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NEWSLETTER OF THE GLOBAL NETWORK: "CHILD SUPPORT WORLDWIDE"

Dear network members and child support experts all over the world,

We are pleased to inform you about the following recent developments in the field of cross-border maintenance recovery.

### Report about the November 2022 Child Support Forum now available

The second Child Support Forum took place on 23.11.2022. Representatives of child support agencies from seven different EU countries met online to report on the "Challenges of the international maintenance recovery by public bodies" in their respective practices. Prof. em. Dr. Dieter Martiny introduced the topic. Representatives of the Hague Conference on Private International Law (HCCH), the German Federal Office of Justice, the American association NCSEA and the Universities of Verona and Bergamo also took part. The report on the results of the discussions is now available on the CSW website (Child Support Forum – Child Support Worldwide ([childsupport-worldwide.org](http://childsupport-worldwide.org))). The following topics were debated:

- Who is the applicant of the cross-border application for establishment of an order or for enforcement? The person entitled to child support or the public body?
- In which cases do public bodies make use of the assistance of Central Authorities under Regulation 4/2009 or the HCCH 2007 Child Support Convention? Do they also file direct applications abroad? Do they cooperate with other public bodies or law firms?
- According to which law is the claim for reimbursement calculated (Art. 10 / Art. 11 Hague Protocol)?
- How can public institutions obtain information on the place of residence and financial circumstances of the debtor residing abroad (within the cooperation between Central Authorities or outside)?
- How can they obtain a maintenance order in cases where benefits can be granted without a maintenance order being available (international jurisdiction)?

Obtaining information about the debtor's situation and currency conversion issues turned out to be the central problems pointed out by the participating public bodies. Furthermore, increased opportunities for sharing experiences between stakeholders of the cross-border



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maintenance recovery, such as representatives of applicants and Central Authorities, were considered useful. At the next child support forum on 28.06.2023, these three topics will be discussed in greater depth. The background presentation will be given by representatives of the German and Norwegian Central Authorities.

We would also like to take this opportunity to invite public institutions that pay child support and have not yet participated in the forum to get in touch with our network. This exchange is very fruitful in terms of identifying and highlighting difficulties from the applicant's point of view.

The report can be downloaded [here](#).

### **Switzerland: A step closer to ratification of the HCCH 2007 Child Support Convention and its Protocol**

The motion 22.3250 tabled on 17.03.2022 proposing to instruct the Federal Council, in collaboration with the cantons, to reorganize the authorities responsible for the international recovery of maintenance in order to enable Switzerland to ratify the HCCH 2007 Child Support Convention and then to submit the Convention to Parliament for ratification was adopted by the so called "Ständerat", the small chamber of the Parliament of the Swiss Confederation, on 14.12.2022.

### **Fourth Meeting of the International Transfer of Maintenance Funds Experts' Group under the HCCH 2007 Child Support Convention**

From 13 to 15 February 2023, the International Transfer of Maintenance Funds Experts' Group (ITMFEG or EG) met for the fourth time. The meeting, held online, was attended by 57 experts in total, representing 23 HCCH Members from various regions, one Member Regional Economic Integration Organisation, one Observer and members of the Permanent Bureau of the HCCH.

Pursuant to its mandate by the HCCH Council on General Affairs and Policy (CGAP), the EG continued its work discussing good practices and possible future improvements in relation to the cross-border transfer of child support payments, with a view to identifying possible solutions that are cost-effective, transparent, prompt, efficient and accessible. In particular, it was noted that great progress is being made with regards to the elimination of the use of cheques, as they are costly and time-consuming to process. While some States still use cheques in specific circumstances, the EG welcomed the fact that a number of States can no longer receive cheques or are under time constraints to stop using them.

The EG noted that excellent progress has also been made in the area of electronic payment transmission since the inception of the EG and commended the United States of America, Germany on the successful launch of the Central Authority Payment (CAP) service in January 2023. It was noted that, by 21 March 2023, the use of cheques as between the United States of America and Germany will be entirely phased out.

The EG also reiterated the importance of creditors not bearing the costs related to the transfer of funds and that creditors should receive the full amount in accordance with the maintenance decision. In this regard, the EG welcomed the solutions put in place to increase transparency and reduce costs related to transfers and currency conversion, as well as the efforts made by a number of Central Authorities to eliminate all costs borne by the parties.

The EG noted that it is very encouraging to see some Central Authorities, that are not directly involved in the transfer of funds, collaborate with other domestic authorities (e.g., courts, public bodies or bailiffs) in order to monitor payments and share the good practices discussed

in the EG meetings. The EG underlined the benefits of monitoring payments, which can also be accomplished through iSupport.

During the meeting, the iSupport Coordinator presented on the iSupport ITMF project, informing participants what the transfer of maintenance funds under the iSupport case management system could look like in States using decentralised collection of maintenance funds and in States with centralised collection points. The EG agreed that flexibility should be prioritised in order to ensure a broad application of iSupport that is compatible with most internal systems.

The EG also noted that a number of States would consider contributing to iSupport ITMF project in terms of expertise and experience. The PB intends to proceed with bilateral discussions about the next steps in the project, and to discuss lessons learned with regards to digitalisation and automation.

It was recommended that the EG meet again before CGAP 2024 in order to continue sharing good practices regarding the international transfer of maintenance funds.

An aide-mémoire, prepared by the co-Chairs of the meeting, with the support of the PB, and unanimously endorsed by the EG, can be found [here](#).

More information on the 2007 Child Support Convention and 2007 Maintenance Obligations Protocol is available on the Child Support Section of the HCCH website.

### **AMEDIP webinar on child support cases between Mexico and the USA**

Mexico and the USA do not have a common legal basis regarding the recognition and enforcement of maintenance decisions and the granting of mutual legal assistance. The USA is a Contracting Party to the HCCH 2007 Child Support Convention, but Mexico is not. Mexico is a Contracting Party to the Inter-American Convention on Support Obligations and the 1956 UN Convention on the Recovery Abroad of Maintenance, but the USA is not. Claudia Sierra Martínez of the Mexican Ministry of Foreign Affairs presented the reciprocal programme for the collection of maintenance payments between Mexico and the USA. The programme is based on a unilateral, non-binding declaration, which in turn is based on the principle of reciprocity. Its objective is to create uniform procedures for establishing, modifying and / or enforcing maintenance orders. Reciprocity is established on an entity-by-entity basis, assuming that the legal frameworks contain similar provisions and basic guarantees. The webinar can be downloaded [here](#).

### **EU-Commission proposes new rules for the recognition of parenthood between Member States**

The proposal published on 7.12.2022 is focused on the best interests and the rights of the child. It aims to provide legal clarity for all types of families, who find themselves in a cross-border situation within the EU, be it because they move from one Member State to another to work or reside there, or because they have family members or property in another Member State. One of the key aspects of the proposal is that the parenthood established in a Member State of the EU should be recognized in all the other Member States, without any special procedure.

The proposal allows children in cross border situations to benefit from the rights derived from parenthood under national law, among others in matters in maintenance matters.

The proposal can be downloaded [here](#).

### **HCCH 2007 Child Support Convention applicable in Azerbaijan from 28.02.2024**

On 17.02.2023, the Republic of Azerbaijan deposited its instrument of accession to the HCCH 2007 Child Support Convention. The Convention will only apply between Azerbaijan and those Contracting Parties which have not raised an objection to its accession before 28.02.2024.

Azerbaijan has made the following (main) declarations and reservations:

- Applications for recognition and enforcement of a maintenance arrangement shall only be made through the Central Authority of the Republic of Azerbaijan.
- Any application and related documents of the requesting Contracting Parties accompanied by a duly certified translation into the Azerbaijani language shall be accepted for processing in the territory of the Republic of Azerbaijan.
- The Republic of Azerbaijan shall apply the Convention to maintenance obligations arising from a parent-child relationship towards children up to the age of 18 years.

The designated Central Authority will be the Ministry of Justice of the Republic of Azerbaijan.

### **CSW-Newsletter – get involved!**

Thank you for your feedback on the latest contributions!

You are kindly invited to continue sharing information with us regarding:

- Your national child support law and public supporting instruments,
- Private international law developments related to child support,
- The practice of cross-border recovery of child support in your State,
- Any events or publications related to the cross-border recovery of child support.



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