ☐ Mother ☐ Creditor other than parent ☐ Foster care provider

☐ Both the child and the above person (or persons) are considered as creditors

☐ The child has himself or herself as the only creditor

☐ Public body

☐ Other person (see the application)

2. Occupation, trade or profession

3. Estimated gross monthly earnings (specify currency)

4. Other monthly income (if known) (specify currency)

5. Present marital status

☐ Married ☐ Single ☐ Partner ☐ Divorced ☐ Separated

B. Information about creditor's dependents

Family member's given name(s)	Age	Relationship to creditor	Subject of this application?
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

In conjunction with the Application for Modification, you should complete the creditor portion of the form. It provides general financial information about the creditor as well as information about the creditor's dependents.

Financial Circumstances Form – Page 2 (cont'd)

C. Information about current (1) spouse or (2) partner of creditor (3) other member of the household contributing to the expenses of the household

1. Family income (gross income)	2. Employment?
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3. Estimated gross monthly earnings (specify currency)	4. Other monthly income (8 weeks) (specify currency)

5. The person identified above pays child support maintenance (voluntarily or judicially) administrative decision in the amount of _____ per _____ (specify currency and installment periods). As of _____ (dd mon/yyyy) the total amount paid is: _____ (specify currency) and the total amount outstanding is: _____ (specify currency).

III. GENERAL INFORMATION ABOUT THE DEBTOR (IF KNOWN)

A. Information about the debtor

1. The debtor is:	2. The debtor is:
<input type="checkbox"/> Father <input type="checkbox"/> Mother <input type="checkbox"/> Child <input type="checkbox"/> Other than parent	<input type="checkbox"/> Father <input type="checkbox"/> Mother <input type="checkbox"/> Child <input type="checkbox"/> Other than parent
3. Occupation, trade or profession	4. Name and address of the employer

5. Estimated gross monthly earnings (specify currency)	6. Other monthly income (8 weeks) (specify currency)
--	--

7. Current marital status

<input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Partner <input type="checkbox"/> Divorced <input type="checkbox"/> Separated
--

Section C provides income information about the creditor's current spouse, partner, or other household member who is contributing to the creditor's household expenses. Depending upon the laws of the requested State, the availability of such income may impact establishment of the support amount.

Part III of the form provides information about the debtor. It should also be completed to the extent information is known. Section A identifies the debtor's employment, earnings, and present marital status.

Financial Circumstances Form – Page 3

B. Information about debtor's dependents

Family name(s) Given name(s)	Age	Relationship to debtor	Subject of this application?
1.			<input type="checkbox"/> Yes <input type="checkbox"/> No
2.			<input type="checkbox"/> Yes <input type="checkbox"/> No
3.			<input type="checkbox"/> Yes <input type="checkbox"/> No
4.			<input type="checkbox"/> Yes <input type="checkbox"/> No

C. Information about current (1) spouse or (2) partner of debtor (3) other member of the household contributing to the expenses of the household

1. Family income (gross income)	2. Employment?
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3. Estimated gross monthly earnings (specify currency)	4. Other monthly income (8 weeks) (specify currency)

5. The person identified above pays child support maintenance (voluntarily or judicially) administrative decision in the amount of _____ per _____ (specify currency and installment periods). As of _____ (dd mon/yyyy) the total amount paid is: _____ (specify currency) and the total amount outstanding is: _____ (specify currency).

Section B identifies all of the debtor's dependents, including dependents in the debtor's current household.

Section C provides income information about the debtor's current spouse, partner, or other household member who is contributing to the debtor's household expenses. Depending upon the laws of the requested State, the availability of such income may impact establishment of the support amount.

Financial Circumstances Form – Page 3 (cont'd)

Part IV should also be completed for all applications. Section A lists the debtor's assets. Complete it to the extent information is known.

Financial Circumstances Form – Page 4

Section B of Part IV lists any known debts of the debtor.

Section V provides more detailed information about the financial circumstances of the applicant. Regardless of whether the applicant is the creditor or the debtor, you need to complete this section for the Application for Modification of a Decision.

Financial Circumstances Form – Page 6

Part VI of the Financial Circumstances Form addresses medical insurance.

Finally, the form concludes with the attestation language that is common to all Convention forms.

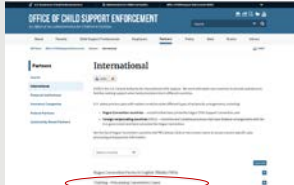
7.16 OCSE RESOURCES ON THE CONVENTION FORMS

OCSE Resources on Convention Forms

- The Hague forms are federally approved and available on the OCSE website in fillable pdf format. See Hague Forms on www.acf.hhs.gov/css/partners/international
- The 14 forms include a mandatory transmittal form, a mandatory acknowledgment form, and 12 recommended forms
- AT-17-06 and DCL-16-21 provide guidance and information about the forms

OCSE issued AT-17-06 and DCL-16-21, which provide guidance and information about the mandatory and recommended Convention forms. OCSE has also formatted the forms into a fillable PDF format, which you can access from the OCSE website. The Hague forms were recently re-approved by the Office of Management and Budget for a three year period. The forms on the OCSE website now have an expiration date of April 30, 2020.

OCSE International Page




The screenshot shows the OCSE International page. A red circle highlights the link "Hague Convention Forms and Guidelines" with the URL www.acf.hhs.gov/css/partners/international below it.

This slide shows OCSE's International page and indicates where to access the Hague Convention forms.

7.17 TRANSLATION OF OUTGOING DOCUMENTS FROM UNITED STATES

Translation of Outgoing Documents from U.S.

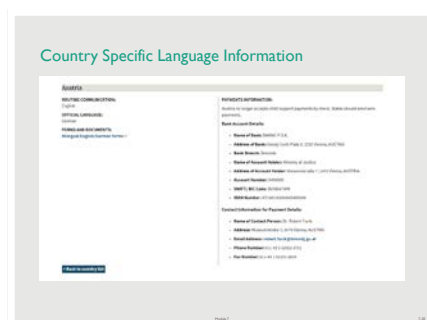
- Outgoing Application and related documents
 - Original language
 - Translation into language of requested State or another language State has declared it will accept
- Communication to requested Central Authority, including Transmittal & Acknowledgment
 - Language of requested State, or
 - English or French, unless reservation
- Source
 - Article 44 of Hague Child Support Convention



Article 44 of the Hague Child Support Convention addresses translation of documents and communications.

Any application and related documents, such as the child support order, must be in the original language. It must be accompanied by a translation into an official language of the requested State or another language which the requested State has declared it will accept, unless the competent authority of that State dispenses with translation.

Unless otherwise agreed by the Central Authorities, any other communications between such Authorities must be in an official language of the requested State or in either English or French. However, a Contracting State may make a reservation objecting to the use of either English or French. For example, the U.S. has objected to the use of French when a Central Authority communicates with us. Such a reservation will be noted in the Status Table on the Child Support page of the Hague Conference website. You can also learn about a country's language requirements by checking its Country Profile.



The quickest way to learn a country's language requirements is to go to OCSE's international page and use the drop down menu for "Select a country."

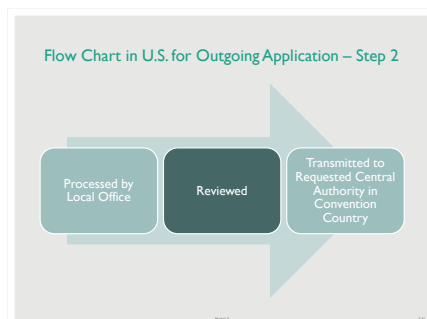
This slide shows the information available for each Convention country or FRC. We're using Austria as an example. On the left is information about that country's language requirements. It informs you of the communication language – generally English is acceptable in Convention cases, except for two countries (France and Luxembourg). It identifies the country's official language. And it also informs you of the required language for translation of forms and documents. If OCSE has forms translated into the

required language, there is a hyperlink to such forms. For example, Austria accepts German/English bilingual forms.

Please review the language information carefully when preparing cases to send to another Hague country. If you need a Convention form in a language that is not currently accessible from the OCSE website, please contact OCSE for help.

While OCSE urges all states to have general policies concerning translation, there is no federally mandated type of translation provider. Some states use a single state contracted translation provider. Other states allow county child support agencies to access translation services as needed, with no overall state oversight. Often, child support agencies reach out to local universities or colleges to obtain translation services. At least one state requires county child support programs to request translation services through the Central Registry for review before the county is permitted to send the documents to the state translation provider.

7.18 FLOW CHART IN U.S. FOR OUTGOING APPLICATION – STEP TWO

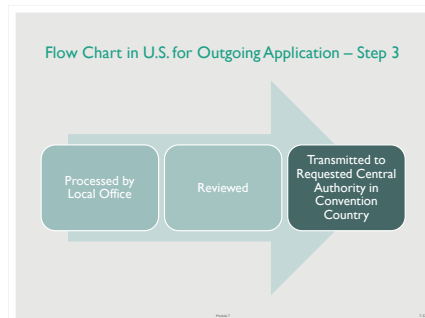


Before transmitting the application, Article 12 of the Convention requires the requesting Central Authority to review the application to ensure that it complies with the Convention.

One implementation question a state IV-D agency needs to answer is whether applications will go directly from the local IV-D office to the requested Central Authority – as currently done in most states in international cases – or whether the agency wants to centralize a final review of all outgoing Convention applications. Currently there is no federal requirement to centralize the review or transmission of an application. However,

some states are considering centralization in order to establish expertise in Convention provisions. OCSE encourages specialization in international case processing and will work with states to share best practices.

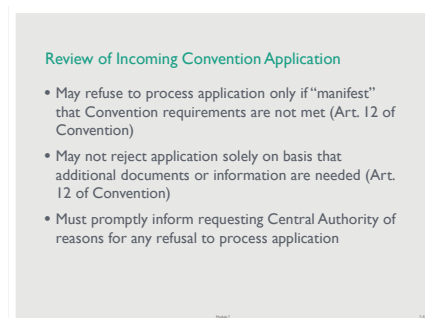
7.19 FLOW CHART IN U.S. FOR OUTGOING APPLICATION – STEP THREE



The next slides focus on what happens once a IV-D agency has transmitted an Application for Modification to the requested Central Authority in the Convention country.

How will you know the address of the country's Central Authority? You should check the country's Country Profile. As noted earlier, you can also find information about the Central Authority by clicking on the word "Authorities" on the right-hand column of the Child Support page of the Hague Conference website.

7.20 REVIEW OF INCOMING CONVENTION APPLICATION BY REQUESTED CENTRAL AUTHORITY



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

First, it may refuse to process an application only if it is manifest that Convention requirements are not met. According to the Convention's Explanatory Report, "manifest" means it must be clear on the face of the documents that the requirements are not fulfilled.¹¹ The Explanatory Report further states that 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.¹²

The Explanatory Report gives the following example of when it might be manifest that Convention requirements are not met: 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.¹³

Second, the Central Authority may not reject an application solely because additional documents or information are needed. If additional information is needed, the Central Authority should ask the requesting Central Authority for the information. If the information or documents are not provided within three months – or whatever longer time period is specified – the Convention allows a country to decide not to process the application. In the rare case where the requested Central Authority decides to refuse to process the application, there must be prompt notice to the requesting State. Hopefully, with the Convention's emphasis on administrative cooperation, that outcome will be very rare.

In Module 6 we talked about each of these provisions in the context of an incoming application to the U.S. and the role of the state Central Registry.

¹¹ Para. 344 of the Explanatory Report.

¹² See Para. 346 of the Explanatory Report.

¹³ Para. 345 of the Explanatory Report.

7.21 ROLE OF REQUESTED CENTRAL AUTHORITY

Role of Requested Central Authority

- Responsibilities – Article 12 of Convention
 - Within 6 weeks from receipt of application
 - Send acknowledgment form
 - 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

Page 7 18

With this slide we focus on the role of the requested Central Authority. What happens after it receives and reviews an application from a U.S. child support agency? Article 12 sets out several requirements, including timeframes for taking action. This is unusual for a Hague Convention and an 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 six weeks. There is a mandatory Acknowledgment form that must be used. The acknowledgment will also inform you about what initial steps have been taken, identify any needed additional documents, and provide contact information.

Within three months of the Acknowledgment, the Central Authority in the requested State is also required by the Convention to provide a status update. You don't have to request that initial status update.

Case Processing 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

Page 7 18

The Convention outlines general case processing responsibilities that the Central Authority has when receiving applications from a Convention country. This slide summarizes measures that Article 6 requires, if appropriate. We discussed these

measures during the Module 2 webinar. If you recall, the required role of the requested Central Authority is usually to facilitate or help with these measures. Although many of the measures seem more related to helping a creditor applicant, assistance in locating a creditor may be needed when the creditor is the respondent to an application by the debtor for modification of a decision.¹⁴

[Note to Trainer: The following information is provided in the Trainer Notes for Module 2.

A requested Central Authority 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;

¹⁴ Para. 136 of the Explanatory Report.

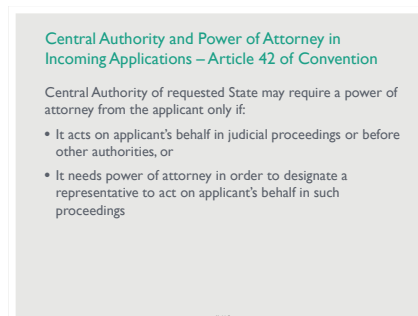
- Initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application.

What does this mean? The Central Authority may need to begin proceedings 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.

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.]

7.22 REQUESTED CENTRAL AUTHORITY AND POWER OF ATTORNEY



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, such as Sweden, 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

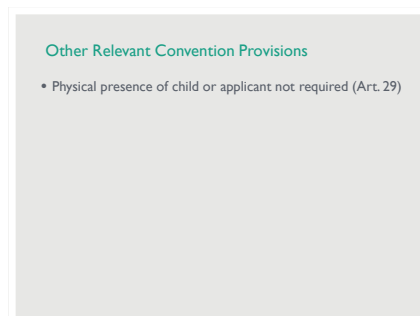
the applicant in order to represent the applicant before authorities. The Country Profile will let you know whether a power of attorney form is required.

7.23 LAW OF FORUM



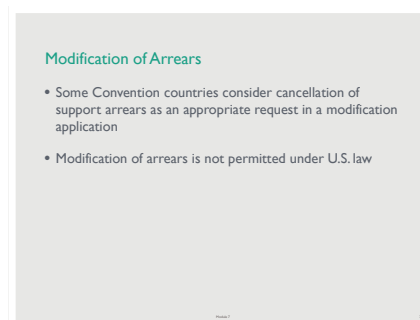
Regardless of what country issued the support order, the competent authority in the requested State will apply its country's laws and defenses regarding the availability of modification. If the competent authority modifies the order, it will determine the support amount based on the laws in its country. Check the Country Profile to learn more about a country's modification laws, including whether it uses support guidelines.

7.24 OTHER RELEVANT CONVENTION PROVISIONS



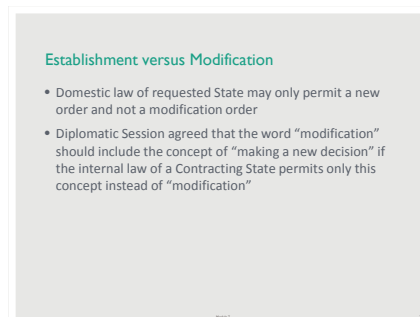
Article 6 requires the requested Central Authority to initiate or help initiate any necessary proceedings in the requested State related to the Application for Modification. If there is a proceeding, Article 29 prohibits any requirement that the child or applicant be physically present in the proceeding.

7.25 MODIFICATION OF ARREARS



Some Convention countries allow cancellation of support arrears through a modification action. However, that is not permitted in the United States. Under federal law, support arrears are vested judgments in favor of the obligee and retroactive modification, prior to the date of the filing of the petition, is prohibited.¹⁵ Therefore, if a requested State modifies arrears under a U.S. order that has been transmitted to the country for modification, it is unlikely a U.S. tribunal will later recognize that arrears modification.

7.26 ESTABLISHMENT VERSUS MODIFICATION



In some countries, the domestic law only allows the competent authority to make a new decision, and not a modification decision. As the result would be the same regardless of the terms used, a Contracting State would be in compliance with its obligation to provide for modification decisions under the Convention if it made a new decision upon a request for a modification decision. The Diplomatic Session agreed that the word

¹⁵ See 42 U.S.C. § 666(a)(9).

“modification” should include the concept of “making a new decision” if the domestic law of a Contracting State permits only this concept instead of “modification.”¹⁶

7.27 MODIFIED OR NEW ORDER



If the competent authority in the requested State modifies the order, this modified order constitutes a Convention order. Should the creditor need to enforce this order in a different Convention country, the creditor may transmit the order along with a Convention Article 10 application for recognition and enforcement to the Convention country. Similarly, if the modification reduces or suspends the debtor’s support obligation, the debtor may send an application for recognition and enforcement of the modified order to the Convention country that originally issued the order.¹⁷

7.28 CASE SCENARIOS – OUTGOING APPLICATION

The next slides present two case scenarios.



In the first scenario, the obligee resides in Virginia. She has a support order that was issued in South Carolina. The obligor lives in England. The obligee wants an increase in

¹⁶ See Para. 264 of the Explanatory Report.

¹⁷ See Para. 268 of the Explanatory Report.

support. Assuming she receives IV-D services, what steps should the child support agency take to help her seek a modification?

[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should identify the steps the child support agency needs to take.

The first step is to review the application, asking the following questions:

- Where was the decision made? The decision was made in South Carolina.
- Where does the obligee now reside? The obligee resides in Virginia.
- Where does the obligor reside? The obligor resides in England, which is a Convention country.
- What is the appropriate forum for modification?
 - Since the order is a U.S. order, does the issuing state of South Carolina have continuing, exclusive jurisdiction (CEJ) to modify the order? No, South Carolina lacks CEJ because no party or child resides in South Carolina.
 - Does UIFSA Section 611(f) apply? Yes, because the obligee continues to reside in the United States and the obligor resides outside the country.
 - Is there a U.S. forum for modification? Yes, based on Section 611(f) of UIFSA, the child support agency can send a UIFSA request to South Carolina asking it to modify its own order.

Assume South Carolina acts on the request by New York to modify the South Carolina order.

- How will South Carolina provide notice to the obligor?

Notice must be provided based on South Carolina law. If needed, under Article 7 of the Convention, South Carolina can ask the Central Authority for England to help locate or contact the obligor or facilitate the service of documents.

- If the obligee wants to enforce the modified order in England, where the obligor has income and assets, what steps should the Virginia child support agency take?

Because the modified order is a Convention order, the child support agency can transmit an application for recognition and enforcement of the modified order to England.]



In this scenario, the obligee resides in New York. She has a support order that was issued in Italy. The obligor lives in France. The obligee wants an increase in support. Assuming she receives IV-D services, what steps should the child support agency take to help her seek a modification?

[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should identify the steps the child support agency should take.

- The first step is to review the facts of the case. The main questions to ask are:
 - Where was the decision made? The decision was issued in Italy.
 - Where does the obligee now reside? The obligee resides in New York.
 - Where does the obligor reside? The obligor resides in France, which is a Convention country.
 - Based on those facts, what is the appropriate forum for modification?

The obligee can seek modification in a country with jurisdiction over the obligor. Because she will ultimately need to enforce the order in the country where the obligor has income and assets, the agency may determine that the most appropriate forum for modification is France, where the obligor now resides.

- The next step is to prepare the application.
 - Check the Country Profile for France to determine the documents it requires. For example, does it require a certified copy of the support order?
 - Obtain any needed translations.
- The third step is to review the application to ensure it complies with Convention requirements.
- The fourth step is to transmit the application to the Central Authority in France.]



We will assume that New York has completed the application, rounded up all the required additional documents, and transmitted everything to the Central Authority in France.

What steps should the French Central Authority take?

[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should identify the steps the requested Central Authority in France should take.

It should timely acknowledge the application and promptly forward the application and documents to the competent authority in France with authority to modify the support order. Within three months of the acknowledgment, it should send New York a status update.]

What steps should the competent authority in France take?

[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should identify the steps the competent authority in France should take.

It will follow French law regarding modification, including its jurisdictional rules. French law will govern whether the Italian order must first be recognized before it can be modified. Under many countries' laws, that step is not needed. French law will also govern the availability of modification and the determination of any modified amount.]

If the obligee wants Italy to recognize the modification of its order, what steps should the New York child support agency take?

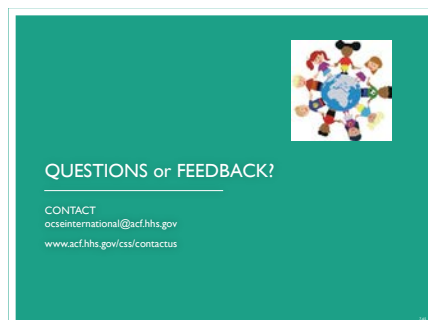
[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should identify the steps the New York child support agency should take.

Because the modified order is a Convention order, the child support agency can transmit an application for recognition and enforcement of the modified order to Italy. In that case, it will need the competent authority in France to also complete a Statement of Enforceability and, depending on the circumstances, a Statement of Proper Notice.]

7.29 QUESTIONS OR FEEDBACK

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 discussed an outgoing Application to Modify a Support Decision. The next module will discuss issues related to implementation of the Hague Convention in the United States.



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.