

ERICSA 2015: Building Sweet Futures for ...



Implementing the Hague Convention in the U.S.

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Background on the Hague Convention

- ❖ 55 Hague member countries + 15 “observer” (non-Hague-member) countries + 17 Non-Governmental Organizations
- ❖ Five years of negotiation – Diplomatic Conference finalized Convention in November 2007
- ❖ United States Signed the Convention on November 27, 2007

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Benefits for the United States

- ❖ Reciprocity With More Countries
- ❖ Increasing Collections
- ❖ Uniformity/Efficiency
- ❖ Improved Cooperation
- ❖ Higher Standard of Child Support Services World-Wide

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Next Steps in the U.S.

- ❖ The Hague Convention on the International Recovery of Child Support & Other Forms of Family Maintenance
 - Pub. L. 113-183 - Preventing Sex Trafficking and Strengthening Families Act (September 29, 2014)
 - Requires all States to enact UIFSA 2008 in the next legislative session
 - The President must sign the instrument of ratification
 - The United States will be able to deposit its instrument of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, which is the depositary for the Hague Convention

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UIFSA versions across the U.S.

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UIFSA 1996
(26 states)

Alabama, Alaska, Arkansas, California, Guam, Hawaii, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, South Dakota, Vermont, Virgin Islands

UIFSA 2001
(16 states)

Arizona, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Mississippi, Nebraska, Oklahoma, South Carolina, Texas, Virginia, Washington, West Virginia, Wyoming

UIFSA 2008
(12 states have passed it; enactment dates vary.)

Florida, Georgia, Maine, Minnesota, Missouri, Nevada, New Mexico, North Dakota, Rhode Island, Tennessee, Utah, Wisconsin

Hague Convention – Status

32 countries have ratified:

- ❖ Norway
- ❖ Albania
- ❖ Bosnia and Herzegovina
- ❖ Ukraine
- ❖ All of the European Union Countries
(as of August 1, 2014)

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Implementation Tasks

- ❖ UIFSA 2008
- ❖ Treaty Transmittal Package
 - Country Profile
- ❖ Regulatory and Policy Guidance
- ❖ Hague Forms
- ❖ Systems and Operational Support
- ❖ Training
- ❖ Resources, Website and Communications

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Role of the Central Authority

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- ❖ System of administrative cooperation among countries using network of Central Authorities
- ❖ HHS will delegate most central authority functions to IV-D agencies
- ❖ Under Article 10 of the Convention, Central Authorities are the focal point for transmitting and receiving applications for:
 - Recognition and enforcement of decisions
 - Establishment of decisions
 - Modification of decisions

Forms

- ❖ Two mandatory forms for the Convention
 - Transmittal
 - Acknowledgment

- ❖ Recommended forms – Examples:
 - Application forms
 - Financial circumstances
 - Abstract of a decision
 - Calculation of arrears

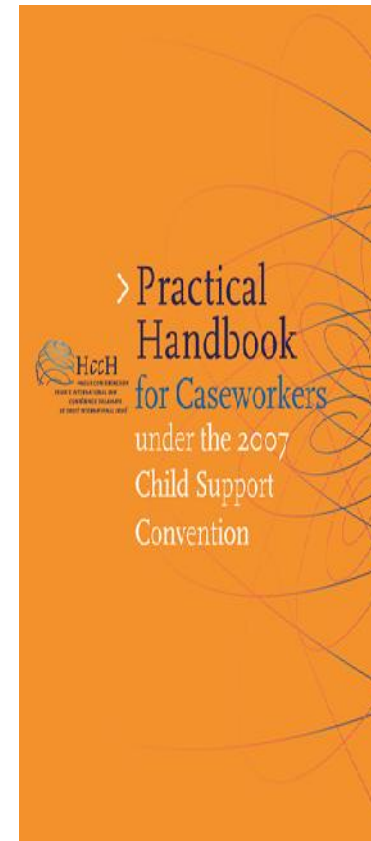
- ❖ Available on The Hague web site (HCCH.net)

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Resources

Practical Handbook for Caseworkers

- ❖ Covers procedures for all applications and requests for specific measures
- ❖ Flowcharts and guides for filling out forms
- ❖ Available on Hcch website (http://www.hcch.net/index_en.php?act=publications.details&pid=6095&dtid=3)



899 The diagram below shows the steps taken by the competent authority.

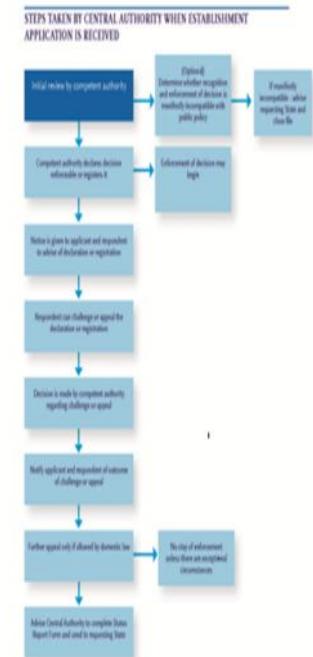


Figure 10. Steps taken by competent authority in recognition or recognition and enforcement application (26, 27)

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Country Profiles

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Last Update	2013-01-15 22:03:47.0
1. APPLICATIONS FOR RECOGNITION OR RECOGNITION AND ENFORCEMENT OF A DECISION (Arts. 10(1) a) and 10(2) a) of the Convention)	
a. Has Austria made a reservation to a basis for recognition and enforcement under Article 20(1) c), e) and f) of the Convention? (Art. 20(1) c) and f) of the Convention). *	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> The creditor was habitually resident in the State of origin at the time proceedings were instituted; <input type="checkbox"/> The decision was made by an authority exercising jurisdiction on a matter of personal status or parental responsibility, unless that jurisdiction was based solely on the nationality of one of the parties.
b. The following is information required by Articles 11 and 25 to be included in an application for recognition or enforcement of a maintenance decision made in another Contracting State. ** It is important to note that provisions on the protection of personal data, confidentiality and non-disclosure of information to protect the health, safety or liberty of a person are contained in Articles 38, 39 and 40 of the Convention. (Arts 11, 25, 38, 39 et 40 of the Convention). *	About the applicant: <input checked="" type="checkbox"/> Full name (required); <input checked="" type="checkbox"/> Date of birth (required); <input checked="" type="checkbox"/> Address (required); <input checked="" type="checkbox"/> Contact details (required); About the respondent: <input checked="" type="checkbox"/> Full name (required); <input checked="" type="checkbox"/> Date of birth (required if known); <input checked="" type="checkbox"/> Address (required if known); About the person for whom maintenance is sought: <input checked="" type="checkbox"/> Full name (required); <input checked="" type="checkbox"/> Date of birth (required); Other information: <input checked="" type="checkbox"/> Nature of the application (required); <input checked="" type="checkbox"/> The grounds upon which the application is based (required); <input checked="" type="checkbox"/> If the applicant is the creditor or the representative of the creditor, information concerning where the maintenance payment should be sent or electronically transmitted (required); <input checked="" type="checkbox"/> The name and contact details of the person or unit from the Central Authority responsible for processing the application (required).

- ❖ Every signatory to Convention must complete Country Profile
- ❖ Provides information about
 - Child support application processing
 - Key legal areas such as how child support is calculated
 - Contact information for central authorities
- ❖ Available on hcch website (<http://hcch.cloudapp.net/smartlets/sfjsp?interviewID=hcchcp2012>)

Country Profiles

- ❖ U.S. Country Profile will link to the IRG for questions answered by state law.
 - Examples
 - Age of emancipation
 - Statute of limitations
 - Types of enforcement

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Processing International Cases

- ❖ Countries will be joining Convention over time
- ❖ First “wave” of Convention cases for United States will be European Union and Norway as Convention is already in force for those countries
- ❖ After that ???
 - Australia, New Zealand, Canada, Brazil, Latin America
- ❖ Bilateral arrangements will continue until then



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Considerations

- ❖ There will be a period of time when caseworkers are managing Convention and non-Convention cases
- ❖ Some differences in forms and processes
- ❖ Possibilities
 - Use Convention processes for non-Convention cases
 - After Convention comes into effect continue to use bilateral processes if those bilateral processes are working well and provide higher level of service than Convention (Canada/US))



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Best Practices and Resources

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- ❖ Centralization
- ❖ Regional sharing of expertise
- ❖ Websites
 - OCSE - acf.hhs.gov/programs/css/international
 - Hague – hcch.net
- ❖ Communication
 - Intergovernmental workgroups
 - International networks
 - Questions – ocseinternational@acf.hhs.gov

The Future of the Hague Convention

- ❖ Global child support Convention for next 50 years
- ❖ Will be formally reviewed at least every 4 years by a “Special Commission”
- ❖ Review of forms and development of new forms
- ❖ Gathering of information, including statistics and case law

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The Potential Impact of the Convention

International Case Research 2013

- ❖ Compared international caseloads in 9 jurisdictions
- ❖ Diverse jurisdictions; diverse sizes
- ❖ Some conclusions can inform us in planning for Convention cases

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Conclusion 1

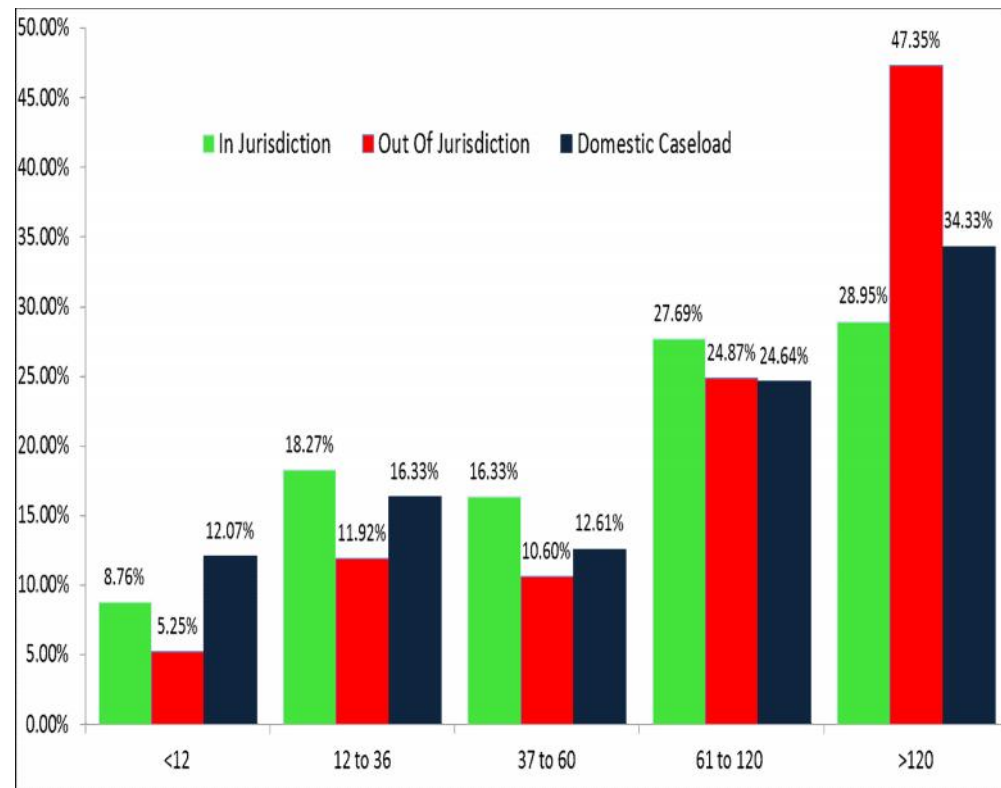
- ❖ International caseloads are highest with those States that have the closest geographic proximity to each other. For example:
 - British Columbia / Washington
 - Australia / New Zealand
 - France / Germany
- ❖ Will that pattern hold true with Convention? Or will we see growth based on other factors, for example – business, family or immigration connection patterns?

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Conclusion 2

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- ❖ International cases have longer lives than domestic cases
- ❖ More than half of the international caseload has been enrolled more than 10 years



Conclusion 3

- ❖ The cases look similar
- ❖ Average family sizes
 - 1.5 children (out of jurisdiction)
 - 1.8 children (in jurisdiction)
- ❖ Both creditors and debtors are likely to be in the 40 – 50 age group
- ❖ Children are older than on domestic cases- not very many babies or under 10 year olds
- ❖ Some jurisdictions have lots of adult children in their caseloads

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Payment Predictions

- ❖ May see a different payment pattern emerge
- ❖ New processes being set up in countries to assist in the recovery of maintenance
 - New forms and tools may make collection on international cases more effective
 - Timely transmission of cases will reduce arrears at time of registration/enrollment making collection more effective

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Keys to Implementing Convention

- ❖ Central Authority
- ❖ Forms & Practical Handbook
- ❖ iSupport

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What is iSupport?

- ❖ Case management application for both EU regulation cases and Hague Convention cases
- ❖ Will assist Central Authorities in processing applications under the Convention, the EU regulation, and reciprocal agreements*

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Key Functionalities

- ❖ Generates required and recommended Forms in multiple languages
- ❖ Provides secure transmission of messages and documents between Central Authorities
- ❖ Allows case managers to track cases and complete required Convention tasks
- ❖ May be able to handle payment transactions and exchange in future

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Development Process for iSupport

- ❖ Permanent Bureau of Hague is lead
- ❖ Advisory Board established Dec. 2014
- ❖ Workgroups to set requirements
 - Functional
 - Technical
 - Security
 - Communication
 - Governance & Sustainability
- ❖ Transparency – all documents and discussion are on Hcch.net at http://www.hcch.net/index_en.php?act=text.display&tid=192

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Current Timeline for iSupport

- ❖ Finalize RFP (tender) - April 29, 2015
- ❖ Issue RFP - May 1, 2015
- ❖ Bid response - June 30, 2015
- ❖ Development begins – August 2015
 - Regulations countries (EU)
 - Convention cases
- ❖ Pilot by France & the Netherlands
- ❖ Implementation for EU cases - Summer 2016
- ❖ Implementation of modified version for Convention cases - expected shortly thereafter

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How Will iSupport Work in US

Tentative Plan

- ❖ U.S. implements iSupport centrally
 - Uses e-codex for secure transmission
 - Builds onto Secure State Portal (SSP)
 - Transmits cases with information transparently to States
- ❖ State Options
 - Some states may build out to SSP
 - Other states will download/upload PDF documents

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Thank You!

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