

MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2018 ANNUAL CONFERENCE





Hague Child Support Convention and UIFSA 2008

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Agenda



- Background
- UIFSA 2008
- Hague Convention Cases
- Recognition and Enforcement of a Foreign Order
- Establishment of a Convention Order Including, Where Necessary, Establishment of Parentage
- Modification of an Order
- Foreign Support Agreements
- Appendix A – International case processing issues
- Appendix B – Resources


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Background



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Background: International Child Support



- The U.S. was not a party to any prior multi-lateral child support treaties
- Treaties relied on creditor- or child-based jurisdiction
 - Kulko v. Superior Court, 436 U.S. 84 (1978)
- Since 1996, U. S. authorized to enter into federal bilateral agreements (42 U.S.C. 659a)
 - States authorized to enter into reciprocal arrangement with countries that are not subject to a federal declaration

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Background: 2007 Hague Child Support Convention




- U.S. actively participated in the 2003-2007 negotiations
- At the conclusion was the first country to sign it, indicating its commitment to work toward ratification




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Background: 2007 Hague Child Support Convention (cont'd)




- Must-Haves" for U.S. negotiators:
 - Mandatory scope limited to child support and enforcement of spousal support, when in conjunction with child support
 - Establishment of support, including establishment of parentage
 - Convention country not required to recognize order where jurisdiction was based solely on creditor or child residence
 - Cost-free, or virtually cost-free, services for the creditor

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Mandatory Scope of Hague Child Support Convention




- Child support
 - Establishment and modification (at least to age 18)
 - Requested State law applies
 - Recognition and enforcement up to age 21
 - BUT Contracting State may reserve right to limit scope to children under age of 18 (U.S. did not)
 - Parentage establishment if necessary to establish a child support obligation




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Mandatory Scope (cont'd)




- Spousal support
 - Recognition and enforcement of spousal support if application is in conjunction with a child support order
 - Central Authority has responsibility
 - Establishment, modification, and enforcement of *spousal support only*
 - As direct request to the state tribunal only
 - No Central Authority responsibility



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Compromise on Personal Jurisdiction



- Most countries honor creditor-based jurisdiction for establishment of child support
- U.S. requires "minimum contacts" with the forum
- U.S. took a "reservation" concerning jurisdiction based upon "creditor's habitual residence," parties' agreement to jurisdiction, or jurisdiction based upon parental responsibility or nationality of a party
- "A Contracting State shall, if recognition of a decision is not possible as a result of a reservation...and if the debtor is habitually resident in that State, take all appropriate measures to establish a decision for the benefit of the creditor."

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Central Authority



- Contracting States designate a Central Authority to implement the treaty
- Convention places responsibilities on the Central Authority related to applications
 - In U.S., HHS has designated OCSE as the Central Authority
 - OCSE, in turn, has designated IV-D agencies to perform case processing functions

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Central Authority Costs – Article 8



- Central Authority must bear its own costs in implementing the Convention
- Central Authorities may not charge an applicant for their services except for exceptional costs arising from a request for a specific measure under Article 7
 - Recovery of costs requires prior consent of the applicant

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Implementing Convention in the U.S.



- Convention came into force in the U.S. on 1/1/17
- As family law is traditionally a state law matter, U.S. implemented the Convention through state, rather than federal, law
- As required by Congress, all states enacted the 2008 version of UIFSA

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Hague Child Support Convention Countries


• As of September 1, 2018, Convention in force in 36 countries

<ul style="list-style-type: none"> Albania Austria Belarus Belgium Brazil Bosnia and Herzegovina Bulgaria Croatia Cyprus Czech Republic Estonia Finland 	<ul style="list-style-type: none"> France Germany Greece Hungary Ireland Italy Latvia Lithuania Luxembourg Malta Montenegro Netherlands Norway 	<ul style="list-style-type: none"> Poland Portugal Romania Slovakia Slovenia Spain Sweden Turkey Ukraine United Kingdom United States
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<https://www.aaf.hhs.gov/css/partners/international>



Convention Terms and Definitions


<p>Convention Terms</p> <ul style="list-style-type: none"> Creditor Debtor Maintenance Maintenance arrangement Recognition and enforcement of a decision Requested State Requesting State 		<p>U.S. Equivalent</p> <ul style="list-style-type: none"> Obligee or custodial parent Obligor or noncustodial parent Support Foreign support agreement Registration and enforcement Responding state Initiating state
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Additional Convention Terms


- Competent Authority
 - Depends on context and country. For example,
 - Competent authority for recognition and enforcement may be limited to the court in some countries
 - Competent authority for certifying a document may vary based on the document
- Contracting State
 - Country that has ratified the Convention





Uniform Interstate Family Support Act of 2008



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UIFSA 2008 – New Article 7

- Article 7 is the substantive U.S. law for:
 - Responding to a Convention application for recognition and enforcement, establishment or modification of a Convention support order
 - Initiating a similar application to a Convention country

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UIFSA 2008 Road Map – Section 105

- Tribunal must apply UIFSA Articles 1 thru 6 and, as applicable, Article 7, to a support proceeding involving:
 - Foreign support order;
 - Foreign tribunal; or
 - Obligee, obligor, or child residing in a foreign country
- New Article 7 applies only to Convention proceedings
- Tribunal may apply Articles 1 thru 6 when asked to recognize and enforce support order on basis of comity

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UIFSA 2008 - Definitions



- state (*lower case "s"*) includes D.C., Puerto Rico, U.S. Virgin Islands, and "an Indian nation or tribe" (Section 102(26))
- Foreign country includes:
 - Foreign reciprocating country
 - Country with which a state has a reciprocal arrangement
 - Country with laws "substantially similar" to UIFSA
 - Country in which the Convention is in force with respect to the U.S. (Section 102(5))
- Outside this state – anywhere but here! (Section 102(18))

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UIFSA 2008 Changes to Articles 1 through 6



- Generally, substitutes "state or foreign country" for the former term "state"
 - Where "state" remains, provision no longer applies in international cases, such as direct income withholding (Sections 501-506)
- Incorporates 2001 amendments to UIFSA 1996
- Adds provisions related to Sections 609 – 616
 - See, especially, Section 611 (f) (continuing, not exclusive, jurisdiction) and
 - Sections 615-616 (jurisdiction to modify order of foreign country and procedure to register foreign order for modification)

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New Concepts and Procedures



- Section 710 Foreign Support Agreement
- Section 706(b)(1) an "abstract" or an "extract" of an order
 - 8 states require the complete text of the foreign order: CT, DE, IA, KS, MD, MO, NH, and SC
 - Unfortunately, most foreign countries require the U.S. to translate and send a complete text of the decision. Estonia, Italy, Malta, Luxembourg and Romania permit an abstract or extract of the decision
- "Manifestly incompatible with public policy"

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Nondisclosure and Confidentiality



- Personally Identifiable Information (PII) sealed if "party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure"
 - Tribunal may order some or all PII disclosed after a hearing (Section 312)
- PII gathered or transmitted under Article 7 "may be used only for the purposes for which it was gathered or transmitted" (Section 712)

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Special Rules of Evidence



- UIFSA Section 316
 - (a) Physical presence of a nonresident party may not be required
 - Also, Convention Art. 29 - physical presence of the child or applicant may not be required
 - (e) Electronic transmission of documents permitted
 - (f) Tribunal must permit a witness or party outside this state to testify by telephone, audiovisual means, or other electronic means


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Special Rules of Evidence (cont'd)




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

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Hague Convention Cases

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Applications through Central Authority


Creditor

- Establishment of a Decision, including, if necessary, Determination of Parentage
 - No existing order
 - Recognition of foreign support order refused for certain reasons
- Recognition or Recognition and Enforcement of a Foreign Decision
- Enforcement of a Decision Made or Recognized in Requested State
- Modification of a Decision
 - Decision made in requested State
 - Decision made in State other than requested State

Debtor

- Recognition of a Foreign Decision leading to the suspension, or limiting the enforcement, of a previous decision in the requested State
- Modification of a Decision
 - Decision made in requested State
 - Decision made in State other than requested State


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Requesting Central Authority Services


Can an applicant request services from any Central Authority?

- No. In order to receive services of a Central Authority under the Convention, the applicant must transmit the application through the Central Authority of the Contracting State in which the applicant resides to the Central Authority of the requested State.




Federal Office of Justice






Ministry of Justice



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Role of Central Authorities to Review Application



Requesting Central Authority must review outgoing application

- Ensure compliance with Convention (Art.12(2))

Requested Central Authority must review incoming application

- May not reject application solely on basis that additional documents or information are needed (Art. 12)
- May refuse to process application only if it is manifest that Convention requirements are not fulfilled (Art.12(8))
 - Manifest means clear on the face of the documents
- Must promptly inform requesting Central Authority of reasons for any refusal to process application

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Must the request for recognition and enforcement pertain to a Convention country order?




Yes. If a Convention application requests recognition and enforcement of an order, the Convention requires that the issuing country be a Contracting State

- A Contracting State may seek recognition and enforcement of its own order; or
- A Contracting State may seek recognition and enforcement of an order issued by another Contracting State



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Convention Rules Related to Evidence




- Tribunal is bound by findings on fact on which issuing State based its jurisdiction (Art. 27)
 - U.S. judicial officers should include such findings
- Tribunal cannot review the merits of decision (Art. 28)
- Introduction of evidence will depend on laws and procedures of requested State

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Recognition and Enforcement


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Overview of Application

- Requires existing support decision
- Creditor
 - Recognition and enforcement or
 - Recognition only
- Debtor
 - Recognition of decision leading to suspension, or limiting enforcement, of prior decision in requested State
- If existing order was made or already recognized in requested State, transmit application for enforcement – not recognition

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Flow Chart in U.S. – Incoming Central Authority Cases (Recognition and Enforcement)

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    graph LR
      A[Reviewed by Central Registry] --> B[Processed by Local IV-D Office]
      B --> C[Registered with Tribunal]
  
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Registration for Recognition and Enforcement – UIFSA Applicable Law and Procedures



- Apply Article 6 if no conflict with new Article 7
- Apply Sections 706 to 709 to registration of Convention order
 - Documents
 - Ex officio review by tribunal
 - Time period for challenge
 - Defenses
 - Partial enforcement

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Registration for Recognition or Recognition and Enforcement – Pleadings and Forms



- When registering a Convention support order
 - Comply with Section 602 to extent not in conflict with Article 7
 - Section 706 contains special requirements in lieu of or in addition to Article 6 requirements
 - Text or abstract of order
 - Statement of enforceability
 - Statement of proper notice
 - Record of arrears
 - Record of automatic adjustments to the support amount

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Ex Officio Review by Tribunal




- UIFSA Section 706(d)
- Tribunal *may* vacate registration, on own motion, only if recognition and enforcement of order would be **manifestly incompatible with public policy**
 - Not defined but not a vehicle for review of merits of decision
 - Prior to submission of evidence by either party other than application and accompanying documents

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Applicable Timeframes for Challenge

- UIFSA Section 707
 - Not later than **30** days after notice of registration
 - Not later than **60** days after notice if contesting party does not reside in U.S.
- **NOTE:** For a domestic case, the time to contest registration is usually 20 days regardless of where the contesting party resides.




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Defenses – UIFSA Section 708

The only grounds on which recognition and enforcement may be refused are listed under Sections 708(b)(1)-(10):


- Recognition and enforcement of order is manifestly incompatible with public policy, **including failure of issuing tribunal to observe minimum standards of due process**
- Issuing tribunal **lacked personal jurisdiction** consistent with Section 201 (UIFSA long arm provision)
- Order is **not enforceable** in issuing country
- Order was obtained by **procedural fraud**



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Defenses – UIFSA Section 708 (cont'd)


- A record transmitted under Section 706 **lacks authenticity/integrity**
- **Pending proceeding filed first**
- Order **incompatible with more recent support order**, which is entitled to recognition and enforcement
- Alleged **arrears have been paid in full**
- If default order, there was a **lack of due process** regarding notice and opportunity to be heard
- Order was made in **violation of Section 711** (limitation on modification proceedings if creditor remains a resident of issuing foreign country)



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Choice of Law – UIFSA Section 604


- Law of issuing foreign country governs:
 - Current support payments, including duration
 - Computation and payment of arrears, including interest accrual
 - Existence and satisfaction of other support obligations



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Choice of Law – UIFSA Section 604 (cont'd)

- Law of responding state governs:
 - Enforcement procedures and remedies
- Law of issuing foreign country *or* responding state – whichever is longest – governs:
 - Statute of limitations on arrears



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Possible Application Outcomes

- Recognition and enforcement
- Partial recognition and enforcement
- Recognition refused because of valid defense
- Recognition not possible because of U.S. reservation

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Non-Recognition of Convention Order – UIFSA Section 708(c)

- If a tribunal does not recognize a Convention order because of:
- Lack of personal jurisdiction consistent with Section 201
- Procedural fraud
- Pending proceeding that was filed first
- Default order issued without proper notice and opportunity to be heard

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Non-Recognition of Convention Order – UIFSA Section 708(c) (cont'd)


Then

- Tribunal may not dismiss proceeding without allowing reasonable time for party to request establishment of new Convention support order
- IV-D agency must take appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under Section 704

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Case Scenario


- Italian Central Authority requests that California recognize and enforce Italian order for 500 euros/month for support of child residing with mom in Italy



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Case Scenario (cont'd)

- Child was conceived in Switzerland when dad worked in U.S. Embassy and mom worked at Swiss hotel
- Obligor contests registration on basis that Italian court did not have personal jurisdiction over him
- Is that a valid defense? Will it be a successful defense in this case?



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

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Overview of Application


- Used when no existing support order
- May also be used when recognition and enforcement/modification of order is not possible or is refused for certain reasons,

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Application for Establishment – Convention Limits

- Application only available to creditor
- No "stand alone" parentage case
- Mandatory scope is child under the age of 18
- May not re-litigate findings related to parentage


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Application for Establishment – UIFSA

- UIFSA Section 311 details petition requirements
 - Certain identifying information about obligor, obligee, child unless safety concerns
 - Relief sought
 - Conformance with forms mandated by federal law in IV-D cases
- No special procedural requirements in Article 7


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Application for Establishment – Tribunal


- Apply Articles 1 through 4 of UIFSA if no conflict with new Article 7
- Law of responding U.S. state applies
 - Establishment of support duty
 - Duration of support
 - Application of child support guidelines

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Case Scenario – Incoming Application

- 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.



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Case Scenario – Incoming Application (cont'd)

New York child support agency files a proceeding with the New York tribunal, seeking establishment of a support order. The attorney for the respondent argues he is not the father of the child. The attorney objects to admissibility of the birth certificate because it is not certified and to information in the application and Financial Circumstances form because it is not submitted under penalty of perjury, as required by UIFSA Section 316.


- What are the likely next steps by the tribunal and the child support agency?

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Modification

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Overview of Convention Application for Modification



- Available to creditor and, subject to limitations, to debtor
- Requested State applies domestic law on modification, including jurisdiction requirements
- Used when there is existing support order
 - Issued by requested State
 - Issued by another Contracting State
 - Issued by non-Contracting State

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Restriction on Debtor



- Convention restricts where debtor can seek modification if creditor remains "habitually resident" in issuing State
 - Limited exceptions to that restriction (Article 18, Convention)
- UIFSA implements restriction in Section 711
- Tribunal may not modify Convention order if obligee remains resident of issuing foreign country unless:
 - Obligee submits to jurisdiction of tribunal or
 - Foreign tribunal lacks or refuses to exercise jurisdiction to modify its order or issue new order

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Applicable Law



- Requirements for modification
 - Law of forum
- Child support guidelines
 - Law of forum
- Nonmodifiable terms
 - Law of U.S. state that issued the order

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Incoming Application to Modify an Order Issued by Responding State

- Follow Articles 1 through 3 of UIFSA, as well as Section 611 (f)
- UIFSA Section 205 applies
 - Tribunal may modify if it has continuing exclusive jurisdiction
 - Exception: Section 611 (f)
- UIFSA Section 611 (f) authorizes retention of modification jurisdiction in certain circumstances
 - One party resides outside U.S.
 - One party resides in another U.S. state
 - Not exclusive modification jurisdiction
- Registration not required
- Applicable where either obligor or obligee remains in U.S.


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Does U.S. tribunal have CEJ to modify its order under UIFSA Section 205?

- Texas tribunal issued controlling order; obligee, obligor, or child resides in Texas




- Texas tribunal issued controlling order; regardless of parties' current residence, parties consent that tribunal may continue to exercise its jurisdiction to modify



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If tribunal lacks CEJ or consent, does tribunal have continuing jurisdiction to modify its order? UIFSA Section 611 (f)

- One party resides outside U.S.
- One party resides in another U.S. state
- Not exclusive modification jurisdiction



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Incoming Application to Modify an Order Issued by Another U.S. State



- Follow Articles 1 through 6 of UIFSA
- Responding state may modify under Section 611(a)(1) if:
 - Order registered in the state
 - No CEJ state
 - Nonresident petitioner seeks modification, and
 - Respondent is subject to personal jurisdiction of responding state

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Incoming Application to Modify an Order Issued by Another U.S. State (cont'd)



- Responding tribunal may modify under Section 611(a)(2) if:
 - Order registered in state
 - Responding state is residence of child or has personal jurisdiction over respondent, and
 - All parties have filed consents in issuing tribunal for responding tribunal to modify and assume CEJ

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Incoming Application to Modify an Order Issued by a Convention Country





- Follow Articles 1 through 6 of UIFSA if no conflict with new Article 7
- Where conflict, UIFSA Article 7 governs
 - Sections 706 through 709 – Registration of Convention support order
 - Section 711 – Limitation on modification

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Scenario: France requests modification of a French order

Incoming application includes 1) the Convention Transmittal form, 2) the text of the order, and 3) the Financial Circumstances Form

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No Modification Because Convention Order Not Recognized

- Sections 711 (b) and Section 708(c) of UIFSA apply
- Depending on reason order was not recognized, tribunal may be required to allow petitioner reasonable time to request the establishment of a new Convention order
- IV-D agency must take "all appropriate measures to request a child support order"
 - No new application needed

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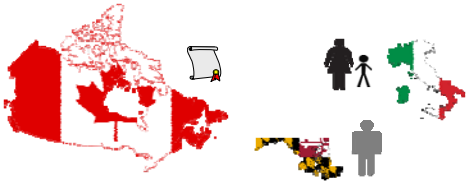
Incoming Application to Modify an Order Issued by a Non-Convention Country

- UIFSA Section 704 authorizes an application to modify an order issued by a "foreign country" (UIFSA Section 102)
- Register order pursuant to UIFSA Article 6
- Assuming order is recognized, tribunal has modification jurisdiction if:
 - Foreign country lacks or refuses to exercise jurisdiction to modify its order (Section 615), **and**
 - Tribunal has personal jurisdiction over the parties
- Modified order becomes controlling order

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Scenario: Italy requesting modification from Maryland of a Canadian order

- Creditor in Italy, debtor in Maryland



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Requests for Specific Measures

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Specific Measures – Article 7(1)(Convention)

- Request by Central Authority to another Central Authority for assistance when no application is pending
 - Location of debtor or creditor
 - Financial information about debtor or creditor
 - Obtaining of documentary or other evidence
 - Assistance in establishing parentage
- Institution of proceedings to obtain any provisional measures that are territorial in nature and necessary to secure the outcome of a pending support application
- Service of documents

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Specific Measures – Article 7(2) (Convention)

- Request by Central Authority to another Central Authority for assistance with a domestic child support case in the requesting State that has an international element
 - Not limited to measures listed in Art. 7(1)
 - May help with establishment of paternity and/or child support in this country
 - May impose charge for "exceptional costs" but only with prior consent

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Foreign Support Agreements

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Recognition and Enforcement of Foreign Support Agreement – UIFSA Section 710

- Definition
 - Agreement enforceable as support order in issuing country
 - Formally drawn up or registered as authentic instrument by a foreign tribunal; or authenticated, registered, or filed with a foreign tribunal
 - May be reviewed and modified by a foreign tribunal
- *Note:* Although foreign support agreements must be subject to modification in the issuing country, they cannot be modified in the responding U.S. tribunal

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Recognition and Enforcement of Foreign Support Agreement – UIFSA Section 710 (cont'd)



- Recognition and enforcement of foreign support agreement
 - Application through the Central Authority
 - Direct request to the tribunal
- Procedures substantially the same as for recognition and enforcement of a Convention order but,
 - Must suspend proceeding to recognize and enforce during pendency of a challenge to or appeal of agreement before a tribunal of another state or foreign country
 - No equivalent provision to delay the dismissal of an application for recognition of an agreement in order to permit time for an application for establishment to be made

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Foreign Support Agreement – Ex Officio Review



- Ex officio review by tribunal
- Tribunal may vacate registration on own motion **only** if recognition and enforcement would be **manifestly incompatible with public policy**
- Due process consideration have little or no relevance when reviewing an agreement entered into by the parties

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Foreign Support Agreement – Challenges



- Recognition and enforcement of agreement is manifestly incompatible with public policy
- Agreement obtained by **fraud or falsifications**
- Agreement is **incompatible with support order** involving same parties and purpose, if such support order is entitled to recognition and enforcement under UIFSA
- Record submitted with application **lacks authenticity or integrity**

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For More Information



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Appendix A
 International Case Processing
 Issues




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Translation of Incoming Documents to U.S.




- Incoming application and related documents
 - Original language
 - Translation into English
 - Acceptance of abstracts reduces translation costs
- Source
 - UIFSA Section 713
 - Convention Article 44



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Convention Mandatory Forms



- Transmittal Form
 - Art. 12(2) Annex 1
- Acknowledgement Form
 - Art. 12(3) Annex 2

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Recommended Convention Forms



- Applications
- Abstract of a Decision
- Statement of Enforceability of a Decision **(in the Issuing Country)**
- Statement of Proper Notice and Opportunity to be Heard (or Proper Notice of the Decision and Opportunity to Challenge or Appeal on Fact and Law)
- Financial Circumstances Form
- Status of Application Report
- Convention forms (OMB 0970-0488) are found at: <https://www.acf.hhs.gov/css/resource/hague-child-support-convention-forms>
 - Forms are attested to but not signed under penalty of perjury

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Incoming Application for Recognition and Enforcement of Convention Order – Documents



Required by UIFSA Section 706	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal
Application	Always	Convention Application
	If risk of harm	Convention Restricted Information on the Applicant
Complete text of order	Always unless your state allows an abstract or extract of order	Order itself or Convention Abstract, if acceptable
Record stating order is enforceable in issuing country	Always	Convention Statement of Enforceability

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Incoming Application for Recognition and Enforcement of Convention Order – Documents (cont'd)



Required by UIFSA Section 706	When Used	Form/Document Used
Record attesting to proper notice and opportunity to be heard	Always if respondent did not appear and was not represented	Convention Statement of Proper Notice
Record of arrears	Always if there are any	Domestic document showing amount and date calculated
Information about obligor	Always	Convention Financial Circumstances form (for applications by creditor only. Complete sections related to obligor)
Record showing req't for automatic adjustment and explaining how to adjust or index support amount	Always if order provides for automatic adjustment or indexation	Domestic document

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Incoming Application for Establishment of a Convention Support Order – Documents



Required by Convention and UIFSA	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal
Application	Always	Convention Application
	If risk of harm	Convention Restricted Information on the Applicant
Information about obligee	Always	Convention Financial Circumstances form
Information about obligor	Always	Convention Financial Circumstances form

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Additional Documentation - Establishment



- U.S. Country Profile lists additional information needed to establish a support order in the U.S.
 - Birth certificate
 - Financial information about the creditor and debtor
 - Evidence supporting obligation to provide support
- Advises that additional documents/information may be required based on facts of case and law of requested U.S. state (according to OCSE's Intergovernmental Reference Guide) <https://www.acf.hhs.gov/css/resource/irg>

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Incoming Application for Modification of a Convention Support Order – Documents



Required by Convention and UIFSA	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal
Application	Always	Convention Application
	If risk of harm	Convention Restricted Information on the Applicant
Information about obligee	Always	Convention Financial Circumstances form
Information about obligor	Always	Convention Financial Circumstances form

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Incoming Application for Modification of a Convention Support Order – Documents (cont'd)



Required by Convention and UIFSA	When Used	Form/Document Used
Complete text of order	Always, unless your state allows an abstract or extract of order	Order itself or Convention Abstract, if acceptable
Record stating order is enforceable in issuing country	Always	Convention Statement of Enforceability
Record attesting to proper notice and opportunity to be heard	Always if respondent did not appear and was not represented	Convention Statement of Proper Notice
Record of arrears	Always if there are any	Domestic document showing amount and date calculated

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Incoming Application for Modification of a Convention Support Order – Documents (cont'd)



Required by Convention and UIFSA	When Used	Form/Document Used
Record showing requirement for automatic adjustment and explaining how to adjust or index support amount	Always if order provides for automatic adjustment or indexation	Domestic document

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Recognition and Enforcement of Foreign Support Agreement – UIFSA Section 710



- **Recognition** and enforcement of foreign support agreement documents:
 - Complete text of foreign support agreement
 - Record stating agreement is enforceable as a support order in issuing country

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Currency Conversion – UIFSA



- **Duties of Support Enforcement Agency (Section 307)**
 - If requesting registration and enforcement of a support order, arrears, or a judgment stated in foreign currency, must convert into equivalent U.S. dollars under applicable official or market exchange rate as publicly reported
- **Duties of Initiating Tribunal (Section 304)**
 - If requested by the responding tribunal in a foreign country, must specify support amount sought, convert amount into equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported
- **Duties of Responding Tribunal (Section 305)**
 - If requested to enforce a support order, arrears, or a judgment or to modify a support order stated in a foreign currency, must convert the amount stated in the foreign currency into equivalent U.S. dollars under applicable official or market exchange rate as publicly reported

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Currency Conversion – Recommended Practice



- No federal, UIFSA, or Convention requirement specifies a date for converting a support amount stated in foreign currency into a U.S. dollar amount
 - Follow state law and procedure
- Recommended practice for Notice of Registration of Foreign Support Order:
 - The amount of the alleged arrearage is 900 Euros as of [12/25/YYYY] having a United States of America Dollar equivalence of \$ 1080 as of [9/1/YYYY].
- Barry J. Brooks, "International Family Support: Currency Conversion" available at Eastern Regional Interstate Child Support Association <https://ericsa.org/sites/default/files/Board%20Documents/InterGov%20Committee/Barry%20Brooks%20Currency%20Conversion%20paper.pdf>

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Resources – Currency Conversion



- Internet exchange rate websites
 - OCSE has no preferred website
 - IRS website lists following government and external resources to assist in currency conversion:
 - Bureau of the Fiscal Service, Department of Treasury, <https://www.fiscal.treasury.gov/ireports/rpt/treasRptRateExch/historicalRates.htm> (quarterly updates and historical rates back to 2001)
 - Federal Reserve, <https://www.federalreserve.gov/releases/h10/current> (weekly updates)
 - Oanda.com, <https://www.oanda.com/currency/converter/> (daily calculator)
 - Xe.com, <http://www.xe.com/> (daily calculator)
 - X-rates.com, <http://www.x-rates.com/calculator/?from=USD&to=EUR&amount=1> (daily calculator)
- States use variety of websites

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Legal Assistance (Convention)



- Legal Assistance: Assistance necessary to enable applicants to know and assert their rights and ensure that applications are fully and effectively dealt with in the requested State
- May include:
 - Legal advice
 - Assistance in bringing a case before an authority
 - Legal representation
 - Exemption from costs of proceedings
- Type of assistance will depend on legal system of Convention country
- Free legal assistance:
 - For creditors - may be subject to merit test in some establishment cases
 - Debtors are subject to means/merit test, with one exception

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Direct Requests to U.S. Tribunal



- Petitioner may file direct request, without going through Central Authority, to seek:
 - Establishment
 - Modification
 - Determination of parentage
 - Recognition and enforcement
- Petitioner may be creditor or debtor
- IV-D agency provides no assistance

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Direct Requests to U.S. Tribunal (cont'd)

- Direct request for establishment, modification, or determination of parentage
 - Responding state law applies
- Direct request for recognition and enforcement
 - Registration provisions of UIFSA Sections 706-713 apply
 - No requirement of security, bond, or deposit
- If petitioner benefited from free legal assistance in issuing country, petitioner is entitled to benefit, at least to same extent, from any free legal assistance available in similar circumstances in responding state


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Appendix B: Resources

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Resources – Hague Conference

- Convention website: <https://www.hcch.net/en/instruments/conventions/specialised-sections/child-support>
 - Text of Convention
 - Explanatory report
 - Mandatory and recommended forms
 - Country profiles – details for Convention countries
 - Practical Handbook for Caseworkers



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Child Support Section – Hague Website

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Resources – ULC and State Department

- UIFSA 2008 – Uniform Law Commission
 - *UIFSA 2008 website:*
[http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20\(2008\)](http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008))
- United States Department of State – Private International Law
<https://www.state.gov/s/l/family/index.htm>

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Resources – U.S. Office of Child Support Enforcement

- Hague Child Support Convention Judicial Guide
 - IM-18-08 <https://www.acf.hhs.gov/css/resource/hague-child-support-convention-judicial-guide>
 - Written specifically for judges, judicial officers, and other court officials
 - Focuses on UIFSA 2008 provisions that apply in Hague Child Support Convention cases
- Caseworker Training
 - <https://www.acf.hhs.gov/css/resource/training-international-case-processing>

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Resources – U.S. Office of Child Support Enforcement (cont'd)



- OCSE International Website:
<https://www.acf.hhs.gov/css/partners/international>
- Policy Guidance
 - IM16-02: 2008 Revisions to the Uniform Interstate Family Support Act
 - IM 15-01: Uniform Interstate Family Support Act (2008) and Hague Treaty Provisions
 - AT 17-06: OMB-Approved Hague Child Support Convention Forms
 - DCL 16-12: Pending Effective Date of the Hague Child Support Convention and Resources
 - DCL 16-11: U.S. Ratification of Hague Child Support Convention
 - AT 14-08: H.R. 4980: Preventing Sex Trafficking and Strengthening Families Act of 2014

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Convention Resources Targeted to Bench and Bar



- Robert Keith, *Ten Things Practitioners Should Know About the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*, 51 Fam. L. Q. 255 (2017)
- Robert Keith, *What the Trial Judge Needs to Know About the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*, 69 Juv. & Fam. Ct. J. 5 (2018)

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Resources – ABA Family Law Quarterly



- Mary Helen Carlson, *United States Perspective on the New Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*, 43 Fam. L.Q. 21 (Spring 2009)
- William Duncan, *The New Hague Child Support Convention: Goals and Outcomes of the Negotiations*, 43 Fam. L.Q. 1 (Spring 2009)
- Margaret Campbell Haynes and Susan Friedman Paikin, *"Reconciling" FFCCSOA and UIFSA*, 49 Fam. L.Q. 331 (Summer 2015)

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Resources – ABA Family Law Quarterly (cont'd)

- Battle Rankin Robinson, *Integrating an International Convention into State Law: The UIFSA Experience*, 43 Fam. L.Q. 61 (Spring 2009)
- John J. Sampson and Barry J. Brooks, *Integrating UIFSA (2008) with the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*, 49 Fam. L.Q. 179 (Summer 2015)
- Marilyn Ray Smith, *Child Support at Home and Abroad: Road to The Hague*, 43 Fam. L.Q. 37 (Spring 2009)

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Resources on Hague Convention and International child Support (cont'd)

- Greacen, John, *Remote Appearances of Parties, Attorneys and Witnesses: A Review of Current Court Rules and Practices*, prepared for the Self-Represented Litigation Network, SRLN.org (SJI Grant Number SJI-14-P-081 Program of Study and Development of Remote Delivery Mechanisms for Self Help Services from the State Justice Institute for the Self-Represented Litigation Network, hosted by the New Venture Fund).
- *A Practice Guide: Making Child Support Orders Realistic and Enforceable*, National Council of Juvenile Family Court Judges (February 2008) (Benchmark developed under a Special Improvement Project (SIP) grant funded by OCSE).

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