

Module 5

**Establishment of a
Convention Order, Including
Where Necessary the
Establishment of Parentage**

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 5-1: International Case Processing under UIFSA 2008: Module 5** (title slide). After introducing the webinar course, display **PowerPoint Slide 5-2: Webinar Series**. Explain the targeted audience, the content of the webinar modules, and the webinar resources.
2. Display **PowerPoint Slide 5-3: Webinar Modules** as you explain the focus of each module.
3. Display **PowerPoint Slide 5-4: Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage** (title slide).
4. Beginning with **PowerPoint Slide 5-5: 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.

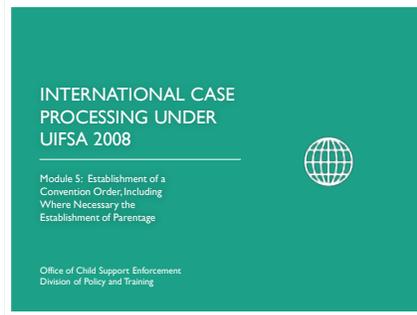
PowerPoint Slides:

- 5-1 through 5-88

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.

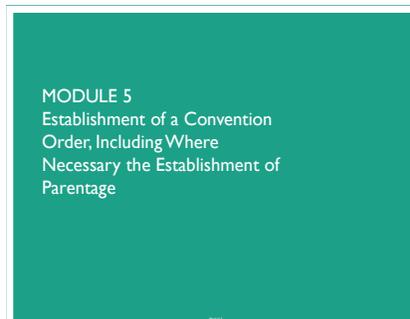
Module 8 addresses implementation issues and questions that have arisen.

Finally, in Module 9 the discussion turns toward processing international support cases from countries with bilateral reciprocity arrangements that are not Convention countries.

MODULE 5: ESTABLISHMENT OF A CONVENTION ORDER, INCLUDING WHERE NECESSARY THE ESTABLISHMENT OF PARENTAGE

Time: 1.5 hours

5.1 ESTABLISHMENT OF A CONVENTION ORDER, INCLUDING WHERE NECESSARY THE ESTABLISHMENT OF PARENTAGE



Today we are presenting Module 5, which focuses on an application to establish a support order, including where necessary the establishment of parentage. We will discuss your role as the requested Central Authority when receiving an incoming application from a Central Authority in a Convention country. We will also discuss your role as the requesting Central Authority when you are preparing an outgoing application, and will discuss the steps a Convention country will take to process that application.

5.2 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.

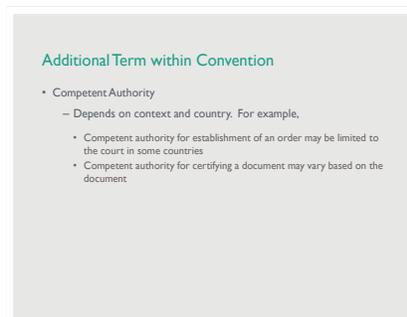
The Convention uses the term "maintenance" whereas in the United States we use the term "support."

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.]

5.3 ADDITIONAL TERMS WITHIN CONVENTION

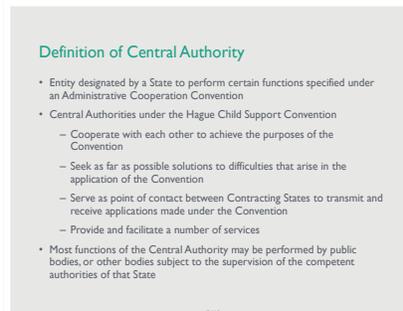


There is an additional term we will use during this presentation.

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 establishing 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 upon the country, the competent authority might be the court, an administrative agency, or both. The identity of the competent authority may also depend upon 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.

5.4 DEFINITION OF CENTRAL AUTHORITY



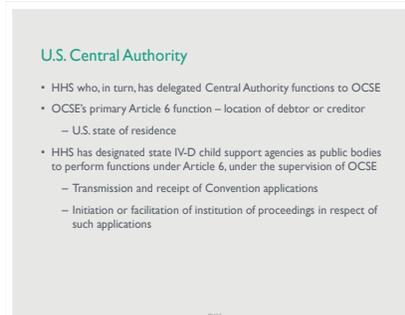
Each Administrative Cooperation Convention negotiated by the Hague Conference on Private International Law requires a Contracting State to designate a Central Authority. The Central Authority is an agency or organization that is designated to play a key role in the implementation and operation of the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

5.5 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.

5.6 OVERVIEW OF APPLICATION FOR ESTABLISHMENT



An application for establishment of a child support order is appropriate when there is no existing support order. It may also be used when recognition and enforcement of an existing support order is not possible in the requested State or is refused. We discussed those situations during Modules 3 and 4.

Under the Convention, an application to establish a child support order including, where necessary, the establishment of parentage is only available to a creditor. If a U.S. noncustodial parent has applied for IV-D services and seeks parentage and support establishment in a case where the custodial parent lives in a Contracting State,

the Convention cannot be used. You may be able to proceed as a non-Convention case (for example, using long-arm jurisdiction over the custodial parent). We will be discussing non-Convention cases in Module 9. However, the Convention does not permit an application by a debtor to establish an order.

5.7 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.

5.8 ROLE OF REQUESTED CENTRAL AUTHORITY



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

[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;
- 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.

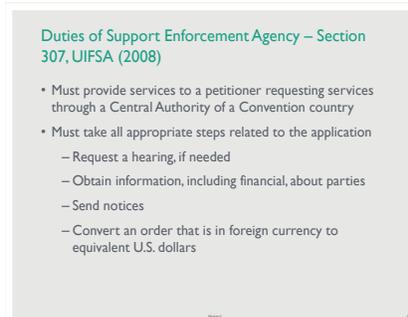
What does this mean? The Central Authority may need to begin proceedings to freeze the debtor's assets pending the outcome of any legal proceeding. The measure must be "provisional," meaning temporary, and "territorial" in nature, meaning the effect must be confined to the territory of the requested 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.]

Remember – because OCSE has designated state IV-D agencies as central authorities for receiving and transmitting Convention applications – you are responsible for performing these Article 6 measures, which are similar to the services you already provide in intergovernmental cases.

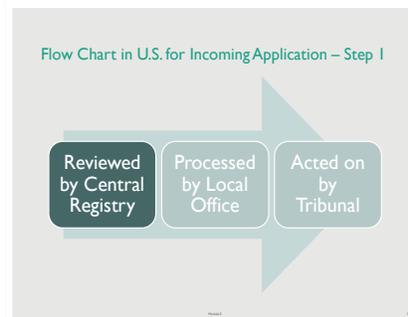
5.9 DUTIES OF SUPPORT ENFORCEMENT AGENCY – SECTION 307, UIFSA (2008)



The measures listed in Article 6 of the Convention are also similar to the responsibilities that UIFSA requires of a support enforcement agency.

Regardless of whether your state enacted Alternative A or Alternative B of UIFSA Section 307, you are required to provide services to a petitioner who has requested services through a Central Authority of a Convention country. That means you must take all appropriate steps related to the application, including converting an order that is in foreign currency to equivalent U.S. dollars. We will discuss currency conversion in detail during Module 8 of the webinar series.

5.10 FLOW CHART IN U.S. FOR INCOMING 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 receipt of applications.

When a Contracting State, also referred to as a Convention country, sends an Application for Establishment to the United States, it should send the application to the Central Registry of the U.S. state where the noncustodial parent lives.

5.11 REVIEW OF INCOMING CONVENTION APPLICATION

Review of Incoming Convention Application

- May refuse to process application only if “manifest” that Convention requirements are not met (Art. 12 of Convention)
- May not reject application solely on basis that additional documents or information are needed (Art. 12 of Convention)
- Must promptly inform requesting Central Authority of reasons for any refusal to process application

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

First, the Central Registry may refuse to process an application only if it is manifest that Convention requirements are not met. Second, the Central Registry may not reject an application solely because additional documents or information are needed. In the rare case where the Central Registry decides to refuse to process the application, there must be prompt notice to the requesting State.

Let’s talk more about each of these provisions.

5.11.1 Review of Incoming Application – Convention Requirements

Review of Incoming Application – Convention Requirements

- May refuse to process application only if “manifest” that Convention requirements are not met (Art. 12 of Convention)
 - Reason for rejection must be clear on face of documents

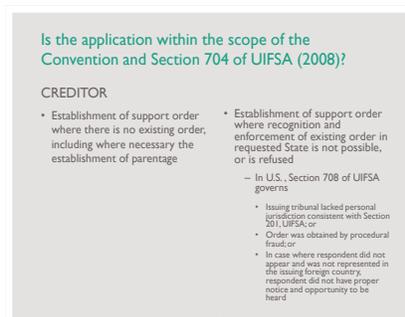
First, the Central Registry may refuse to process the application only if it is manifest that Convention requirements are not met. According to the Convention’s Explanatory Report, “manifest” means it must be clear on the face of the documents that the requirements are not fulfilled. The Explanatory 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.

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.

Two other possibilities are when it is manifest on the face of the documents that the application is not within the scope of the Convention or that the applicant does not live in a Contracting State. The next slides discuss these Convention requirements.

5.11.1.1 *Is the application within the scope of the Convention and Section 704 of UIFSA (2008)?*



The first question the Central Registry should ask is whether the application request is within the scope of the Convention. Applications available through a Central Authority are listed in Article 10 of the Convention. In the United States, we implemented this Article in Section 704 of UIFSA (2008).

Under the Convention and Article 7 of UIFSA (2008), the following establishment applications are available through the Central Authority to a creditor:

- Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child, and
- Establishment of a support order if recognition of an existing foreign support order is refused for certain reasons.

In the United States, those reasons are listed in Section 708(b)(2), (4), and (9) of UIFSA (2008).

- Lack of personal jurisdiction consistent with Section 201 of UIFSA (2008)
- Order obtained by procedural fraud
- In a case where the respondent neither appeared nor was represented in the proceeding in the issuing jurisdiction, lack of proper notice and opportunity to be heard.

If a foreign order cannot be recognized, the legal effect is that the order does not exist for the requested State and a new decision can be established.

The question arises whether a Contracting State can send an application for establishment under Section 704(b)(4) before requesting recognition and enforcement of an existing order, when it knows in advance that a U.S. tribunal will refuse recognition and enforcement because the order was obtained on the basis of the creditor's jurisdiction, and it knows the U.S. has taken a reservation to that basis of jurisdiction. According to the Convention Explanatory Report, there is no obligation in the Convention to first apply for recognition before applying for establishment, when it is known that recognition will be refused.¹

Be aware that a separate application for the establishment of parentage is not available under the Convention. It can only be requested in connection with a request to establish a support order.

Also, as noted earlier, an establishment application is **not** available to a debtor under the Convention.

¹ Para. 256 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].

5.11.1.2 *Is the application from a Central Authority in a Contracting State?*

Is the application from a Central Authority in a Contracting State?

- To receive IV-D services under Article 7 of UIFSA (2008), petitioner must reside in Contracting State and must forward Hague application through Central Authority in that country
- If direct application for IV-D services, not a Convention case
- If direct request to tribunal under Section 705 of UIFSA, IV-D child support agency not required to provide assistance

The diagram consists of three teal circles arranged horizontally. The first circle on the left contains the text 'CONTRACTING STATE'. To its right is a plus sign '+'. The second circle in the middle contains the text 'CENTRAL AUTHORITY'. To its right is an equals sign '='. The third circle on the right contains the text 'CONVENTION CASE-IV-D ASSISTANCE'.

The second question the Central Registry should ask concerns the origin of the application. In order for a petitioner to receive the assistance of a IV-D agency under Article 7 of UIFSA, the petitioner must reside in a Contracting State and must forward the Hague application through the Central Authority in that Contracting State.²

If your state has enacted Alternative A of UIFSA Section 307 and allows a petitioner to file directly with the IV-D agency, rather than go through a Central Authority, you would handle the establishment case under Articles 1 through 6 of UIFSA. It would not be considered a Convention case.

The Hague Convention and UIFSA also allow a petitioner to file an application for establishment directly with the tribunal. If the petitioner files a direct request to the tribunal, the IV-D agency is not involved.

5.11.2 Review of Incoming Application – Completeness

Review of Incoming Application – Completeness

- May not reject application solely on basis that additional documents or information are needed (Art. 12 of Convention)
 - May ask requesting Central Authority for additional documents or information
 - If not provided within 3 months (or longer specified period), may decide not to process application; but must inform requesting Central Authority of that decision

² See Para. 235 and 236 of the Explanatory Report.

There is a second important provision governing the Central Registry's review of an incoming application.

It may not reject the Application for Establishment solely because additional documents or information are needed. If additional information is needed, the Central Registry 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. If that is the decision ultimately made by the Central Registry, the Central Registry must inform the requesting State of that decision. Hopefully, with the Convention's emphasis on administrative cooperation, that outcome will be very rare.

5.11.2.1 Are required documents included with the application?



In reviewing the application for completeness, the Central Registry should determine whether the required documents have been included.

Every Convention application must include a Transmittal. This is a mandatory Convention form. A country may specify by declaration any other documents that must accompany an application to establish a support order. Such information is noted in the Country Profile as well as the Status Table on the Child Support section of the Hague Conference website. In addition to documents required by declaration, a country may note other documents a requesting State should send with an Application for Establishment.

The United States did not make any declaration regarding required documents. However, the Country Profile for the United States informs other Contracting States that

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we want them to use the Application for Establishment developed by the Convention Forms Working Group.

The U.S. Country Profile also states that the applicant should include:

- A birth certificate for each child for whom support is sought
- Financial information about the creditor and debtor
- Evidence supporting the obligation to provide support.

The U.S. Country Profile notes that individual states may require additional documents and information based on their state laws, support guidelines, and procedures. It directs countries to the appropriate sections of the Intergovernmental Reference Guide (IRG).

5.12 REQUIRED DOCUMENTS

Required by Convention and UIFSA	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal
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
Information about obligee	Always	Convention Financial Circumstances form
Information about obligor	Always	Convention Financial Circumstances form

This slide identifies the documents and information required by the Convention and UIFSA for an establishment application. The first column lists the document or information needed. The second column explains when the document or information is used. And the third column identifies any applicable Convention form.

In an establishment proceeding, the Convention requires countries to send a Transmittal and an Application. Article 11 of the Convention requires that, as appropriate, and to the extent known, the application must include:

- a) the financial circumstances of the creditor; and
- b) the financial circumstances of the debtor.

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The Convention form that provides such information is the Financial Circumstances Form. We will go over these forms in just a minute.

Note that Section 311 of the UIFSA requires the filing of a petition or similar pleading in a proceeding to establish a support order or to determine parentage. OCSE encourages IV-D agencies to work with their tribunals to determine whether the Hague application is a sufficient pleading or whether the tribunal requires the agency to file a separate petition or similar pleading to which the application is attached. If a separate pleading is needed, it appears appropriate for the IV-D agency to complete the Uniform Support Petition, used in intergovernmental cases.

5.12.1 Transmittal – Required Form

Transmittal – Required Form

ANNEX E
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. Any secondary processing shall also shall respect the confidentiality, to the extent with the law of its State.

An authority shall not disclose or divulge information gathered or transmitted in application of this Convention (if disclosure that or do so could jeopardize the health, safety or liberty of a person to whom the data apply).

A determination of suitability has been made by a Central Authority in accordance with Article 10.

1. Requesting Central Authority	2. Central person in requesting State
a. Address	a. Address (if different)
b. Telephone number	b. Telephone number (if different)
c. Fax number	c. Fax number (if different)
d. E-mail	d. E-mail (if different)
e. Reference number	e. Emergency

Every Application for Establishment 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.

5.12.2 Application

The image shows a document titled "Application" with a subtitle "Application for Establishment of a Decision (including where necessary the establishment of parentage)". Below the title is a confidentiality and personal data protection notice. The notice states that personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted, and that the authority processing such information shall ensure its confidentiality in accordance with the law of the State. It also notes that the authority shall not disclose or confirm information gathered or transmitted in application of the Convention if disclosure would be to the detriment of the health, safety or liberty of a person or persons, or to the detriment of the State. A note at the bottom of the notice states that if information of non-disclosure has been made by a Central Authority in accordance with article 40 of the Convention, it should only be provided in the format of information on the applicant page of this form. Below the notice is a list of fields to be completed by the applicant, including: 1. Requesting Central Authority file reference number; 2. Particulars of the applicant, with sub-fields for: a. Family name(s); b. Given name(s); c. Date of birth; d. Address; e. Telephone number; f. Fax number; g. E-mail.

The U.S. has indicated in its Country Profile that Convention countries must use the Application for Establishment developed by the Hague Convention Forms Working Group. As is true for all applications, the first section of the Application for Establishment provides a confidentiality and personal data protection notice.

After listing the requesting Central Authority’s file reference number (similar to our case number), the form provides identifying information about the applicant. The application includes information about the person or child for whom maintenance is sought or payable, including the basis for the support obligation and – in the case of a child – whether parentage is established or presumed. At the end of the form, the applicant can check what documents are attached in support of the application. Listed documents include a birth certificate, acknowledgment of parentage, genetic test results, and other evidence in accordance with the law of the requested State. Note there are no Convention forms similar to the U.S. Declaration in Support of Parentage. It is appropriate for the Central Registry in the U.S. state to ask the requesting Central Authority for any additional documents or information its tribunals require to establish a support order, including establishment of parentage if necessary. We will review this form in detail when we discuss outgoing applications.

In keeping with a “medium neutral” approach allowing electronic transmission of documents, the application does not need to be signed. Rather the application has an attestation by a representative of the requesting Central Authority. The attestation includes two checkboxes. The first one indicates if the application was completed by the applicant and reviewed by the requesting Central Authority. The second one indicates

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the application complies with Convention requirements and the information contained in the application and attached documents correspond to the information and documents provided by the applicant to the requesting Central Authority. It also asserts the application is forwarded by the Central Authority on behalf of and with the consent of the applicant.

5.12.3 Financial Circumstances Form



The image shows a document titled "Financial Circumstances Form". At the top, it says "Financial Circumstances Form" in a blue header. Below that, there is a section titled "CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE" in all caps. The text of the notice is small and partially illegible, but it mentions that the form is used for the purpose of the application and that the information provided is confidential. Below the notice, there are two columns of text, each starting with "I. Responding Central Authority" and "I. Contact person to Responding State". Each column has sub-sections for "a. Address" and "b. Telephone number".

The Financial Circumstances Form is another Convention form that the United States has requested Contracting States to use with establishment applications to the U.S. We will review this form in detail when we discuss outgoing applications. The form includes sections for financial information about the debtor as well as the creditor. In keeping with a “medium neutral” approach that allows for electronic transmission of documents, the form does not need to be signed. Rather the form identifies the person in the Central Authority responsible for either completing the Financial Information form or reviewing it if it was completed by the applicant personally.

5.13 TRANSLATION OF INCOMING DOCUMENTS TO UNITED STATES



The image shows a slide titled "Translation of Incoming Documents to U.S.". To the right of the text is a graphic of a globe with various country names and flags. The text on the slide is as follows:

- Incoming Application and related documents
 - Original language
 - Translation into English
- Communication from Central Authority
 - English
- Source
 - Section 713, UIFSA (2008)
 - Article 44 of Hague Child Support Convention

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

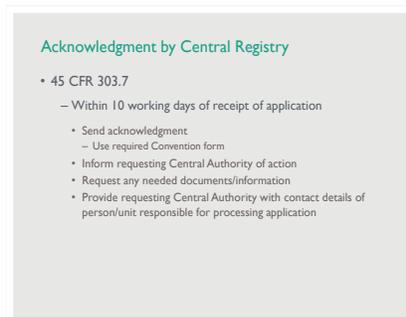
Section 713 of UIFSA (2008) and Article 44 of the Hague Child Support Convention address translation of documents and communications.

All incoming applications and related documents, such as the child support order, must be in their original language. In the United States, we also require that they be translated into English.

Additionally, we require that a Convention country use English when communicating with a state child support agency about a Convention application.

In Module 8, we will discuss translation issues.

5.14 ACKNOWLEDGMENT BY CENTRAL REGISTRY



Once the state Central Registry receives an Application for Establishment, it must acknowledge receipt of that application. Federal regulations governing intergovernmental cases require the Central Registry to acknowledge receipt of the application within 10 working days. Please note that the Convention timeframe for returning the Acknowledgement is within six weeks of receipt of the application. This means that on outgoing cases, you will not likely get a reply within 10 days. The Hague Child Support Convention has a mandatory Acknowledgment form. That is the form the Central Registry should use, not the federal intergovernmental Transmittal #1 Acknowledgment.

5.15 ACKNOWLEDGMENT FORM

Acknowledgment – Page I

ANNEX B
2008 Convention on the rights of
Children and their parents

Acknowledgment form under Article 10(1)

PERSONAL DATA AND CONTACT INFORMATION

Personal data published or transmitted under this Convention shall be used only for the purposes for which it was published or transmitted. Any authority processing such data shall ensure its confidentiality in accordance with Article 10 of the Convention.

The authority shall not disclose or transmit information published or transmitted in application of this Convention to a third party other than in accordance with the fourth, sixth or seventh of section 10 of the Convention and shall not:

- A dissemination of such disclosure has been made by a Central Authority in accordance with Article 10(1)

1. Requesting Central Authority	2. Contact person in requesting State
a. Address	a. Address of address
b. Telephone number	b. Telephone number of address
c. Fax number	c. Fax number of address
d. E-mail	d. E-mail of address
e. Reference number	e. Language(s)

The Acknowledgment form begins with the standard notice of confidentiality and personal data protection. It identifies the requested Central Authority, as well as the contact person for any follow-up questions about the case. The form has a place to list the languages spoken by the contact person.

Acknowledgment – Page I (cont'd)

3. Requesting Central Authority

Contact person

Address

4. The requested Central Authority acknowledges receipt on _____ (dd/mm/yyyy) of the transmitted form from the requesting Central Authority (reference number _____, dated _____) (Article 10(1)(c) concerning the following application number):

<input type="checkbox"/>	Article 10(1)(a)
<input type="checkbox"/>	Article 10(1)(b)
<input type="checkbox"/>	Article 10(1)(c)
<input type="checkbox"/>	Article 10(1)(d)
<input type="checkbox"/>	Article 10(1)(e)
<input type="checkbox"/>	Article 10(1)(f)
<input type="checkbox"/>	Article 10(1)(g)
<input type="checkbox"/>	Article 10(1)(h)
<input type="checkbox"/>	Article 10(1)(i)

Final size

Section 4 of the Acknowledgment is where the state Central Registry would acknowledge receipt of the Application for Establishment. The articles listed are references to articles within the Hague Child Support Convention – not sections of UIFSA. You can look at the Application heading for identification of which Convention article the applicant is using. You can also find the text of the Convention on the Hague Conference website and reference to the applicable subsections in the Practical Handbook for Caseworkers. For purposes of our discussion, the Central Registry would be checking the third or fourth box – Article 10(1)c) or Article 10(1)d) – to acknowledge receipt of an Application for Establishment. Check the box appropriate to the application received.

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

Acknowledgment – Page 2

Family name of applicant _____
Family name of the person for whom maintenance is sought or payable _____
Family name of debtor _____

5. Initial steps taken by the requested Central Authority:

- The file is complete and is ready for consideration
- The requested status of application is complete
- Please provide the following additional information and/or documentation: _____
- The requested Central Authority refuses to process this application as it is manifest that the requirements of the Convention are not fulfilled (Art. 15(b)). The reasons:
 - are set out in an attached document
 - will be set out in a document to follow

The requested Central Authority requests that the requesting Central Authority inform it of any change in the status of the application.

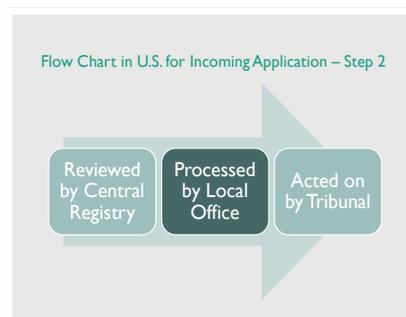
Name: _____ (or Mark Smith) State: _____
Authorized representative of the requested Central Authority _____

The Acknowledgment includes areas to provide the family name of the applicant, the person for whom maintenance or support is sought or payable, and the debtor. You will find this information on the Transmittal that accompanied the incoming application.

Section 5 of the Acknowledgment is where the state Central Registry notes what initial steps have been taken. There are tick boxes to indicate whether the file is complete, or whether additional information or documentation is needed. There is also a tick box to indicate if the Central Registry (i.e., the requested Central Authority) refuses to process the application because it is manifest that the requirements of the Convention are not fulfilled. As we discussed earlier, if that rare action is taken, the reasons must be provided.

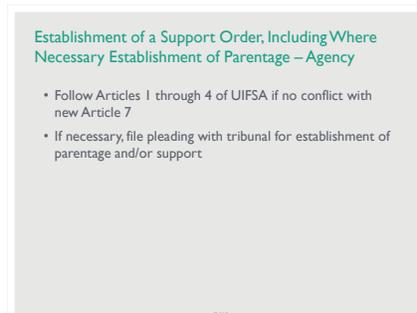
Finally there is a standard request that the requesting Central Authority keep the requested Central Authority informed of any changes in the status of the application. Note that the form is not signed; however, the name of the authorized representative of the Central Authority should appear on the form. In the U.S., that would be the name of the appropriate person in the state Central Registry.

5.16 FLOW CHART IN U.S. FOR INCOMING APPLICATION – STEP TWO



Now that we've discussed the Acknowledgment form, let's talk about the actual processing of the Application for Establishment at the local level.

5.17 ESTABLISHMENT OF A SUPPORT ORDER, INCLUDING WHERE NECESSARY, ESTABLISHMENT OF PARENTAGE – AGENCY

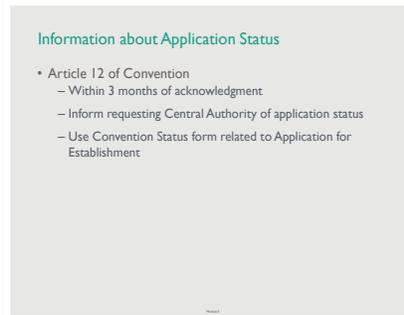


When the local child support office receives the application from the state Central Registry, it should review the application and accompanying documents again to ensure that the application is complete. If any additional information is needed, it should notify the requesting Central Authority. It may use the Status of Application form to make the request. It may also try sending the request via e-mail.

Article 7 of UIFSA (2008) does not contain any specific provisions related to establishment of parentage or establishment of a support order in a Convention case. As noted in the road map in Section 105 of UIFSA, that means a tribunal will be following the provisions within Articles 1 through 4 of UIFSA that govern establishment.

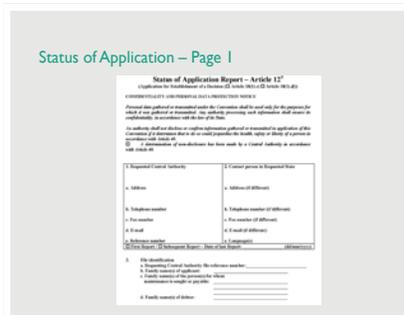
The local child support agency should seek establishment of an order using the same procedures it would in other UIFSA cases. Such procedures may include negotiation, sending an administrative notice of a support debt, or filing an action with the tribunal depending upon your state's laws and procedures.

5.18 INFORMATION ABOUT APPLICATION STATUS



Within three months of the Acknowledgment, the requested Central Authority must provide a status update to the requesting State. This timeframe is a Convention requirement. In most U.S. states, it will be the local agency working the case that sends the status form. In doing so, you should use the Status of Application Report accessible from OCSE’s website. Because there are four Status of Application forms, make sure you use the one specifically for establishment of a decision.

5.19 STATUS OF APPLICATION FORM



That Status form begins with the standard notice of confidentiality and personal data protection. It provides contact information for the requested Central Authority and identifies the person in the requested State who can provide information about the application. That is the place where you would most likely list the appropriate person in the local child support office. There are tick boxes to indicate whether this is the first status report – the one required three months after the acknowledgment – or a subsequent status report.

Section 3 of the form provides information that identifies the relevant application.

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

Status of Application – Page 2

4. Status of the application

4.1 Status of the application for Establishment of a decision for maintenance in the requested State

a. On _____ (dd/mm/yyyy) the application was sent to the competent authority responsible for establishment (name) _____ (address) _____ (reference number) _____

b. On or by _____ (dd/mm/yyyy) the competent authority is due to issue a decision for maintenance

c. On _____ (dd/mm/yyyy) the competent authority issued a decision for maintenance Decision attached for information purposes only Service or notice of the decision has been effected on the applicant Certificate of service attached if applicable Service or notice of the decision will be effected on the applicant

d. On _____ (dd/mm/yyyy) the competent authority has decided against establishing a decision for maintenance Decision attached for information purposes only Service or notice of the decision has been effected on the applicant Certificate of service attached if applicable Service or notice of the decision will be effected on the applicant

e. On _____ (dd/mm/yyyy) the debtor has lodged a challenge or an appeal against the maintenance decision

f. On _____ (dd/mm/yyyy) the maintenance decision is final

g. On _____ (dd/mm/yyyy) the maintenance decision is enforceable

h. Application is still pending before the Central Authority

In Section 4 of the Status form, the local child support agency should identify the status of the application. The tick boxes are self-explanatory. Keep in mind that the “competent authority” in the United States in this context is the tribunal.

Status of Application – Page 2 (cont'd)

4.2 Status of establishment of parentage

a. Establishment of parentage not necessary

b. On _____ (dd/mm/yyyy) the debtor consented parentage

c. On _____ (dd/mm/yyyy) the request for establishment of parentage was sent to the competent authority responsible (name) _____ (address) _____ (reference number) _____

d. Genetic testing for the purpose of establishing parentage has been scheduled on _____ (dd/mm/yyyy)

e. Genetic testing for the purpose of establishing parentage was scheduled on _____ (dd/mm/yyyy) but the debtor failed to appear

f. Genetic testing for the purpose of establishing parentage has been performed on _____ (dd/mm/yyyy). Results are attached

g. Please provide assistance with genetic testing. See attached information

h. On or by _____ (dd/mm/yyyy) the competent authority is due to determine parentage

Section 4.2 addresses the establishment of parentage. It includes tick boxes related to genetic testing.

Status of Application – Page 3

4.3. On _____ (dd/mm/yyyy) the competent authority established parentage Parent Applicant Decision attached for information purposes only Service or notice of the decision has been effected on the applicant Certificate of service attached if applicable Service or notice of the decision will be effected on the applicant

4.4. On _____ (dd/mm/yyyy) the competent authority decided to reject the request to establish parentage Decision attached for information purposes only Service or notice of the decision has been effected on the applicant Certificate of service attached if applicable Service or notice of the decision will be effected on the applicant

4.5. On _____ (dd/mm/yyyy) the debtor lodged a challenge or appeal against the decision regarding establishment of parentage

4.6. Application is still pending before the Central Authority

4.7. The following steps have been taken:

4.8. Debtor located

4.9. Debtor contacted for assistance

4.10. Debtor contacted and established contact with respondent

4.11. Debtor contacted by the tribunal or representative of the debtor pursuant to the other listed

4.12. Debtor contacted by the respondent

4.13. Debtor contacted by the respondent

4.14. Debtor contacted by the respondent

4.15. Debtor contacted by the respondent

4.16. Debtor contacted by the respondent

4.17. Debtor contacted by the respondent

4.18. Debtor contacted by the respondent

4.19. Debtor contacted by the respondent

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4.99. Debtor contacted by the respondent

4.100. Debtor contacted by the respondent

Section 4.2 also includes information about the tribunal’s decision regarding parentage.

Section 5 identifies past steps that have been taken, and focuses on location of the debtor and the debtor’s assets, as well as enforcement.

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

Status of Application – Page 3 (cont'd)

6. The following steps are being taken (present):

- a. Locating the debtor
- b. Contacting the debtor for settlement
- c. Securing voluntary payment (no enforcement measures are necessary)
- d. Gathering of information concerning the financial circumstances of the debtor
- e. Locating the assets of the debtor
- f. Initiating enforcement measures
- g. Securing payments (enforcement measures are necessary)
- h. Other: _____

Section 6 of the Status form is where the local office identifies current steps being taken.

Status of Application – Page 4

7. The following steps will be taken (future):

- a. Debtor to be located
- b. Debtor to be contacted for settlement
- c. Voluntary payment to be sought (no enforcement measures will be necessary)
- d. Information to be gathered concerning the financial circumstances of the debtor
- e. Assets of the debtor to be located
- f. Enforcement measures to be initiated
- g. Payments to be sought (enforcement measures will be necessary)
- h. Other: _____

8. Please provide the following additional information and/or documentation: _____

9. The requested Central Authority has refused to process the application for the following reason(s):

- a. Requesting Central Authority did not produce the additional documents or information within the period provided under Article 12(b)
- b. Requirements of the Convention Assembly not fulfilled reasons: _____

10. The competent authority has refused to establish a maintenance decision for the following reason(s):

- a. Other requirements of the Convention not fulfilled
- b. Debtor not located in the requested State
- h. Other: _____

Name: _____ (in block letters) State: _____ (abbr)(two letters)
Authorized representative of the Central Authority

In Section 7, please note future steps that will be taken.

Some of the sections and tick boxes may seem duplicative. OCSE encourages you to complete the form to the best of your ability, realizing that these forms were developed for use by all Contracting States so not every tick box is applicable to every country.

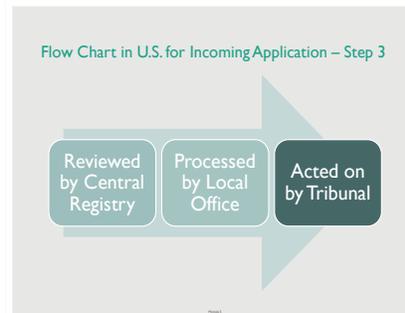
If additional information or documents are needed, identify those in Section 8.

In the rare event that your agency has refused to process the application, please identify in Section 9 which limited reason applies. Because the Convention requires prompt notice of a refusal to process an application, in that situation you may need to send the Status form sooner than the three-month timeframe.

If the tribunal has refused to establish a support order, identify the reason for the refusal in Section 10.

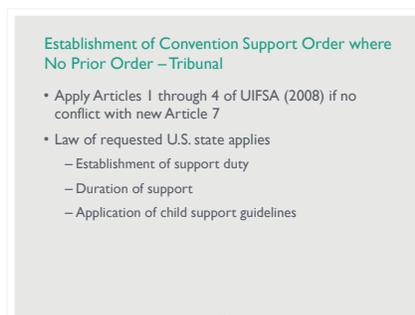
The form concludes with a field for the name of the child support representative who is completing the Status form.

5.20 FLOW CHART IN U.S. FOR INCOMING APPLICATION – STEP THREE



The next slides focus on what happens if an application is forwarded to a tribunal for establishment of a support order.

5.21 ESTABLISHMENT OF CONVENTION SUPPORT ORDER WHERE NO PRIOR ORDER – TRIBUNAL

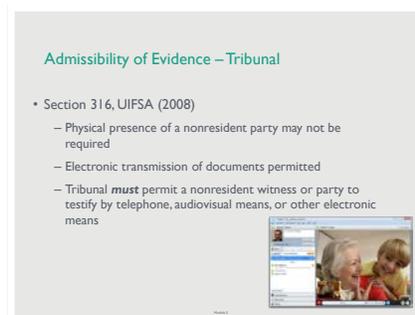


As noted earlier, the U.S. tribunal will apply Articles 1 through 4 of UIFSA, which are the provisions related to establishment of parentage and establishment of support. That means the tribunal will be following the law of the state where it is located with regard to:

- Establishment of a support duty,
- The duration of support, and
- Application of the state child support guidelines.

The Convention's Explanatory Report notes that a Contracting State is not required to change its law regarding the length of a duty of support. Therefore, once the tribunal issues a support order, it will be the law of that forum that determines how long the support duty runs. It also means that a Contracting State does not have to accept an application if the child would not be eligible for support in that State. The Explanatory Report provides the following example: "If an application is made under Article 10(1) c) for the establishment of a maintenance decision in relation to a student child aged 21 years, the requested State is not bound to admit the application if it does not have jurisdiction to establish a maintenance decision for a child over the age of 18 years."³ This contrasts with the mandatory scope for recognition and enforcement, which requires a Contracting State to enforce a current support obligation to age 21 if that is what the issuing State law requires.

5.22 ADMISSIBILITY OF EVIDENCE – TRIBUNAL



Section 316 of UIFSFA (2008) will govern the admissibility of evidence. Under that section, the tribunal cannot require the physical presence of the nonresident applicant. The tribunal must allow the electronic transmission of documents. Additionally, the tribunal must permit a nonresident witness or party to testify by telephone, audiovisual means, or other electronic means. Keep in mind that in international cases, there will be time zone and translation issues, as well as resource issues. We will discuss these in more detail during Module 8.

³ Para. 275 of the Explanatory Report.

Admissibility of Evidence – Tribunal (cont'd)

- Section 317, UIFSA (2008)
 - Tribunal may communicate with a tribunal *outside the state* to obtain information about
 - Laws
 - Legal effect of tribunal's order
 - Status of a proceeding
- Section 318, UIFSA (2008)
 - Tribunal may request tribunal *outside the state* to assist with discovery
 - Upon request, tribunal may compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal *outside the state*

Sections 317 and 318 of UIFSA (2008) also apply.

Section 317 explicitly authorizes a tribunal to communicate with a tribunal of another state, foreign country, or foreign nation that does not meet UIFSA's definition of a foreign country.

Section 318 is similarly broad, authorizing a tribunal to help a tribunal of another state, foreign country, or foreign nation with the discovery process. Discovery is a pre-trial procedure in a lawsuit in which each party can obtain evidence from the other party by such means as a request for answers to interrogatories or a request for production of documents.

5.23 ESTABLISHMENT OF CONVENTION SUPPORT ORDER WHERE EXISTING ORDER NOT RECOGNIZED – TRIBUNAL

Establishment of Convention Support Order where Existing Order Not Recognized – Tribunal

- Section 708(c) of UIFSA (2008) applies
- If tribunal does not recognize Convention order because
 - Lack of personal jurisdiction consistent with Section 201 of UIFSA (2008);
 - Order was obtained by procedural fraud; or
 - In case where respondent neither appeared nor was represented in the proceeding in the issuing foreign country, respondent did not have proper notice and opportunity to be heard
- Then ... 

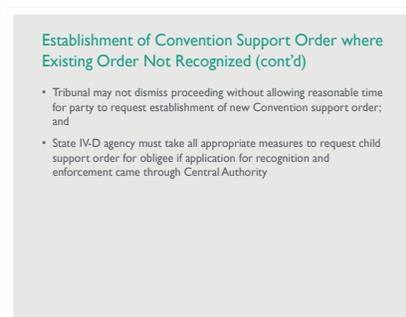
As noted at the outset, in certain circumstances an application may seek establishment even though there is an existing order. Section 708 of UIFSA addresses the recognition and enforcement of a registered Convention support order. We discussed this section extensively in Module 3. Subsection (b) lists the only grounds on which a tribunal may refuse recognition and enforcement. As a reminder, there must be prompt notice to the

requesting Central Authority of a tribunal's refusal to recognize and enforce a Convention support order and the reason for the refusal.

Section 708(c) calls out three of those grounds:

- Lack of personal jurisdiction consistent with Section 201 of UIFSA,
- A finding that the order was obtained through procedural fraud, and
- In a case where the respondent neither appeared nor was represented in the proceeding in the issuing country, the respondent did not have proper notice and an opportunity to be heard.

If a tribunal refuses to recognize and enforce an order on one these three grounds, Section 708(c) requires the tribunal to take additional steps.



In such a circumstance, the tribunal may not dismiss the proceeding before allowing reasonable time for a party to seek the establishment of a new child support order. And, if the IV-D agency is involved because the application was forwarded by a Central Authority under Section 704 of UIFSA, the IV-D agency must take all appropriate measures to request a child support order. In determining appropriate measures, the agency should review the facts of the case to determine whether there is a basis under its state laws for establishment of a support order. If additional information is needed, such as the creditor's financial information in order to apply the state's support guidelines, the representative for the IV-D agency should request a continuance in order to obtain the information from the requesting Central Authority.

5.24 CASE SCENARIO – INCOMING APPLICATION



The slide titled "Case Scenario – Incoming Application" contains the following text: "The Central Authority in France sends a Transmittal and an Application for Establishment to New York, where the alleged obligor resides. The application notes that parentage is presumed. The application includes the Financial Circumstances form, and a French birth certificate listing the alleged obligor as the father of the child who is 4. The child has the same last name of the alleged father." Below the text are two icons: one for France (flag and Eiffel Tower) and one for New York (state map and a person icon). At the bottom, a bullet point asks: "• What steps should the New York Central Registry take?"

Let's use a case scenario to review the information we've discussed and to highlight some implementation issues.

Assume the Central Authority in France has sent an Application for Establishment to the Central Registry in New York, which is the state where the respondent resides. The application notes that parentage is presumed. Supporting documents include the Convention Financial Circumstances form, as well as the child's birth certificate from France. The child is four years old. There is no information about the parties' marriage, although the parties all share the same last name. The mandatory Transmittal accompanies the Application.

What steps should the Central Registry take?

[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should identify the questions the Central Registry needs to ask when it reviews the application:

- Is the application within the Convention scope?

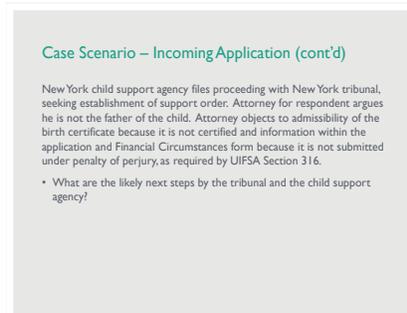
A creditor's application to establish a support order is within the Convention scope if the child is under age 21.

- Is the application from a Central Authority in a Contracting State?

Under the facts, the application was transmitted by the Central Authority in France, which is a Contracting State.

- Is the application complete?

The application includes the mandatory Transmittal as well as the Financial Circumstances Form, which provides financial information about the custodial parent and alleged obligor. The Convention does not require additional documents. The Central Registry should inform the Central Authority in France if additional documents are required under New York law and procedure.]



After reviewing the application and determining it to be complete, assume the New York Central Registry forwarded it to the local child support agency, which filed an establishment proceeding before the appropriate tribunal in New York.

The alleged obligor is represented by counsel. His attorney objects to the establishment of a support order, arguing that his client is not the father of the child. He objects to the admissibility of the child's birth certificate, which names his client as the father, on the basis that it is not certified. He also objects to the admissibility of information in the Convention application and the Financial Circumstances form on the basis that the information does not meet the requirements of Section 316 of UIFSA (2008); the information is not given under penalty of perjury.

What are the likely next steps by the tribunal?

The tribunal should apply Sections 315, 316, 317, and 401 of UIFSA (2008).

If the respondent challenges parentage, Section 315 is applicable. Section 315 provides that a party whose parentage has been previously determined "by or pursuant to law"

may not plead nonparentage as a defense to a proceeding under UIFSA. The official Comment makes it clear that such law includes the law of a foreign country: “the law of the issuing state or foreign country may provide for a determination of parentage based on certain specific acts of the obligor, such as voluntarily acknowledging parentage as a substitute for a decree. UIFSA also is neutral regarding a collateral attack on such a parentage determination filed in the issuing tribunal. In the meantime, however, the responding tribunal must give effect to such an act of acknowledgment of parentage if it is recognized as a determination in the issuing state or foreign country. The consistent theme is that a collateral attack on a parentage determination cannot be made in a UIFSA proceeding other than on fundamental due-process grounds.”

If the respondent’s name on a child’s birth certificate is determinative of parentage under the law of France, the U.S. tribunal should give effect to such determination. Any collateral attack should be in France. The exception would be if there was a lack of due process.

If there is a question regarding the law of the foreign country, Section 317 of UIFSA authorizes the U.S. tribunal to communicate with a tribunal in that country concerning its laws.

Section 316 of UIFSA (2008) governs the admissibility of evidence. Subsection (b) provides that an “affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside” the state. The Hague Convention Application to Establish a Maintenance Decision and the Financial Circumstances Form are not submitted under penalty of perjury. If there is a challenge to the admissibility of such documents or information in them, the tribunal may require the applicant to submit the information under penalty of perjury or under a procedure provided by the requesting country’s laws that similarly assures the truth of the matters stated by the applicant. Note that under Section 401 of UIFSA, a U.S. tribunal has authority to issue a temporary support order.

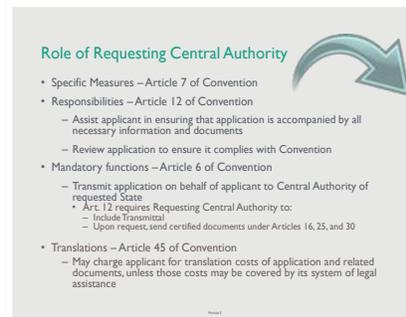
Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

If the tribunal has a question about the authenticity of the birth certificate, the tribunal may request additional information or documents. For example, it may request a certified true copy of the birth certificate. Or, if the parties were not married and the birth certificate is supported by a voluntary acknowledgment of paternity, the tribunal could request a certified true copy of the acknowledgment, which would be admissible under UIFSA § 316(j) to establish parentage.

What are the likely next steps by the child support agency?

Depending upon the tribunal, the agency representative may need to request a continuance in order to contact the requesting Central Authority for additional information or documents.

5.25 ROLE OF REQUESTING CENTRAL AUTHORITY



We will now shift to outgoing applications from the United States. The Convention outlines a number of responsibilities that the requesting Central Authority has when transmitting applications to a Convention country. This slide summarizes them.

As we discussed during Module 2, in its role in the U.S. as a requesting Central Authority, the IV-D agency may request another Central Authority to take certain specific measures identified in Article 7 of the Convention to assist a potential applicant in making an application or to help determine whether an application should be initiated. Assuming the decision is to initiate an application, the IV-D agency must help the petitioner complete the application. The IV-D agency must ensure 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

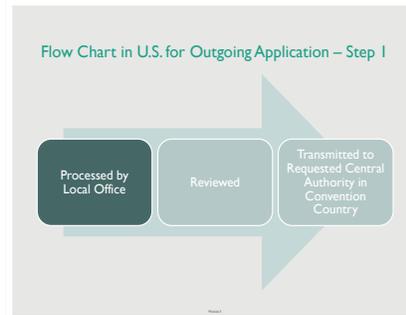
State. For example, in an establishment case, the requested State may require that hospital or other birth records be certified, or may require proof of the marriage of the parents.

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 – one of two mandatory forms under the Convention. There is no need to include certified documents unless the requested Contracting State asks for them.

Under Article 44 of the Convention, any application and related documents must be in the original language and accompanied by a translation into the official language of the requested State or another language that the requested State has declared it will accept. Article 45 of the Convention authorizes the requesting Central Authority to charge an applicant translation costs unless those costs are covered by the country's system of legal assistance. That means that IV-D agencies may – but are not required to – charge the **applicant** in the U.S. the cost of translation. Keep in mind that under the Convention you cannot charge translation costs against the respondent in another country. 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.

5.26 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.

States are governed by Section 307 of UIFSA, which outlines the duties of the support enforcement agency. The focus of subsection (a) is on providing services to the petitioner. Regardless of whether your state enacted Alternative A or B, you are required to provide IV-D services to a petitioner residing in a U.S. state who has requested such services.

If the petitioner seeks support from a respondent living in a Convention country and there is no existing support order, the first step the local office should take is determining whether long-arm jurisdiction to establish an order is available and appropriate under state law. In addition to personal jurisdiction issues, the local agency should consider practical issues such as the following:

- How long will it likely take to obtain an order, factoring in service of process, in a domestic long-arm action as compared to a Convention proceeding in the country where the respondent lives? The requested country may be able to facilitate service of documents under Convention Article 6(2)j) or as a Request for Specific Measures under Article 7(1).
- How does domestic law compare to the law in the Contracting State regarding applicable support guidelines and duration of support? The requested country may be able to help obtain relevant information under Convention Article 6(2)c) or Article 7(1).

- Which jurisdiction has better access to income information of the respondent?
- Is enforcement of the order a factor that impacts the decision on the most appropriate forum for establishment of the order?⁴

If the local agency determines that the most appropriate course of action is a Convention application, it will be transmitting the application under Article 7 of UIFSA (2008). This is the new Article that implements the Convention in the United States.

5.27 REQUIRED DOCUMENTS



You should also review the Country Profile to determine whether the requested State has any particular limitations that may affect whether the application can proceed. For example, does the law of the requested State limit the establishment of support to children under the age of 18? Does it limit the time period for establishing parentage, for example, within a certain number of years of the child's birth?

If the local office determines a Convention application for establishment is appropriate, 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 form using the required Convention form. Although the Transmittal is a mandatory Convention form that all Convention countries must use, countries can decide what form they want a creditor to use for the other required documents, including the application. Each country specifies

⁴ See Hague Conference on Private International Law, Practical Handbook for Caseworkers under the 2007 Hague Child Support Convention (2013) (hereinafter Practical Handbook), p. 138.

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the forms it requires for establishment within its responses to the Country Profile. In reviewing the Country Profiles listed on the Hague Conference website, it appears that almost all of the countries want applicants to use the Convention Application for Establishment.

Make sure you check the Country Profile as well as the Status Table on the Child Support page of the Hague website to determine if there are additional documents that must accompany an Application for Establishment. For example, hospital or other birth records may need to be certified, or proof of the marriage of the parents may be required.

5.28 OUTGOING APPLICATION FOR ESTABLISHMENT OF A CONVENTION 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 one 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.

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Outgoing Application for Establishment of Convention Order – Documents/Information (cont'd)

Required by Convention	When Used	Form/Document Used
Information about creditor	Always	Convention Financial Circumstances form
Information about debtor	Always	Convention Financial Circumstances form

The requested State will always need Information about the creditor, especially financial information, for determination of the support obligation.

Information about the debtor, to the extent known, is also important – especially financial information. We will discuss the applicable Convention forms in a minute.

In addition to Convention required documents, a country may require specific forms, documents, or information under domestic law. 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.

5.29 TRANSMITTAL FORM

Transmittal – Required Form – Page 1

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. The authority processing such data shall ensure its confidentiality, in accordance with the law of its State.

The authority shall not disclose or authorize disclosure of personal or confidential information gathered or transmitted in application of this Convention to any third party, other than an authority responsible for the health, safety or financial protection of the child or the child's parent.

☐ A determination of nondisclosure has been made by a Central Authority in accordance with Article 10.

7. Reporting Central Authority	8. Contact person in reporting State
a. Address	a. Address (if different)
b. Telephone number	b. Telephone number (if different)
c. Fax number	c. Fax number (if different)
d. E-mail	d. E-mail (if different)
e. Reference number	e. Language

Every Application for Establishment 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

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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.

The image shows a screenshot of a form titled "Transmittal - Page 1 (cont'd)". Section 3, "Requested Central Authority:", has a line for the name and a line for "Address". Section 4, "Particulars of the applicant", has sub-sections: a. "Family name(s):" with a line; b. "Given name(s):" with a line; c. "Date of birth:" with a line and "(dd/mm/yyyy)" in parentheses; and d. "Name of the public body:" with a line. There are also lines for "or" and another "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 establishment 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 also be the legal representative of the person for whom support is sought or payable. Note that

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under the Convention a public body can be an applicant for purposes of an Application for Establishment only in the limited circumstances where it has acted in place of an individual to whom maintenance is owed or provided benefits in lieu of maintenance **and** only if it is seeking to establish an order because an existing order cannot be recognized and enforced based on the requested State's Article 20 reservation.⁵

Transmittal – Page 2

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

a. The person in the case as the applicant named in point 4

b. Family name(s) _____
Given name(s) _____
Date of birth _____ (MM/DD/YYYY)

ii. Family name(s) _____
Given name(s) _____
Date of birth _____ (MM/DD/YYYY)

iii. Family name(s) _____
Given name(s) _____
Date of birth _____ (MM/DD/YYYY)

6. Particulars of the debtor⁵

a. The person in the case as the applicant named in point 4

b. Family name(s) _____
Given name(s) _____
Date of birth _____ (MM/DD/YYYY)

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 establishment 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 18(1) a)
 Article 18(1) b)
 Article 18(1) c)
 Article 18(1) d)
 Article 18(1) e)
 Article 18(1) f)
 Article 18(2) a)
 Article 18(2) b)
 Article 18(2) c)

8. The following documents are appended to the application:

a. For the purpose of an application under Article 18(1) a), and:
in accordance with Article 25:
 Complete text of the decision (Art. 25(1) a))
 Abstract or extract of the decision drawn up by the competent authority of the State of origin (Art. 25(1) b)) (if applicable)

⁵ See Para. 590 of the Explanatory Report.

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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. In almost all establishment cases you will check the third tick box. Article 10(1)c) is an application for establishment of a decision in the requested State where there is no existing decision. Your application may include the establishment of parentage. Check the fourth tick box for Article 10(1)d) if this is an application for establishment of a decision in the requested State where recognition and enforcement of a decision is not possible, or is refused, under Article 20 or 22 of the Convention. Such a circumstance would be very unlikely where the existing support order was issued by a U.S. tribunal.

Section 8 of the Transmittal lists the documents that must be included with the application. Section 8(a) only applies when the application is for recognition and enforcement of an order. Do not check any boxes for an establishment application.

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 19(2) are met unless that State has notified in accordance with Article 17 that decisions of its administrative authorities oblige and those requirements (Art. 19(2) (b) or of Article 20(2) (a) as applicable).
- If the respondent did not appear and was not represented in the proceedings in the State of origin, a document or documents stating, in appropriate form, that the respondent had proper notice of the proceedings and an opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or appeal it in its fact and law (Art. 20(2)).
- Where necessary, a document showing the amount of any arrears and the date such amount was calculated (Art. 20(4)).
- Where necessary, a document providing the information necessary to make appropriate calculations in case of a sentence providing for annuities (Art. 20(4)).
- Where necessary, documentation showing the extent to which the applicant received live legal assistance in the State of origin (Art. 20(4)).

In accordance with Article 20(5):

- A complete text of the maintenance arrangement (Art. 20(5) (a)).
- A document stating that the particular maintenance arrangement is enforceable as a decision in the State of origin (Art. 20(5) (b)).
- Any other documents accompanying the application (e.g., if required, a document for the purposes of Art. 20(4)).

None of the tick boxes on this page are applicable to an establishment application.

Transmittal – Page 3 (cont'd)

b. For the purpose of an application under Article 10(1) b), c), d), e) and (2) (a), (b) or (c), the following number of supporting documents (including the transmittal form and the application form) in accordance with Article 10(5):

- Article 10(1) b) _____
- Article 10(1) c) _____
- Article 10(1) d) _____
- Article 10(1) e) _____
- Article 10(2) a) _____
- Article 10(2) b) _____
- Article 10(2) c) _____

Name: _____ (in block letters) Date: _____ (MM/DD/YYYY)
Authorized representative of the Central Authority

THE PATERNAL KIDNAPING ACT OF 1993 (Pub. L. 104-176)
This agency handles the collection of information on parental kidnapping. It has no jurisdiction, including the files for reviewing applications, performing and maintaining the data needed, and reviewing the collection of payments. The agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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Section 8(b) **does** apply to an establishment application. Check the box related to Article 10(1)c) or d), depending on which applies. Usually you will check the box associated with Article 10(1)c). You also need to state the number of supporting documents you are including, not counting the transmittal form and application itself.

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.

5.30 APPLICATION

Application – Page 1

Application for Establishment of a Decision
(including where necessary the establishment of parentage)
(Article 10(c) or Article 10(d))

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. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.

An authority shall not disclose or confirm 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 40.

A determination of non-disclosure has been made by a Central Authority in accordance with Article 40. If this box is ticked, information under sections 2, 4, 6, 7 and 8 should only be provided in the Restricted Information on the Applicant page of this form.

1. Requesting Central Authority file reference number: _____

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 Establishment 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, check 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.

Then list your file reference number; in the U.S., that will be your IV-D case number.

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Application – Page 1 (cont'd)

2. Particulars of the applicant

a. Family name(s) _____

b. Given name(s) _____

c. Date of birth: _____ (dd/mm/yyyy)

d. Address _____

e. Telephone numbers: _____

f. Fax number: _____

g. E-mail _____

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

Parentage is established or presumed

Maintenance basis:

<input type="checkbox"/> parentage	<input type="checkbox"/> in loco parentis or equivalent relationship
<input type="checkbox"/> marriage	<input type="checkbox"/> analogous relationship to marriage
<input type="checkbox"/> affinity (in-law 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. In Section 2, you provide information about the individual applicant. The individual applicant is the person for whom support is sought or payable, such as a spouse, a parent of a child, or the child. In the United States, we usually refer to that person as the obligee.

The family name would be the obligee's last name. The given name is the obligee's first name. The form also asks for the applicant's address, phone number, fax number, and e-mail 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.

Section 3 provides information about the individual for whom support is sought or payable.

If the applicant is seeking support for himself or herself, the applicant would so indicate in Section 3.1. For example, if the applicant is a spouse, and the application seeks establishment of a spousal support order, this would be an appropriate box to check. The basis for the support duty must also be checked. However, requests for establishment of spousal support are not included in the scope of applications covered by Central Authority functions unless there has been a declaration by both the requesting and requested States extending Chapters II and III of the Convention to spousal support. The United States has not made such a declaration. Therefore, a U.S. creditor who needs to have a spousal support order established must usually make a direct request to the competent authority in the requested State.

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

Application – Page 2

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

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

Parentage is established or presumed

Maintenance basis: in loco parentis or equivalent relationship

percentage _____

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

Parentage is established or presumed

Maintenance basis: in loco parentis or equivalent relationship

percentage _____

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

Parentage is established or presumed

Maintenance basis: in loco parentis or equivalent relationship

percentage _____

The more common scenario will be the applicant who is a parent seeking establishment of a child support order. In that case, Section 3.2 needs to be completed. For each child, provide the full name and date of birth. The Practical Handbook says to use the name that appears on the child's birth certificate.

The application must state whether parentage is established or presumed. You also need to check the basis for the child support duty. Usually parentage will be checked because the respondent is the parent or the alleged parent of the child. However, some countries recognize a support obligation on the basis that the respondent has an "in loco parentis" or similar parental relationship with the child.

If the child is the applicant, only Section 3.2 needs to be completed.

Application – Page 2 (cont'd)

3.3 Maintenance is sought or payable for the following person

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

Maintenance basis: marriage analogous relationship to marriage
 child of same identity grandchild
 other: _____

3.4 Maintenance is sought or payable for additional children or persons, additional particulars are attached

4. Particulars of (names) of the debtor (respondent)

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

b. Personal identification number: _____
(include name of country or territorial unit that issued the number)

c. Residential address: _____

d. Postal address: _____

Complete Section 3.3 if maintenance is sought or payable for someone other than the applicant or a child.

Check the tick box in Section 3.4 if support is sought for additional children. In that case, you will need to attach information for those children in the same type format as for the three children named in Section 3.2.

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In Section 4, you should provide identifying and locate information about the debtor/respondent. 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

4. Any other information that may assist with the location of the debtor

5. Payments

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

Name of the bank: _____

SWIFT: _____

SWIFT address: _____

IBAN: _____

Account number: _____

Name of account holder: _____

Reference: _____

b. Details for payments by cheques (if applicable)

Cheques payable to: _____

Cheques 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 in subsection (b). In both subsections, make sure you provide the correct file or account reference number so that payments can be properly identified.

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 3 (cont'd)

6. This application is for the establishment of a decision in the requested State where:

a. there is an existing decision (Article 19(1)(d))

b. recognition and enforcement of a decision is not possible or is refused because of the lack of a basis for recognition and enforcement under Article 20 or on the grounds specified in Article 22(a) or of Article 19(1)(d)

7. Support / maintenance sought by the applicant* (specify currency[†] for each amount)

Support / maintenance

Please specify the amount: _____

Frequency of payments: _____

week two weeks month 3 months 6 months

year other (specify): _____

Restrictive support / maintenance

Please specify date from which restrictive maintenance is sought: _____ (dd/mm/yyyy)

Please specify the amount: _____

Frequency of payments: _____

week two weeks month 3 months 6 months

year single payment other (specify): _____

* National Bank Identification Code
† Please specify the currency
* Complete this section only if requested by the requested State
† Currency should be specified using the ISO code

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

As previously noted, there are two possible applications for a creditor seeking the establishment of a support order in the requested State. In Section 6, check the first tick box if there is no existing support order and you are requesting the establishment of an initial support order, including where necessary the establishment of parentage. Check the second tick box only in the rare circumstance that you are requesting establishment of a support order because an existing decision is not possible or is refused under Article 20 or under the two specified grounds listed in Article 22 of the Convention.

In Section 7, you can identify the amount of support sought, including retroactive support. Keep in mind that this is not controlling. It will be the law of the requested State that governs the amount of the support, including the availability of retroactive support.

Application – Page 4

Other payments, arrangements or conditions
Please specify the amount: _____
Frequency of payments:
 week one week month 3 months 6 months
 year other (specify): _____

8. The following document(s) are attached in support of this application:

- Birth certificate or equivalent
- Acknowledgment of parentage by the Aditor
- Formal statement providing evidence relating to parentage
- Decision of competent authority concerning parentage
- Genetic test results
- Adoption certificate
- Certificate of marriage or similar relationship and date of divorce / separation
- Formal statement providing evidence relating to common residence of the parties
- Agreement between the parties relating to maintenance
- Evidence of disability
- Financial / Commission Form
- Statement of assets or payment history
- Other evidence in accordance with the law of the requested State
- Decision of the requested State referring recognition and enforcement

Section 7 allows the applicant to also request other payments, such as school tuition.

In Section 8, please check any documents that are attached in support of the application. The Country Profile should be the starting point for you to learn what documents the requested State requires to accompany an establishment application.

Application – Page 4 (cont'd)

9. Please initiate enforcement measures once the decision is established

10. Other information: _____

11. Attestations

This application was completed by the applicant and reviewed by the requesting Central Authority

This application complies with the requirements of the Convention (Article 12(2)). The information contained in this application and the attached documents correspond to and are in conformity 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.

Name: _____ (in block letters) Date: _____ (dd/mm/yyyy)
Authorized representative of the Central Authority

Presumably you will always check tick box 9 so that enforcement measures are initiated, once a decision is established.

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage

Use Section 10 to provide additional information.

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 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.

5.31 RESTRICTED INFORMATION

Restricted Information if Applicable – Page 1

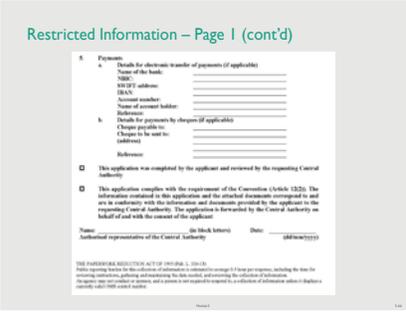
Restricted Information on the Applicant
Application for Establishment of a Decision
(including where necessary the establishment of parentage)
(Article 10(1) (c) (d) Article 10(1) (d))

N.B. The requesting Central Authority has determined that information under sections 2, 4, 6, f and g and 8 on this page shall not be disclosed or confirmed for the protection of the health, safety or liberty of a person. Such a determination shall according to Article 40(2) be taken into account by the requested Central Authority.

- Requesting Central Authority file reference number: _____
- Particulars of the applicant
 - Family name(s): _____
 - Given name(s): _____
 - Date of birth: _____ (dd/mm/yyyy)
 - Address: _____
 - Telephone numbers: _____
 - Fax number: _____
 - E-mail: _____

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 Establishment 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 forms we use in interstate U.S. cases.

Module 5: Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage



The image shows the bottom half of a form titled "Restricted Information – Page 1 (cont'd)". It contains several sections for providing financial and banking information:

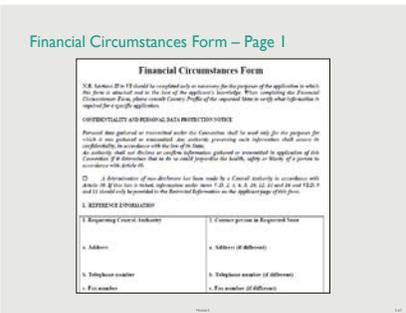
- 5. Payments:** Includes fields for "Checks for electronic transfer of payments (if applicable)", "Name of the bank", "SWIFT address", "IBAN", "Account number", and "Name of account holder".
- 6. Transfer of payments by cheque (if applicable):** Includes fields for "Cheque payable to", "Cheque to be sent to", and "Reference".
- 7. Attestation:** A tick box asking if the application was completed by the applicant and reviewed by the requesting Central Authority.
- 8. Compliance:** A tick box asking if the application complies with the requirements of the Convention (Article 12(2)).
- Signature:** A line for the name and date of the authorized representative of the Central Authority.

This is the bottom half of the form. Note that the numbering is not sequential; it conforms with the section numbers on the Application for Establishment 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.

5.32 FINANCIAL CIRCUMSTANCES FORM



The image shows the top half of a form titled "Financial Circumstances Form – Page 1". It includes the following sections:

- Introduction:** A paragraph explaining the purpose of the form and its use in conjunction with the Convention.
- 1. REFERENCE INFORMATION:** A table with two columns: "Requesting Central Authority" and "Country person is Requested from". Each column has fields for "Address", "Telephone number", and "Fax number".

The Financial Circumstances Form is another recommended form published by the Hague Conference. It should be included with every Application for Establishment 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,

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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 1 (cont'd)

3. The applicant (family name(s) and given name(s)), hereinafter "applicant", is: creditor, representative of the parent(s) for whom maintenance is sought or payable, or debtor

4. This form is being submitted in relation to (it is possible to tick more than one box)

Establishment of a decision (Art. 19(1) (i) and (ii))
 Complete all sections

Recognition or recognition and enforcement of a decision (Art. 19(1) (ii))
 Complete sections III and IV

Enforcement of a decision made or recognised in the requested State (Art. 19(1) (ii))
 Complete sections III and IV

Identification of a decision (Art. 19(1) (i) and (ii) and (2) (i) and (ii))
 Complete all sections

Applying for legal assistance (Art. 27 (a))
 Complete sections II, V and VI if the applicant is the person identified under III
 Complete sections II, V and VI if the applicant is the person identified under III

5. Unless otherwise specified, the currency (ISO code) used to complete this form and, if applicable, the exchange rate (and date of exchange rate) if the amounts are converted into the currency of the requested State is: _____ (fill in name (year))

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. However, under the Convention, an Application for Establishment of a Decision is not available to the debtor. So you would never check the debtor tick box in an establishment case.

Section 4 identifies the application that is being made. You do not need to check the box about applying for legal assistance when a creditor is seeking establishment of a support order for a child up to age 21. Legal assistance is mandatory, if necessary in the requested State.

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 ANYONE)

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

The creditor or the parent for whom maintenance is sought is:
 Father Mother Co-parent other than parent Foster care provider

Both the child and the other parent identified are considered as creditors

The child has himself in the only creditor

Other person (see the application)

B. Applicant, child or applicant

1. Estimated gross monthly earnings (specify currency) _____ 2. Other monthly income (if any) (specify currency) _____

3. Present marital status Married Single Partner Divorced Separated

B. Information about creditor's dependants

Family name(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

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In conjunction with the Application for Establishment, 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 spouse or partner of debtor (other member of the household contributing to the expenses of the household)			
1. Family name(s), given name(s)	2. Employer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
3. Estimated gross monthly earnings (specify currency)	4. Other monthly income (if any) (specify currency)		
5. The person identified above pays child support maintenance (voluntarily or judicial) administrative decision in the amount of _____ per _____ (specify currency) and installment periods. As of _____ (dd mon/yyyy) the total amount paid is _____ 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:
 Father Mother Caretaker other than parent Foster care
 Spouse Partner Child Other person

2. Occupation, trade, or profession

3. Name and address of the employer

4. Estimated gross monthly earnings (specify currency)

5. Other monthly income (if any) (specify currency)

6. Present Marital Status
 Married Single Partner Divorced Separated

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
5.			<input type="checkbox"/> Yes <input type="checkbox"/> No

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

1. Family name(s), given name(s)	2. Employer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
3. Estimated gross monthly earnings (specify currency)	4. Other monthly income (if any) (specify currency)		
5. The person identified above pays child support maintenance (voluntarily or judicial) administrative decision in the amount of _____ per _____ (specify currency) and installment periods. As of _____ (dd mon/yyyy) the total amount paid is _____ 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.

5.33 OCSE RESOURCES ON 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
- DCL-16-21 provides guidance and information about the forms

OCSE issued DCL-16-21, which provides guidance and information about the mandatory and recommended Convention forms. It has also formatted the forms into a fillable PDF format, which you can access from the OCSE website.

OCSE International Page



www.acf.hhs.gov/css/partners/international

This slide depicts OCSE’s International page and shows where you would click to access the Hague Convention forms.

5.34 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

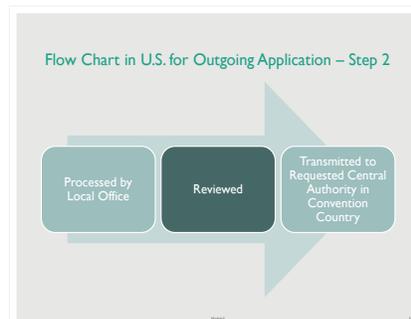


Article 44 of the Hague Child Support Convention addresses translation of documents and communications. As noted earlier, any application and related documents must be in the original language, and must be accompanied by a translation into an official

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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.

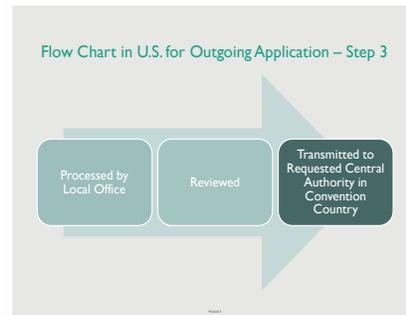
5.35 FLOW CHART IN U.S. FOR OUTGOING APPLICATION – STEP TWO



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. This is substantially a final administrative review of the application and documents provided by the applicant to determine whether the application is within the scope of the Convention and the required documents are attached.

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 would like to work with states to share best practices.

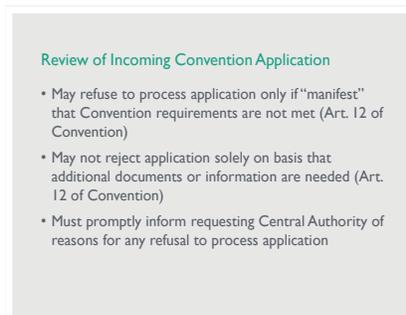
5.36 FLOW CHART IN U.S. FOR OUTGOING APPLICATION – STEP THREE



The next slides focus on what happens once a IV-D agency has transmitted an Application for Establishment 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.

5.37 REVIEW OF INCOMING CONVENTION APPLICATION



In its review of an incoming application from a state child support agency in the United States, there are two important provisions that govern the requested Central Authority.

First, it may refuse to process the application only if it is manifest that Convention requirements are not met. Second, the Central Authority may not reject the application solely because additional documents or information are needed. In the rare case where

the requested Central Authority decides to refuse to process the application, there must be prompt notice to the requesting Central Authority.

We earlier 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.

5.38 ROLE OF REQUESTED CENTRAL AUTHORITY

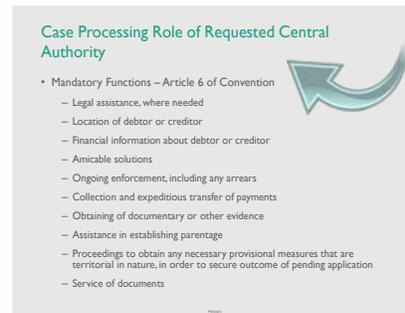


In addition to reviewing the application, what responsibilities does the requested Central Authority in the Contracting State have when it receives an application from a U.S. child support agency? Article 12 of the Convention sets out several requirements, including timeframes for taking action. This 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. As previously discussed, 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.

5.39 CASE PROCESSING ROLE OF REQUESTED CENTRAL AUTHORITY



The Convention also outlines general case processing responsibilities the Central Authority has when it receives an application from a Convention country. This slide summarizes measures that Article 6 requires, if appropriate. We discussed these measures earlier. If you recall, the required role of the requested Central Authority is usually to facilitate or help with these measures.

In particular, note the requirement that the requested Central Authority assist in establishing parentage where necessary for the recovery of support. According to the Explanatory Report, “providing assistance” could mean, at a minimum, providing contact details of the laboratories qualified to conduct genetic testing in the requested State, providing advice to the creditor or the requesting Central Authority about domestic laws, or referring the creditor to the proper authorities. At a higher level of service, it could mean providing assistance in obtaining relevant documents in relation to the establishment of parentage by presumption, acting on a request to contact the putative father to obtain a voluntary acknowledgment of paternity, initiating judicial proceedings for the establishment of parentage, or assisting with arrangements for a voluntary genetic test of the presumed parent. It will depend upon the laws and procedures of the requested State.⁶

The costs of parentage testing come within the cost-free services that must be provided to an applicant in a matter concerning child support. Therefore the U.S. applicant cannot be required to pay for the parentage testing.

⁶ See Para. 174 of the Explanatory Report.

5.40 CENTRAL AUTHORITY AND POWER OF ATTORNEY IN REQUESTED STATE

Central Authority and Power of Attorney in Requested State – Article 42 of Convention

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

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

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.

5.41 OTHER RELEVANT CONVENTION PROVISIONS

Other Relevant Convention Provisions

- Physical presence of child or applicant not required (Art. 29)
- Requested Central Authority must initiate or help initiate any necessary proceedings (Art. 6)
- Jurisdictional rules of requested State apply (Art. 10)
- Laws of requested State apply with regard to determination of support duty (Art. 10)

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

Article 10 provides that the application for establishment is subject to the jurisdictional rules in the requested State. It also directs that the application shall be determined

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under the law of the requested State. That means the determination of a support duty, the support amount, and the duration of support is based on the law of the requested State.

5.42 CASE SCENARIO – OUTGOING APPLICATION

Case Scenario – Outgoing Application

- Custodial parent in Florida has applied for IV-D child support services. Parent wants establishment of support order for child born during the marriage. Obligor lives in Germany.

- What steps should the local child support office take?
 - Determine if long arm jurisdiction is available and appropriate
 - If not, prepare/review Convention application
 - Appropriate applicant
 - Within Convention scope
 - Required documents, including translations if necessary

This slide and the next present a case scenario.

In this case, the custodial parent and child live in Florida. The noncustodial parent lives in Germany. The parents are married but not living together. The custodial parent has applied for IV-D services and wants establishment of a support order for the child born during the marriage.

What steps should the local Florida child support office take?

[Note to Trainer – After allowing time for the participants to think about the appropriate answer, you should go over the steps identified on the slide. For example, in completing the application, the caseworker should make sure that:

- Long-arm jurisdiction is not available or appropriate.
- The application is one that is available to the particular parent, i.e., the applicant is the creditor.
- The application is within the mandatory Convention scope, i.e., it relates to child support for a child under the age of 21.

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- The worker has all the required additional documents, including translated documents where necessary.]



The slide is titled "Case Scenario – Outgoing Application (cont'd)". It contains a bulleted list of steps and a small German flag icon. The text on the slide is as follows:

- Florida IV-D agency transmits the Application for Establishment, along with the Transmittal and other required documents, to the German Federal Office of Justice
- What steps should the German Federal Office of Justice take?
 - Review application
 - Send acknowledgment
 - Initiate or facilitate initiation of proceedings
 - Send status of application
- What steps should the German competent authority take?

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

What steps should the German Federal Office of Justice take?

It should timely acknowledge the application and promptly forward the application and documents to the competent authority in Germany with authority to establish a court or administrative support order. Within three months of the acknowledgment, it should send Florida a status update.

What steps should the competent authority in Germany take?

It should establish the obligor's support obligation. German law will govern the establishment of the support amount and the duration of the support obligation.

5.43 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 Application to Establish a Support Decision, including where necessary the establishment of parentage. We covered both incoming and outgoing applications. The next module will discuss incoming applications for modification.



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.