

A Caseworker's Guide to Processing Cases with Switzerland

A Caseworker's Guide to Processing Cases with Switzerland provides contact and policy information and describes basic requirements for forms and procedures for use in cases between Switzerland and U.S. jurisdictions. We derived policy information for this Guide from materials that Switzerland submitted to the Permanent Bureau of the Hague Conference on Private International Law and from discussions with the Swiss government.

Switzerland, like the United States, is a federal state and the authorities in the cantons establish both paternity and support orders and enforce maintenance orders. The respective applications under the international agreement between the United States and Switzerland have to be sent to the Swiss Central Authority in Berne. Information about the correspondence with the Swiss authorities is indicated in Part B.

The text of the international agreement between the United States and Switzerland may be found in *Part A*, or at <http://www.acf.hhs.gov/programs/cse/international/index.html>. The international agreement is binding on the cantons as well as on the Swiss federal authority.

A Caseworker's Guide to Processing Cases with Switzerland contains the following information:

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Part A: International Agreement between the U.S. and Switzerland

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE SWISS CONFEDERATION
FOR THE ENFORCEMENT OF MAINTENANCE (SUPPORT) OBLIGATIONS

The Government of the United States of America

and

the Government of the Swiss Confederation (hereinafter referred to as Switzerland)

(hereinafter referred to as the Parties),

Resolved to establish a uniform and effective framework for the enforcement of maintenance obligations and the recognition of maintenance decisions, and

In accordance with procedures for the conclusion of executive agreements and authorized by the United States Congress in section 459A of the Social Security Act, Title 42, United States Code, section 659A,

Have agreed as follows:

Article 1

Objective

1. Subject to the provisions of this Agreement, the Parties hereby seek to provide for:

a. the recovery of maintenance or the reimbursement of maintenance to which a maintenance creditor or a public body having provided benefits for a maintenance creditor residing in one State Party (hereinafter referred to as the claimant) is entitled from a maintenance debtor who is residing in the other State Party (hereinafter referred to as the respondent), and

b. the recognition and enforcement of maintenance orders, reimbursement orders and settlements (hereinafter referred to as maintenance decisions) made or recognized within the jurisdiction of either Party.

2. Establishment of decisions will, to the extent possible, be done in the State Party where the creditor resides.

Article 2

Scope

1. This Agreement shall apply to child or spousal maintenance obligations, including a maintenance obligation towards a child born out of wedlock. However, a maintenance obligation towards a spouse or former spouse where there is no request for maintenance for children will be enforced on the basis of reciprocity between Switzerland and the individual states and other jurisdictions of the United States.

2. This Agreement applies to the collection of payment arrears on a valid maintenance obligation and any applicable interest on arrears and to the modification or other official change in amounts due under an existing maintenance obligation.

3. The remedies provided for in this Agreement are not exclusive and do not affect the availability of any other remedies for the enforcement of a valid maintenance obligation.

Article 3

Central Authorities

1. The Parties shall each designate a body as Central Authority which shall facilitate compliance with the provisions of this Agreement.

2. The Central Authority for Switzerland shall be the Federal Office of Justice, Private International Law Section.

3. The Central Authority for the United States of America shall be the Office of Child Support Enforcement in the Department of Health and Human Services, as authorized by Title IV-D of the Social Security Act.

4. The Parties may designate additional public bodies to carry out any of the provisions of this Agreement in co-ordination with the Central Authority.

5. Any changes in the designation of the Central Authority or other public bodies by one Party shall be communicated promptly to the Central Authority of the other Party.

6. Communications shall be addressed by the Central Authority or other public body of one Party directly to the Central Authority or other responsible public body of the other Party as designated by that Party.

Article 4

Applications and Transmission of Documents and Judicial Assistance

1. An application for the recovery or reimbursement or recognition and enforcement of maintenance from a respondent

residing in one of the States Parties (hereinafter the Requested Party) shall be made by the Central Authority or other designated public body of the other Party (hereinafter the Requesting Party), in conformity with the applicable procedures of both the Requesting and Requested Parties.

2. The application shall be made on a standard form in English and German, French, or Italian, depending on the official language of the Swiss Canton concerned, to be agreed upon by the Central Authorities of both Parties, and shall be accompanied by all relevant documents. All documents shall be translated into the language of the Requested Party. For requests to Switzerland, this is the official language of the Canton where the request is to be executed. Switzerland shall draw up a list of the Cantons with their official languages.

3. The Central Authority or other designated public body of the Requesting Party shall transmit the documents referred to in paragraphs 2 and 5 of this Article to the Central Authority or other designated public body of the Requested Party.

4. Before transmitting the documents to the Requested Party, the Central Authority or other designated public body of the Requesting Party shall satisfy itself that they comply with the law of the Requesting Party, the Requested Party and the requirements of this Agreement.

5. When the application is based on, or the documents include, a decision issued by a competent court or agency:

a. the Central Authority or other designated public body of the Requesting Party shall transmit a copy of the decision certified or verified in accordance with the requirements of the Requested Party;

b. the decision shall be accompanied by a statement of finality or, if not final, a statement of enforceability and by evidence that the respondent has appeared in the proceedings or has been given notice and an opportunity to appear;

c. the Central Authority or other designated public body of the Requesting Party shall notify the Central Authority or other designated public body of the Requested Party of any subsequent change by operation of law in the amount required to be enforced under the decision.

6. In carrying out their tasks under this Agreement, the Parties shall provide each other assistance and information within the limits of their respective laws, and consistent with any treaties related to judicial assistance in force between the Parties.

7. All documents transmitted under this Agreement shall be exempt from legalization.

Article 5

Functions of the Central Authority of the Requested Party

The Central Authority or other designated public body of the Requested Party shall take on behalf of the claimant all appropriate steps for the recovery, reimbursement or enforcement of maintenance, including locating the respondent, instituting and prosecuting proceedings for maintenance, determining parentage where necessary, executing any judicial or administrative decision and collecting and distributing payments collected.

Article 6

Cost of services

Each Central Authority shall bear its own costs, without costs to the claimant. Enforcement of a decision issued by a competent court or agency and all other procedures described in this Agreement and necessary legal and administrative assistance shall be provided by the Requested Party without cost to the claimant. However, Switzerland, when executing requests for the establishment of parentage and child or spousal maintenance, may assess the costs for court procedures, including blood or tissue tests, against the losing party who does not meet the means test for the provision of legal aid. A Party may assess costs in any proceeding against the respondent appearing in that Party's jurisdiction.

Article 7

Recognition and enforcement of maintenance decisions

1. Maintenance decisions, including maintenance decisions arising from a determination of parentage, from the Requesting Party shall be recognized and enforced in the Requested Party to the extent that the facts in the case support recognition and enforcement under the applicable laws and procedures of the Requested Party.

2. Maintenance decisions made after the failure of the respondent to appear shall be considered as decisions under paragraph 1 if it is demonstrated that notice had been given and the opportunity to be heard had been satisfied in a way to satisfy the standards of the Requested Party.

Article 8

Applicable Law

1. All actions and proceedings under this Agreement by either Party shall be carried out pursuant to the law including choice of law provisions and procedures of that Party.

2. The physical presence of the child or custodial parent shall not be mandatory in proceedings under this Agreement.

Article 9

Territorial Application

For the United States of America, this Agreement shall apply to the fifty states, the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, and any other jurisdiction of the United States participating in Title IV-D of the Social Security Act.

Article 10

Entry into force

1. This Agreement shall enter into force 30 calendar days after both parties have signed.

2. This Agreement shall apply to any outstanding maintenance decision, or payment accrued under such decision, regardless of the date of that decision.

Article 11

Termination

1. Either Party may terminate this Agreement by notification in writing addressed to the other Party through the diplomatic channel.

2. The termination shall take effect on the first day of the first month following the receipt of the notification.

3. In the event that either Party's domestic legal authority to carry out its obligations under this Agreement ceases, in whole or in part, either Party may suspend application of this Agreement, or with the agreement of the other Party, any part of this Agreement, after timely notification addressed to the other Party in writing. In that event, the Parties will seek, to the fullest extent practicable in accordance with domestic law, to minimize unfavorable effects on the continuing recognition and enforcement of maintenance obligations covered by this Agreement; in particular, they shall seek to ensure that cases are resolved.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Washington, in duplicate, in the English and French languages, both of which are equally authentic, on this 31st day of August, 2004.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
SWISS CONFEDERATION:

/s/

/s/

Part B: Outgoing Child Support Packages from the U.S. to Switzerland

Cases are to be sent to Switzerland's Central Authority, the Federal Office of Justice. Requests are received and examined for their sufficiency. They are then forwarded to the appropriate canton for action. When establishing or modifying a child support order, please note that *there may be additional procedures to follow* because Switzerland follows the Hague Service and Evidence Conventions as the exclusive method for service of documents and providing evidence in a case (see the later discussion).

All correspondence to Switzerland must be sent to the Swiss Central Authority in Berne and not directly to the authorities of the cantons. Even when responding to an individual canton's request, the U.S. response should be sent to the Federal Office of Justice, which will facilitate communication with the canton.

The address for Switzerland's Central Authority is:

Federal Office of Justice

Central authority for maintenance matters
Bundesrain, 20
3003 Bern
Switzerland

<http://ocse.acf.hhs.gov/ext/irg/sps/selectastate.cfm>

However, as discussed in Part C, *the U.S. IV-D agency should send payments directly to the initiating Swiss canton.*

Part E, provides the list of cantons and the official language (French, German or Italian) used in each canton. **U.S. States need to send appropriate forms to the Central Authority, to ensure that the language of the canton working on the case is used.**

As indicated in Part E, four of the cantons have two official languages, guided by the cantons' regions. *If there are questions about which official language should be used to send information or documents to the canton where the obligor resides, please contact the Swiss Central Authority for assistance.* While headings for the various data elements on these forms are in French, German, and Italian, as well as English, the information itself needs to be in a language acceptable to the responding authority. While proper names need no special treatment, care must be taken that other information is translated and that the type of currency is identified.

Forms

Switzerland requires a Switzerland **Application Form**, *which must be signed by the individual applicant.* Where establishment of a paternity and support order or of a support order is sought, this application requires an affirmative statement that the U.S. State is unable to assert

jurisdiction in the case. It is sufficient to note that State law does not provide for jurisdiction based solely on the presence of the child in the State, and there is no basis for the State to assert long arm jurisdiction over the respondent under UIFSA or other State law.

A **Power of Attorney** form also must accompany all actions, to authorize the Federal Office of Justice to work the case on behalf of the applicant, and to transfer that power to the appropriate cantonal authority. *This must also be signed by the individual applicant.*

Additionally, any request to recognize and enforce an existing order must be accompanied by a certification that the order is enforceable in the issuing jurisdiction, unless the order itself contains such language or states that it is a final order. There also must be evidence that the respondent appeared in the proceeding or was given notice and the opportunity to appear.

Swiss officials further request that U.S. States provide the child's birth certificate (certified copy or original), the original or a certified copy of the order and a detailed calculation of the payments and arrears, i.e., amounts owed originally, payments made and amounts still unpaid.

Switzerland does not require forms equivalent to the federally-promulgated UIFSA case-processing forms. States, however, may find it useful to send the bilingual version of these forms. As discussed below, the information may prove useful to inform Swiss officials working the case on behalf of a U.S. petitioner, although they are unlikely to be admitted into evidence. French, German, and Italian bilingual versions of the internationalized UIFSA forms may be requested from the Office of Child Support Enforcement (OCSE) at OCSEinternational@acf.hhs.gov.

Note that when seeking recognition and enforcement of an order in Switzerland, minimal documents are required. States should also note, when completing the bilingual forms, that under Swiss law, the term "creditor" refers to the child to whom support is due. The custodial parent is the child's legal representative under Swiss law, who, for example, may seek support and paternity establishment on the child's behalf.

Evidence

With regard to establishment of parentage and child support, establishment of a support order, or modification of an existing child support order, the following information on Swiss law and procedure is important:

Both the U.S. and Switzerland are signatories to the Hague Evidence Convention and the Hague Service of Process Convention. The U.S. Central Authority for these conventions is the U.S. Department of Justice. In Switzerland, each canton has a designated central authority; there is an authority on the federal level that will transmit requests to the cantonal authorities. The U.S. does not consider the Evidence Convention as the exclusive method of obtaining and submitting evidence in international cases. However, Swiss law requires the exclusive use of the Hague Evidence Convention in such cases. Furthermore, Switzerland requires the application of the Service of Process Convention.

Most probably a lawyer in Switzerland will represent the U.S. party in cases of establishment of parentage and child support and of establishment of maintenance only. The support petition, general testimony, and paternity affidavit are not required under Swiss law. However, in practice, the Swiss agency will use the information provided in those documents to ascertain the child support obligation. Accordingly, it is recommended that the petitioner complete those forms and submit them, together with any supporting documentation, with the original transmittal. A U.S. party may provide additional voluntary evidence directly to the lawyer in Switzerland, as requested.

In those rare cases where the voluntary evidence is not sufficient and the Swiss court orders further evidence from the U.S. party, the Hague Evidence Convention comes into play. In such situations, the request for additional evidence will be made by the court to the designated U.S. authority under the Hague Evidence Convention. This will not be the State child support agency or OCSE.

Information and Resources: Evidence and Service of Process Conventions

The U.S. Central Authority for the Hague Evidence and Service of Process Conventions is:

The Office of International Judicial Assistance, Civil Division
Department of Justice
1100 L St., N.W., Room 11006
Washington, D.C. 20530
Phone: 202-307-0983
Fax: 202-514-6584

See also these Web sites:

http://www.travel.state.gov/law/info/judicial/judicial_686.html (Service of Process) and
http://www.travel.state.gov/law/info/judicial/judicial_689.html (Evidence).

Information on both conventions and the cantonal authorities handling evidence and service requests is also available from the U.S. State Department at
http://bern.usembassy.gov/judicial_asst.html.

For information from the Swiss government, caseworkers or attorneys may wish to start at:
<http://www.elorge.admin.ch/elorge/e/index.html> or
http://www.bj.admin.ch/bj/en/home/themen/sicherheit/internationale_rechthilfe/rechtshilfe_in_zivilsachen.html

Further and detailed information on service of documents and taking evidence in cases with Switzerland can be found in English (and also in German, French, and Italian) in the Guidelines on International Judicial Assistance in civil matters, established by the Federal Office of Justice, by following the civil matters guidelines links in either site above. You may also start at www.rhf.admin.ch which is the home page. You will then need to click on the links at right: either [Internationale Rechtshilfe](#), or [Elorge](#), and also choose the “English” option at top right.

With respect to recognition and enforcement of an existing support order, particular attention has to be paid that paternity has been established before a support order may be enforced. As in the U.S., paternity is established for all purposes in Switzerland. Where enforcement of U.S. support and paternity orders or support orders is sought in Switzerland, the U.S. order or supporting document must confirm that the respondent appeared in the proceeding or was given notice and the opportunity to appear.

The choice of law rules in Switzerland may differ from those in the U.S. Switzerland applies the Convention of October 2, 1973, on the Law Applicable to Maintenance Obligations. Very often, the applicable rules are those where the child is habitually resident, so the law of the child's resident U.S. State controls. Therefore, in an establishment case sent to Switzerland, the IV-D agency should provide a copy of the applicable State's child support guideline, together with any relevant State law, such as statute of limitations, period of retroactivity or duration of the support obligation.

Locate

Swiss law precludes a search for assets before a request for recognition and enforcement has been filed. However, requests to locate persons can be sent to the Swiss agency.

If a U.S. State is requesting assistance in service of process of a Swiss resident for a case being heard in the U.S., such service must be completed in accord with the Hague Convention on Service of Process. As in the U.S., the Swiss Central Authority under the Convention is not the same as that under the bilateral agreement on child support and maintenance. Pursuant to the bilateral agreement, no fee will be charged for service of process.

Further information about Switzerland policy and procedures may be found in the policy template at [Part D].

The chart below, *Forms from U.S. to Switzerland*, summarizes the forms that must be sent to Switzerland to process various case actions (see Part F).

Forms from U.S. to Switzerland¹ (see Part F for Switzerland forms)

| IF the person in the U.S. wants to.... | THEN complete these forms and documents... |
|---|---|
| Establish a new (initial) support order in Switzerland, including the establishment of paternity | <ul style="list-style-type: none"> • Switzerland Application Form • Switzerland Power of Attorney • Supporting documentation/evidence, including birth certificate of child • <i>Recommended:</i> State child support guideline with instructions and any applicable legal rules (e.g. duration) |
| Recognize and enforce an existing order in Switzerland | <ul style="list-style-type: none"> • Switzerland Application Form • Switzerland Power of Attorney • Original or certified copy of existing (controlling) order • Evidence that the order is final or enforceable in the issuing jurisdiction and of participation in hearing or of notice and opportunity to appear, unless such language is in the order • Copy of child's birth certificate • Statement of arrears or official record of IV-D agency, including detailed calculation of arrears (amounts owed originally, payments made and amounts still unpaid) |
| Recognize & modify an existing order in Switzerland because the order is not modifiable in the U.S. | <ul style="list-style-type: none"> • Switzerland Application Form • Switzerland Power of Attorney • Certified copy of existing (controlling) order • Supporting documentation/evidence, including child's birth certificate • Evidence that the order is final or enforceable in the issuing jurisdiction and of participation in hearing or of notice and opportunity to appear, unless such language is in the order • <i>Recommended:</i> State child support guideline with instructions and any applicable legal rules (e.g. duration) |
| Request modification of an existing Switzerland Order or Agreement | <ul style="list-style-type: none"> • Switzerland Application Form • Switzerland Power of Attorney • Original or certified copy of Switzerland order • Supporting Documentation/Evidence, including child's birth certificate |

¹ If States opt to also send bilingual UIFSA forms (in Italian, French or German, as appropriate), the following forms may be requested via e-mail to OCSEinternational@acf.hhs.gov: Uniform Support Petition; General Testimony; Affidavit in Support of Establishing Paternity; Locate Person Sheet

| IF the person in the U.S. wants to.... | THEN complete these forms and documents... |
|---|---|
| Locate a debtor in Switzerland | <ul style="list-style-type: none"> • No form is required; the following should be indicated in the request: <ul style="list-style-type: none"> • Reference to the bilateral agreement between the U.S. and Switzerland • Name of the debtor, date of birth, place of origin, nationality, last known address in Switzerland |
| Request status, assistance, or information | <ul style="list-style-type: none"> • No form is required |

Part C: Incoming Child Support Packages from Switzerland to the U.S.

Cases shall be sent from Switzerland directly to the specific State in which the obligated parent lives. As with other international agreements, the physical presence of the child or custodial parent is not mandatory to establish and enforce a case, and spousal-only cases can be enforced on the basis of reciprocity between Switzerland and the individual State/jurisdiction. In addition, States must accept Swiss requests to collect interest on arrears. Swiss courts also may issue child support orders with automatic cost of living adjustments.

If the State in which the obligor is living is unknown, Switzerland may send a request to the U.S. Central Authority, the Federal Office of Child Support Enforcement (OCSE), so that the Central Authority can use the Federal Parent Locator Service to try to locate the State in which the obligor resides.

Information on laws/policy of individual U.S. States, similar to that which follows regarding Swiss law, can be found for each State on the U.S. Office of Child Support Enforcement's online Intergovernmental Referral Guide (IRG): <http://ocse3.acf.hhs.gov/ext/irg/sps/selectastate.cfm>.

Forms

Switzerland has *not* agreed to use bilingual UIFSA forms and may provide information required to process cases using equivalent documentation. It is anticipated that Switzerland will send the forms Swiss law requires: the Switzerland Application Form and Switzerland Power of Attorney.

Switzerland will initiate requests to the U.S. in English, using multilingual English and French/German/Italian forms. Pursuant to the international agreement between the U.S. and Switzerland, the following information will be included with the forms: supporting documentation/evidence, including child's birth certificate; and (where registration and enforcement of a Swiss order is sought) a statement that the order has entered into force, is final or enforceable in the issuing jurisdiction and of participation in the hearing or of notice and opportunity to appear, unless such language is already in the order.

Notary publics serve a slightly different function in Switzerland than in the U.S and are expensive. Swiss officials state they are working with the cantons to establish a procedure whereby some forms could be signed by the Swiss petitioner and the competent cantonal authority.

Translators are not public officials in Switzerland and, as noted earlier, notarization is rare and expensive. The translator will sign the order with a statement that the translation is true and correct. In most cases, the entire order will be translated. However, some Swiss orders contain lengthy descriptions of the rationale for the decision, perhaps extending 30-50 pages. In these cases and due to the expense of translation, in the case of such a lengthy order, the Swiss authorities may limit the translation to the first page, the jurisdictional and notice provisions, all decisional provisions, and the final page of the order. They will also include a statement that all portions of the order relevant to support have been translated. A copy of the entire order in the

original language will also be provided. If a respondent or the tribunal requests the entire order (or a specific additional portion) be translated, State child support authorities shall make that request through the Federal Office of Justice. Because translation and notarization costs are high, in all cases the Swiss petitioner may request the U.S. tribunal to assess these costs against the obligor.

Evidence

Where the U.S. agency or tribunal requires additional testimony or evidence from the Swiss petitioner, such may be requested. However, Swiss officials have advised that given the Swiss position that the Hague Evidence Convention is the exclusive method of giving and obtaining testimony in international cases, it is likely that they will only provide testimony using the Convention. If in proceedings in the U.S., the court wants to obtain new evidence from the creditor living in Switzerland, including a request for the party in Switzerland to attend a telephonic hearing, the Evidence Convention would apply.

See the links provided to both U.S. and Swiss Web sites for information on using these Conventions.

As discussed in Part B, this process is outside the child support system in both countries. See also Chapter III.A.2. of the “Guidelines on International Judicial Assistance in Civil Matters” of the Federal Office of Justice.

Payment

As discussed in Part B, all correspondence to Switzerland must be sent to the Swiss Central Authority in Berne and not directly to the cantonal authority, even when the request for information came from a canton. The only exception to this requirement is support payments.

The IV-D agency should send all payments directly to the appropriate canton, not to the Swiss Central Authority.

Because the cost of cashing the check often exceeds the amount of a small payment, Switzerland suggests that small payments should be held and forwarded as combined payments. As noted in PIQ-04-01, a IV-D agency may obtain permission from the Swiss custodial parent to send payments using an alternative disbursement timeframe, i.e., bi-weekly, monthly, or bi-monthly. The IV-D agency needs to document the custodial parent’s consent in its records (see PIQ-04-01 at <http://www.acf.hhs.gov/programs/cse/pol/PIQ/2004/piq-04-01.htm>). To the extent available under State law, Swiss officials are interested in working out a mechanism to transfer support payments electronically.

Part D: Policy for Switzerland

The following information regards Swiss law. In international cases, it could arise that the law of another country would have to be applied. This is because Switzerland is a member to the Hague Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations. Switzerland also has a Federal Act on Private International Law which is available on the Internet, in German, French and Italian, at the following address:

www.admin.ch/ch/d/sr/c291.html

Furthermore, what is below is very general information and subject to change. There are still different procedural laws in the different Swiss cantons. There are also sometimes different interpretations by different courts. Therefore, every particular case has to be looked at individually.

The Swiss Civil Code and the Swiss Code of Obligations, in German, French and Italian, are available on the Internet at the following addresses:

www.admin.ch/ch/d/sr/c210.html (Swiss Civil Code)

www.admin.ch/ch/d/sr/c220.html (Swiss Code of Obligations)

| AGE OF MAJORITY | |
|---|--|
| Age of majority in Switzerland | Person attains majority on completing 18th year (Article 14 Swiss Civil Code). |
| How long do parents have to pay child support? | The parents' maintenance obligation continues until the child has reached the age of majority (Article 277 §1 Swiss Civil Code). However, if the child does not yet have an adequate education upon reaching the age of majority, then the parents must provide maintenance to the extent that they can reasonably be expected to do so until a corresponding education can be completed (Article 277 §2, Swiss Civil Code). It is important to look at the individual case. |
| Does Switzerland allow support to be paid beyond the age of majority? | Yes (see above). Furthermore, under certain conditions there is the possibility of maintenance obligations towards descendants and ascendants in the direct line (Article 328 Swiss Civil Code). |
| SERVICE OF PROCESS | |
| Examples of methods that are used to serve process on an individual: | <ul style="list-style-type: none"> • Notification with document of the court and receipt; • Publication; • Fictional Notification; etc. <p><i>In international cases:</i></p> <ul style="list-style-type: none"> • Convention of 1 March 1954 on civil procedure; • Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters; etc. |
| How is a person whose whereabouts are not known, notified of proceedings? | Publication |
| STATUTE OF LIMITATIONS | |
| Is there a statute of limitations for past due support? If yes, describe. | <p><i>Note: The following is general information and lists important Articles in the Swiss Civil Code and the Swiss Code of Obligations. However each case has to be looked at individually.</i></p> <p>Article 279 Swiss Civil Code: A child can bring a claim against his father or mother or both for maintenance for the future and for one year prior to the lodging of the claim.</p> <p>Article 128 point 1 Swiss Code of Obligations: The limitation period for maintenance obligations is five years.</p> <p>Under certain conditions, the statute of limitation does not commence and, if it has begun to run, is suspended (Article 134 Swiss Code of Obligations).</p> <p>The statute of limitation can be interrupted, for example, by acknowledgment of debt by debtor, by commencement of</p> |

| | |
|---|--|
| | <p>proceedings for collection or court action by creditor, etc. (Article 135 Swiss Code of Obligations).</p> <p>Under certain conditions, the statute of limitation can be 10 years.</p> |
| Is there a statute of limitations for establishing paternity? If yes, describe. | If a claim for the establishment of paternity is necessary, see Article 263 Swiss Civil Code. The mother has to bring a claim before the end of one year since birth. The child has to bring a claim before the end of one year after majority. If there is already paternity with another man, the claim can be brought before the end of one year after this paternity ceases. For a later claim, good grounds have to justify the delay. |
| Will Switzerland accept a petition if the only issue is support for a prior period, that is, no child is currently entitled to support? | Yes. However, see comments above. |
| AMOUNT OF SUPPORT | |
| In setting the amount of support, whose income is considered in addition to the income of the non-custodial parent (for example: custodial parent's, custodial parent's new spouse, child's, etc.)? | <p>The general rule is in Article 285 of the Swiss Civil Code.</p> <p>The maintenance contribution should correspond to the child's needs and the parents' standard of living and the parents' ability to pay. The child's assets and income are considered – as well as the contribution to the provision of child care by the parent who was not awarded custody (Article 285 §1 Swiss Civil Code).</p> |
| MODIFICATION OF ORDERS | |
| May either party request a review for modification? | Yes. Article 286 § 2 Swiss Civil Code: The court can on request of a parent or the child change or cancel the maintenance amount if there is a considerable change in the circumstances. |
| Will Switzerland modify its existing domestic judgment when one of the parties resides in the U.S. and will not return for – or refuses to participate in – the proceedings? | This would be an international case. The answer is yes if the Swiss Court has jurisdiction according to Swiss Private International Law and - if Swiss law applies - there are sufficient (considerable) changes in the circumstances (Article 286 § 2 Swiss Civil Code). |
| Does Switzerland law require <u>automatic</u> adjustments (for example, based on changes in the cost of living, or X% every 3 years, etc.)? | There is no automatic indexation of maintenance; however, the court may order such an adjustment based on the change in the cost of living – permitting the order of maintenance to be automatically increased or reduced annually in line with specific changes in the cost of living. (Articles 128 (spouse) and 286 (child) Swiss Code of Civil Law). Usually the child support is adjusted to the national consumer price index each January (based on the November index). Example = base amount x November Index/base index according to the decision. |

| | |
|---|---|
| <p>Is a new order issued as a result of an automatic adjustment?</p> | <p>No.</p> |
| <p>COST RECOVERY</p> | |
| <p>What costs, if any, are recovered from the custodial parent?</p> | <p>The Swiss Central Authority bears its own costs, without cost to the claimant. Enforcement of existing order and necessary legal and administrative assistance are provided at no cost to the claimant.</p> <p>The vast majority of IV-D cases needing establishment of paternity and support obligation will incur no costs. However, costs for court procedures, including blood or tissue tests, may be assessed against the losing party who does not meet the means test for the provision of legal aid.</p> <p>In an establishment case where the custodial parent’s income is too high for free services, the rule is that he or she must pay legal and any other fees only if he or she loses the case. (See U.S. – Switzerland Agreement, Art. 6)</p> <p>Example: if it is proved that the alleged father is not the biological father. Some cantons might require applicants in establishment cases who are not exempt from paying costs to pay all or part of these costs in advance. However, these amounts would ultimately be recovered from the losing obligor.</p> |
| <p>What costs, if any, are recovered from the non-custodial parent?</p> | <p>In an establishment case, costs for court procedures, including blood or tissue tests, may be assessed against a losing party who does not meet the means test for provision of legal aid.</p> <p>Costs may be assessed in any proceeding against the respondent appearing in the Canton’s jurisdiction.</p> |

Part E: List of the Swiss Cantons and Their Official Languages

| Canton | Abbreviation | Official Language |
|------------------------|---------------------|--------------------------|
| Aargau | AG | German |
| Appenzell Ausserrhoden | AR | German |
| Appenzell Innerrhoden | AI | German |
| Basel-Landschaft | BL | German |
| Basel-Stadt | BS | German |
| Bern | BE | German/French |
| Fribourg | FR | French/German |
| Genève | GE | French |
| Glarus | GL | German |
| Graubünden | GR | German/Italian |
| Jura | JU | French |
| Luzern | LU | German |
| Neuchâtel | NE | French |
| Nidwalden | NW | German |
| Obwalden | OW | German |
| Schaffhausen | SH | German |
| Schwyz | SZ | German |
| Solothurn | SO | German |
| St. Gallen | SG | German |
| Thurgau | TG | German |
| Ticino | TI | Italian |
| Uri | UR | German |
| Valais | VS | French/German |
| Vaud | VD | French |
| Zug | ZG | German |
| Zürich | ZH | German |

Part F: Switzerland Forms

Forms to be used for Switzerland can be found on the following pages:

- ✓ APPLICATION FORM
- ✓ POWER OF ATTORNEY

Application Form

Agreement between the government of the Swiss Confederation and the government of the United States of America for the enforcement of maintenance (support) obligations of August 31, 2004

Abkommen zwischen dem Schweizerischen Bundesrat und der Regierung der Vereinigten Staaten von Amerika über die Durchsetzung von Unterhaltsverpflichtungen vom 31. August 2004

Accord entre le Conseil fédéral suisse et le Gouvernement des Etats-Unis d'Amérique relatif à l'exécution des obligations alimentaires du 31 août 2004

Accordo tra il Consiglio federale svizzero e il governo degli Stati Uniti d'America sull'esecuzione delle obbligazioni alimentari del 31 agosto 2004

APPLICATION – GESUCH – REQUETE – RICHIESTA

I. Applicant – Gesuchsteller/in – Requérant – Richiedente

Surname
Name: _____
Nom
Cognome

First names
Vornamen: _____
Prénoms
Nomi

Maiden name
Mädchenname:
Nom de jeune fille
Cognome prima di sposarsi

Nationality
Staatsangehörigkeit:
Nationalité
Nazionalità

Date and place of birth
Geburtsdatum und -ort:
Date et lieu de naissance
Data e luogo di nascita

Residing at
Wohnhaft in:
Résidant à
Residente a

| | | | | |
|----------------------|---------------------------------|----------------------------------|-----------------------------------|-------------------------------------|
| Status: | <input type="checkbox"/> single | <input type="checkbox"/> married | <input type="checkbox"/> divorced | <input type="checkbox"/> widow(er)* |
| Zivilstand: | ledig | verheiratet | geschieden | verwitwet * |
| Etat civil: | célibataire | marié(e) | divorcé(e) | veuf(ve) * |
| Stato civile: | celibe – nubile | sposato(a) | divorziato(a) | vedovo(a) * |

Children – Kinder – Enfants – Figli

| First name(s) Vorname(n) Prénom(s) Nome(i) | Date of birth Geburtsdatum Date de naissance Data di nascita | Occupation or studies pursued Beruf oder Ausbildungsstand Profession ou études en cours Professione o studi in corso |
|---|---|---|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |

Capacity in which payment of maintenance is claimed:

Eigenschaft, in welcher der Unterhalt verlangt wird:

Titre en vertu duquel on réclame le paiement de l'obligation alimentaire:

Situazione in base alla quale è chiesto il pagamento degli alimenti:

- | | | | | | | |
|---|--|--|---|--|---|---|
| <input type="checkbox"/> father Vater père padre | <input type="checkbox"/> mother Mutter mère madre | <input type="checkbox"/> wife Ehegatte épouse coniuge | <input type="checkbox"/> divorced wife geschiedener Ehegatte ex-épouse coniuge divorziato | <input type="checkbox"/> child Kind enfant figlio | <input type="checkbox"/> child(ren)'s guardian Vormund der Kinder tuteur d'enfant(s) tutore del figlio | <input type="checkbox"/> public body * Behörde * autorité * autorità * |
|---|--|--|---|--|---|---|

On behalf of:

Zu Gunsten von:

En faveur de:

A favour di:

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> wife Ehegatte épouse coniuge | <input type="checkbox"/> divorced wife geschiedener Ehegatte ex-épouse coniuge divorziato o separato | <input type="checkbox"/> child Kind enfant figlio | <input type="checkbox"/> public body * Behörde * autorité * autorità * |
|--|---|--|---|

**Check applicable words – Zutreffendes ist anzukreuzen – Cocher ce qui convient – Crociare la casella corrispondente*

II. Debtor – Schuldner/in – Débiteur – Debitore

**Surname
Name
Nom:
Cognome**

**First names
Vornamen
Prénoms:
Nomi**

**Date and place of birth
Geburtsdatum und –ort:
Date et lieu de naissance
Data e luogo di nascita**

**Nationality
Staatsangehörigkeit
Nationalité:
Nazionalità**

Residing at
Wohnhaft in
Résidant à:
Residente a

Canton:
Kanton
Canton:
Cantone

Road
Strasse
Rue:
Strada

Status: single married divorced widow(er) *

Zivilstand: ledig verheiratet geschieden verwitwet *

Etat civil: célibataire marié(e) divorcé(e) veuf(ve) *

Stato civile: celibe – nubile sposato(a) divorziato(a) vedovo(a) *

Occupation
Beruf
Profession:
Professione

Date of leaving home
Datum, an dem die Familie verlassen wurde
Date de départ du foyer:
Data in cui abbandonò la famiglia

Date of entering country of residence
Datum der Einreise in den Aufenthaltsstaat
Date d'entrée dans le pays de résidence:
Data d'entrata nello stato di residenza attuale

III. Further information for the Receiving Agency – Weitere Angaben für die
Empfangsstelle – Autres indications pour l'Institution intermédiaire –
Altre indicazioni per l'istituzione intermediaria

Monthly amount of maintenance that should be paid by the debtor
Höhe der monatlichen Unterhaltsbeiträge, die der/die Schuldner/in bezahlen
muss
Montant de la pension mensuelle que le débiteur doit payer:
Ammontare della pensione mensile che il debitore deve pagare

Has the creditor already received maintenance allowances from the
respondent? yes no *

Hat der/die Gläubiger/in vom resp. von der Schuldner/in bereits ja nein *

Unterhalts-beiträge erhalten? oui non *

Le créancier a-t-il déjà reçu des versements à titre d'aliments de la part sì no *

du débiteur? sì no *

Il creditore ha già ricevuto dal debitore versamenti a titolo di alimenti?

If so, for how much and for which period
Wenn ja, Angabe der Beträge und für welchen Zeitabschnitt
Si oui, indiquer le montant et pour quelle période:
In caso affermativo, indicare l'ammontare e durante quale periodo

Amount of arrears
Höhe des Alimentenrückstandes
Montant de l'arriéré:
Ammontare degli arretrati

* Check applicable words – Zutreffendes ist anzukreuzen – Cocher ce qui convient – Crociare la casella corrispondente

Particulars of the grounds upon which the claim is based:
Angabe der Gründe und der Rechtstitel, auf die der/die Gläubiger/in seinen resp. ihren Anspruch stützt:
Indication des motifs ou de l'acte juridique sur lesquels est fondée la demande du créancier:
Indicazione dei motivi o dell'atto giuridico sui quali si fonda la domanda del creditore:

If there is no decision yet: Explanation why the establishment of the decision can not be done in the State where the creditor resides (article 1 paragraph 2 of the Agreement):
Sofern noch keine Entscheidung (Rechtstitel) vorliegt: Angabe der Gründe, warum diese Entscheidung nicht im Aufenthaltsstaat des Gläubigers / der Gläubigerin erlassen werden kann (Artikel 1 Absatz 2 des Abkommens):
S'il n'existe pas encore de décision (acte juridique): Indication des motifs pour lesquels la décision ne peut pas être rendue dans l'Etat où réside le créancier (article 1 alinéa 2 de l'Accord):
Se non c'è ancora una decisione (atto giuridico): Indicazione dei motivi per i quali la decisione non può essere resa nello Stato in cui risiede il creditore (articolo 1 paragrafo 2 dell' Accordo):

Address at which maintenance should be paid (bank account number, BIC, bankaddress, address of the account holder):

Angabe der Adresse, an welche die Unterhaltsbeiträge zu bezahlen sind (Bankkonto, BIC, Bankadresse, Adresse des Kontoinhabers):
 Adresse, à laquelle doivent être payés les aliments (compte bancaire, BIC, références bancaires, adresse du titulaire du compte):
 Indirizzo al quale vanno pagati gli alimenti (conto bancario, BIC, indirizzo della banca, indirizzo del titolare del conto):

The undersigned applicant, on the grounds stated above, requests the Receiving Agency to take all appropriate steps against the debtor.

Gestützt auf die vorstehenden Angaben ersucht der/die unterzeichnende Gesuchsteller/in die zuständige Empfangsstelle, die erforderlichen Schritte gegen den/die Schuldner/in einzuleiten.

Le requérant soussigné se fondant sur les indications qui précèdent demande à l'Institution intermédiaire compétente d'entreprendre les démarches nécessaires à l'encontre du débiteur.

Il **richiedente** sottoscritto, basandosi sulle indicazioni che precedono, chiede alla competente istituzione intermediaria di avviare la procedura necessaria nei confronti del debitore.

| | |
|--------------|---|
| Date | Signature of applicant |
| Datum | Unterschrift des Gesuchstellers /der |
| Date: | Gesuchstellerin |
| Data | Signature du requérant : |
| | Firma del richiedente |

Enclosures:

Beilagen:

Annexes:

Annessi:

Power of Attorney Form

Power of Attorney

I, the undersigned _____
(Surname, First names)

hereby authorize _____
(The Office of Child Support Enforcement, Department of Health and Human Services or its designee State child support enforcement agency, for applications from Switzerland, or the Federal Office of Justice, Bundesrain 20, 3003 Bern, Switzerland, for applications from the US)

to take on my behalf all appropriate steps for the recovery of maintenance from

(Surname, First names of the respondent)

for the following person(s)

1. _____
 2. _____
 3. _____
- (Surnames, First names and dates of birth)

The authorized is empowered to act on behalf of the undersigned before all authorities and courts, to execute any judicial or administrative decision, to institute and prosecute as well as to withdraw proceedings, to take appeals, to conclude settlements and to collect payments. The authorized is empowered to transfer this power of attorney to any other public body or person.

Drawn up at _____
(Place)

On _____
(Date)

(Signature)