

International Service of Process

The 1965 Hague & 1975 InterAmerican Conventions

IAFL Annual Meeting, USA and Canadian Chapters
Santiago, Chile, 6-10 September 2023

Gary Caswell, Esq.



PRESENTATION TOPICS

- **Service Conventions**
 - **Hague Conference on Private International Law**
 - **Organization of American States**
- **Case Analysis, Forms, Procedures**
- **Default - Hague Convention Articles 15 & 16**
- **Non-compliance of Central Authority**
- **Practice Tips**

WHY SERVE ABROAD?

- Where the Respondent is!
- No need If R is a Company and Registered Agent in USA
 - Volkswagenwerk Aktiengesellschaft v Schlunk 486 U.S. 694 (U.S. 1988)
- Satisfy the Forum
- Jurisdiction
- Notice
- Enforcement in the Forum vs in Respondent's Country

CASE ANALYSIS – WHICH CONVENTION TO USE?

- Respondent in Country party to both Hague and InterAmerican Service Conventions
- HCPIIL: <http://www.hcch.net/>
- OAS: <http://www.oas.org/>
- Verify Conventions in Force
- Identify the Central Authority(ies)
- Look for Reservations and Declarations
- Note and follow Practical Information Guides on Procedures/Fees
- Review and Understand Forms

HAGUE SERVICE CONVENTION

- **Full Text**
http://www.hcch.net/index_en.php?act=conventions.text&cid=17
- **82 Contracting Parties**
- **Welcome Paraguay! On 23 June 2023 The Republic of Paraguay deposited its instrument of accession to the:**
 - **1965 Service Convention - EIF 1 January 2024**
 - **1970 Evidence Convention - EIF 22 August 2023**

HAGUE SERVICE CONVENTION – KEY ARTICLES

- Art 1** Applies to All Civil & Commercial Cases where need to serve abroad in member State
- Art 2** Central Authorities for Receiving Requests. Must know the address of the person to be served
- Art 3** Model Forms and Documents to be served to be sent in duplicate
- Art 5** Service performed by Central Authority or Designee
 - a** As normally done in the Requested State
 - b** By particular method requested by Initiating StateRS may require TRANSLATION of documents to be served.

HAGUE CONVENTION – KEY ARTICLES CONT'D

**Art 8 Option allowing Service by Diplomats or Consular Agents
(USA Diplomats & Consular Agents do NOT serve process)**

Art 10 Alternative Service Options (Provided RS does not object)

- a Postal Channels
- b Judicial officer, official or other competent person in IJ requesting
Judicial officer, official or other competent in RJ to do the service
- c Any interested person requesting service through RJ “ “ “ “
(USA does not object)

HAGUE CONVENTION – KEY ARTICLES CONT'D

- Art 15 1** No default judgment “until it is established” that documents were served per rules of RJ or “actually delivered to defendant or his residence by another method provided for by this Convention”
- 2** STATE MAY DECLARE default judgment allowed if:
- a) service is done per convention;
 - b) ≥ 6 months since documents transmitted &
 - c) “no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed”

HAGUE CONVENTION – KEY ARTICLES CONT'D

- Art 16 1** The judge shall have the power to relieve a defendant from a default judgment even if the time to appeal has expired if:
- a** Defendant through no fault of his own did not have knowledge of the service documents in time to defend, or knowledge of the judgment in time to appeal, and
 - b** the Defendant has disclosed a prima facie defense to the action on the merits.
- 2** Application for relief must be filed within a reasonable time
- 3** STATE MAY DECLARE the Application will not be entertained if filed a year or more after the date of the judgment (USA & CANADA)



Hague Conference on Private International Law

The World Organisation for Cross-border
Co-operation in Civil and Commercial Matters

Conférence de La Haye de droit international privé

L'Organisation mondiale pour la coopération
transfrontalière en matière civile et commerciale

◀ English

Français ▶



Delegation from the Philippines visits the Permanent Bureau of the..
14-Jul-2023



Kick-off Meeting of the Central Bank Digital Currencies (CBDCs)..
05-Jul-2023



Français Ot

MEMBERS & PARTIES ▾

INSTRUMENTS ▾

PROJECTS ▾



HCCH

Protéger Coopérer Depuis 1893
Protecting Cooperating Since 1893

MEMBERS & PARTIES ▼

INSTRUMENTS ▼

PROJECTS

Conventions and other Instruments

Status chart

Authorities (per Convention)

Hague Conference on

CONVENTIONS AND OTHER INSTRUMENTS

Conventions and other Instruments

Since its inception, over 40 Conventions and instruments have been adopted under the auspices of the HCCH. Of these, a select core Conventions and instruments, are prioritised based on their recent adoption, popularity, or practical relevance.

Core Conventions and Instruments

- > [1961 Form of Wills Convention \[11\]](#)
- > [1961 Apostille Convention \[12\]](#)
- > [1965 Service Convention \[14\]](#)

SERVICE SECTION

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Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions

The *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (HCCH 1965 Service Convention) provides for the channels of transmission to be used when a judicial or extrajudicial document is to be transmitted from one Contracting Party to the Convention to another Contracting Party for service in the latter. The Convention establishes a main channel of transmission via a

[Specialised Section](#)[Full text](#)[Status table](#)[Authorities](#)[Practical operational documents](#)

operation of the Access to Justice Conventions

Official and Extrajudicial Documents in Civil or
channels of transmission to be used when a
Contracting Party to the Convention to another
has a main channel of transmission via a

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Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions

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This specialised section contains a range of information on the Convention, including its full text, current status, and other practical information per Contracting Party, amongst others.

Specialised Section

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Questionnaires & Res

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Workshops

HOW TO READ THE STATUS TABLE

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In the status table of the Service Convention, Contracting Parties to this Convention that are also Members of the HCCH are in **bold** and Contracting Parties that are not Members of the HCCH are in *italics*. **In other words, a country does not need to be a Member of the Hague Conference to be Party to the Service Convention.**

When checking the status table of the Service Convention, always keep the following in mind:

1. Check if *both* the country where the documents originate and the country where the documents are to be transmitted for service are listed in the status table.
2. There are different ways for a country to become a Party to the Convention (*ratification, accession, succession or continuation*), but these differences have no impact on how the Convention operates in the country.[1]
3. Look for the column 'EIF' and check the date of entry into force of the Convention for both countries - if the Convention is in force in both countries, it may be applied.[2]

[Specialised Sections](#)[Full text](#)[Status table](#)[Authorities](#)[Practical operating documents](#)[Model Forms](#)[Special Commission](#)

RATIFICATION VS ACCESSION

- Only countries represented at the Tenth Session of the Hague Conference (where the Convention was concluded) may *sign and ratify* the Convention. Any other country may become a Party to the Convention by *accession*.
- [2] For a State becoming a Party by accession, the Convention only enters into force if no State that has ratified the Convention beforehand objects to the accession. This "right of veto" must be exercised within a period of six months after notification of the accession. So far, no country has exercised this right.

[Text of the Convention](#)[Translations](#)[Outline of the Convention](#)[Central and other
Authorities
Practical Handbook
Mandatory Form](#)[Contracting Parties
How to read the status
table
Applicability of Articles
8\(2\),
10\(a\), \(b\) and \(c\), 15\(2\),
16\(3\)](#)[HCCH Publications](#)[Translations](#)[Case law](#)[Bibliography](#)

Explanatory documents:

- › [Outline of the Convention](#)
- › [Practical Handbook \(2016\)](#)
- › [FAQs](#)

Mandatory Form (Request - Summary - Certificate):



	Contracting Parties	Art. 8(2)	Art. 10			Art. 15(2)	Art. 16(3)
			(a)	(b)	(c)		
18.	Canada	No opposition	No opposition	No opposition	No opposition	Declaration of applicability	Declaration that application for relief will not be entertained if it is filed after the expiration of one year following the date of judgment, except in exceptional cases determined by the rules of the Court seized of the matter
19.	China, People's Republic of	Opposition	Opposition	Opposition	Opposition	Declaration of applicability	Declaration that application for relief will not be entertained if it is filed after the expiration of one year following the date of the judgment
	China (Hong Kong)	Opposition	No opposition	Additional information	Additional information	No declaration of applicability	No declaration
	China (Macao)	Opposition	No opposition	No opposition	No opposition	Declaration of applicability	Declaration that application for relief will not be entertained if it is filed after the expiration of one year following the date of the judgment
20.	Colombia	No opposition	No opposition	No opposition	No opposition	No declaration of applicability	No declaration
21.	Costa Rica	No opposition	No opposition	No opposition	No opposition	No declaration of applicability	No declaration

	Contracting Parties	Art. 8(2)	Art. 10			Art. 15(2)	Art. 16(3)
			(a)	(b)	(c)		
46.	Malta	Opposition	Opposition	Opposition	Opposition	No declaration of applicability	No declaration
47.	Marshall Islands	Opposition	Opposition	No opposition	No opposition	Declaration of applicability	Declaration that application for relief will not be entertained if it is filed after expiration of one year following the date of the judgment
48.	Mexico	Opposition	Opposition	Opposition	Opposition	Declaration of non-applicability	Declaration that application for relief will not be entertained if it is filed after the expiration of one year following the date of judgment, or a longer period which the judge may deem reasonable (additional information, see declarations)
49.	Monaco	Opposition	Opposition	No opposition	No opposition	Declaration of applicability	Declaration that application for relief will not be entertained if it is filed after expiration of twelve months following the date of the judgment
50.	Montenegro	Opposition	Opposition	Opposition	Opposition	Declaration of applicability	Declaration that application for relief will not be entertained if it is filed after expiration of one year following the date of the judgment

DECLARATION/RESERVATION/NOTIFICATION

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Declarations

Articles: 5,6,7,8,10,12,15,16

[\(Click here for the Central Authority designated by Mexico and other practical information\)](#)

Declaration of May 2011:

1. The Government of the United Mexican States modifies the declarations made at the moment of acceding to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague on 15 November 1965, to read as follows:

I. In relation to Article 2, the Government of Mexico appoints the Directorate-General for Legal Affairs of the Ministry of Foreign Affairs as the Central Authority to receive requests for service of process of judicial and extrajudicial documents from other Contracting States who will forward them to the competent judicial authority for service.

MEXICO ARTICLE 15 (2) DECLARATION

...

VII. In relation to Article 15, second paragraph, the Government of Mexico does not recognize the power of the judicial authority to give judgment, where the defendant does not appear and there is no communication evidencing that the document was served or that documents originating outside the country were indeed delivered, as referred in to sub-paragraphs a) and b) of the first paragraph....

operation of the Access to Justice Conventions

Special and Extrajudicial Documents in Civil or
channels of transmission to be used when a
Contracting Party to the Convention to another
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14: Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Entry into force: 10-II-1969

 Print contact details of all authorities

- Albania - Central Authority & practical information
- Albania - Competent Authority (Art. 6, 18)
- Albania - Competent Authority (Art. 9)
- Andorra - Central Authority & practical information
- Andorra - Competent Authorities (Art. 6)
- Andorra - Competent Authority (Art. 9)
- Antigua and Barbuda - Central Authority & practical information
- Argentina - Central Authority & practical information
- Argentina - Forwarding Authorities (Art. 3)
- Armenia - Central Authority and practical information
- Australia - Central Authority & practical information
- Australia - Competent Authorities (Art. 6)
- Australia - Competent Authorities (Art. 18)

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[Questionnaires & Responses](#)

[Conferences, Seminars & Workshops](#)

[HCCH Publications](#)

[Translations](#)

[Case law](#)

- Botswana - Competent Authority (Art. 6)
- Botswana - Competent Authority (Art. 9)
- Brazil - Central Authority & practical information
- Bulgaria - Central Authority & practical information
- Bulgaria - Competent Authority (Art. 6)
- Bulgaria - Competent Authority (Art. 9)
- Canada - Central Authority & practical information
- Canada - Competent Authority (Art. 6)
- Canada - Competent Authority (Art. 9)
- Canada - Forwarding Authorities (Art. 3)
- China - Central Authority & practical information
- China - Competent Authority (Art. 9)
- China (Hong Kong SAR) - Competent Authority (Art. 6)
- China (Hong Kong SAR) - Competent Authority (Art. 9)
- China (Hong Kong SAR) - Other Authority (Art. 18) & practical information
- China (Macao SAR) - Competent Authority (Art. 6)
- China (Macao SAR) - Competent Authority (Art. 9)

AUTHORITY

Canada - Central Authority & practical information

Central Authority(ies):

Click [here](#) to access the list of **all Central Authorities designated by Canada** (list up-to-date as of May 2022). *Comment: to save time, requests should be forwarded directly to the Central Authority of the province or territory concerned. They may however, also be forwarded to the Federal Central Authority which will transmit them to the relevant Central Authority.*

	Practical Information: <i>(The following information was provided by the relevant State authorities or was obtained from the replies to the Service Convention Questionnaires)</i>
Forwarding authorities (Art. 3(1))	- Attorney General for Canada - Attorney General / Ministry of the Attorney General or Minister of



y(ies):

by [Canada](#) (list up-to-date as of May 2022). *Comment:* to
hority of the province or territory concerned. They may,
will transmit them to the relevant Central Authority.

Practical Information:

Information was provided by the relevant State authorities

Conventions (incl. Protocols and Principles)

[Convention of 15 November 1965 on the Service
Abroad of Judicial and Extrajudicial Documents in
Civil or Commercial Matters \[14\]](#)

Central Authorities (Articles 2 and Art. 18(3))

Comment: To save time, requests should be forwarded directly to the Central Authority of the province or territory concerned. They may, however, also be forwarded to the Federal Central Authority which will transmit them to the relevant provincial or territorial Central Authority.

Federal Central Authority	Address	Telephone/ Fax	E-mail and website	Languages spoken by staff
Global Affairs Canada Criminal, Security and Diplomatic Law Division Contact person: James Johnson	Global Affairs Canada Criminal, Security and Diplomatic Law Division (JLA) 125 Sussex Drive Ottawa, Ontario K1A 0G2 Canada		E-mail: civil.judicial.cooperation-entraide.judiciaire.civile@international.gc.ca	-English -French
Provincial and Territorial Central Authorities	Address	Telephone/ Fax	E-mail and website	Languages spoken by staff
Alberta Ministry of Justice and Solicitor General Justice Services Division Contact person: Patricia Wilson	Office of the Sheriff-Civil Enforcement 9th floor, 10365– 97 Street NW Edmonton Alberta T5J 3W7 Canada	Tel: +1 (780) 422-2481 Fax: +1(587) 759-5355	E-mail : Sheriff-Civil.Enforcement@gov.ab.ca Website: https://www.alberta.ca/office-of-sheriff-civil-enforcement.aspx	-English
British Columbia Ministry of Justice for British Columbia	Ministry of Attorney General 5th Floor, 10 (Box 9280 St Victoria	Tel: +1(778) 974-5706	E-mail: justice@gov.bc.ca	-English



Provincial and Territorial Central Authorities	Address	Telephone/ Fax	E-mail and website	Languages spoken by staff
			Demander au Québec la signification ou la notification d'actes en matière civile ou commerciale en provenance d'un État étranger - Ministère de la justice (gouv.qc.ca)	
Saskatchewan Ministry of Justice Court Services Division Contact person: Jennifer Fabian, Registrar, Court of Queen's Bench for Saskatchewan	Ministry of Justice Court Services Division c/o Jennifer Fabian Registrar, Court of Queen's Bench Court House 2425 Victoria Avenue Regina, Saskatchewan S4P 4W6 Canada	Tel: +1 (306) 787-0472 Fax: +1 (306) 780-6990	Email: jfabian@judicom.ca	-English
Yukon Director Court Services	Mailing address: Director Court Services J-3 P.O. Box 2703 Whitehorse, Yukon Y1A 2C6 Canada Court Registry Law Courts 2134 Second Avenue Whitehorse, Yukon Canada	Tel: +1 (867) 667-5942 / +1 (867) 667-5784 Fax: +1 (867) 393-6212	Email: courtservices@gov.yk.ca	-English

AUTHORITY

Canada - Central Authority & practical information

Central Authority(ies):

Click [here](#) to access the list of **all Central Authorities designated by Canada** (list up-to-date as of May 2022). *Comment: to save time, requests should be forwarded directly to the Central Authority of the province or territory concerned. They may however, also be forwarded to the Federal Central Authority which will transmit them to the relevant Central Authority.*

	Practical Information: <i>(The following information was provided by the relevant State authorities or was obtained from the replies to the Service Convention Questionnaires)</i>
Forwarding authorities (Art. 3(1))	- Attorney General for Canada - Attorney General / Ministry of the Attorney General or Minister of

Federal Court and Federal Court of Appeal: Federal Courts Rules, SOR/98-106.

Alberta: Alberta Rules of Court, Alta. Reg. 124/2010.

British Columbia: Supreme Court Civil Rules, B.C. Reg. 168/2009.

Manitoba: Court of Queen's Bench Rules, Man. Reg. 553/88.

New Brunswick: Rules of Court, N.B. Reg. 82-73.

Newfoundland and Labrador: Rules of the Supreme Court, 1986, S.N.L. 1986, c 42, Sch D.

Northwest Territories: Rules of the Supreme Court of the Northwest Territories, N.W.T. Reg. 010-96.

Nova Scotia: Nova Scotia Civil Procedure Rules.

Nunavut: Rules of the Supreme Court of the Northwest Territories, N.W.T. Reg. 010-96.

Ontario: Rules of Civil Procedure, R.R.O. 1990, Reg. 194.

Prince Edward Island: Rules of Civil Procedure.

Québec:

Service: Code of Civil Procedure, R.S.Q., chapter C-25.01.

Notification: Code of Civil Procedure, R.S.Q., chapter C-25.01.

Saskatchewan: Queen's Bench Rules.

Yukon: Rules of Court, Y.O.I.C. 2009/65.

Service by a particular method (Art. 5 (1)(b))

Costs relating to execution of the request for service (Art. 12):	Costs for the execution of service will be \$100 Can. In Québec, execution of service by a bailiff (huissier) costs \$100, and notification is free of charge. Click here to access the list of all provincial and territorial Central Authorities designated by Canada to receive requests for service in their jurisdiction. Click here for information on methods of payment.
Time for execution of request:	The average time for performance of service is: Alberta: 4 weeks British Columbia: 3-6 weeks Manitoba: 3-4 weeks New Brunswick: 2-4 weeks Newfoundland and Labrador: 4 - 6 weeks Northwest Territories: 3-6 weeks Nova Scotia: 2-4 weeks Nunavut: 4-6 weeks Ontario: 4-6 weeks Prince Edward Island: 2-3 weeks Québec: 4 weeks Saskatchewan: 2-4 weeks
Judicial officers, officials or other competent persons (Art. 10(b)(c))	Many businesses commonly referred to as "Process Servers" serve judicial and extra-judicial documents, for a fee. These businesses are listed in the Yellow Pages under "process servers". In the province of Québec, service must be effected by a sheriff or a

HAGUE CONVENTION IS “EXCLUSIVE”

- “The present Convention *shall apply in all cases, in civil or commercial matters where there is an occasion to transmit a judicial or extrajudicial document for service abroad.*”

(Article 1, Hague Service Convention)

- “By virtue of the Supremacy Clause, U.S. Const., Art. VI, the Convention pre-empts inconsistent methods of service prescribed by state law in all cases to which it applies...If the internal law of the forum state defines the applicable method of serving process as requiring the transmittal of documents abroad, then the Hague Service Convention applies.”

Volkswagenwerk Aktiengesellschaft v. Schlunk, 486 U.S. 694 (U.S. 1988)

FORMS

- **USM-94 (English/Spanish)**
- **Hague Model Form (French/Spanish/English)**
- **See English and Spanish Sample Forms in materials.**

TIME TO RESPOND - IMPORTANT!!!

Time to Respond After Service of Citation

The rules of the Code of Civil Procedure of the state of Texas (Rule 99) require you to personally or through your attorney appear in Court or to file a written answer with the clerk who issued this the Citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) calendar days after you were served the Citation and lawsuit.

TIME TO RESPOND – SAMPLE TRANSLATION

Tiempo para Responder Después de Notificación del Citatorio

Las Reglas del Código de Procedimientos Civiles del estado de Texas (Regla 99) se requiere que aparece usted personalmente o por medio de su abogado en la corte o archivar una respuesta escrito con la secretaria que emitió la Citación en o antes de las 10:00 de la mañana el lunes siguiente al vencimiento de veinte (20) días calendarios después de la notificación de la Citación y Demanda.

INTERAMERICAN CONVENTION ON LETTERS ROGATORY

- Signed 4/15/1980, Ratified 11/10/1986, Entry into Force 7/28/1988 (Service only for U.S.)
- O.A.S.T.S. No. 43, Jan. 30, 1975, reprinted in 14 I.L.M. 339 (1975)
- In force for Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay And Venezuela.

IAC CONT'D

- **Central Authorities for Sending and Receiving Requests**

- **Full Text**

<http://www.oas.org/juridico/english/treaties/b-36.html>

- **Status Table**

<http://www.oas.org/juridico/english/sigs/b-36.html>



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REMJA | Department of Legal Cooperation
Secretariat for Legal Affairs

HEMISPHERIC NETWORK FOR LEGAL COOPERATION ON CRIMINAL MATTERS

A portal to facilitate access to information on legal cooperation
in criminal matters and extradition of the OAS Member States.

Jamaica Assumes Chair of the Permanent Council

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DEPARTMENT OF INTERNATIONAL LAW (DIL)

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Multilateral Treaties & Bilateral Agreements

The Secretariat for Legal Affairs (SLA) serves as the depositary of [Inter-American treaties](#) and their instruments of ratification, accession, or approval, in accordance with the Charter of the Organization of American States (OAS) and the General Secretariat [(art. 112, f)]. The Secretariat is also the depositary for all [bilateral agreements](#) between OAS and Member States, Observer States, or entities of these states, or other Inter-American agreements.

Inter-American Treaties

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Suspension of Guarantees

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Inter-American Treaties

To facilitate the search process, multilateral treaties are classified by Year and Subject. Inter-American Treaties approved:

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See Judicial Cooperation, Sentences

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- Mutual Assistance in Criminal Matters, Inter-American Convention on (A-55)
- Mutual Assistance in Criminal Matters, Optional Protocol related to the Inter-American Convention on (A-59)

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- Proof of and Information on Foreign Law, Inter-American Convention on (B-43)
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- Letters Rogatory, Additional Protocol to the Inter-American Convention on (B-46)

Sentences

[Signatories and Ratifications] [text in Spanish]

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY

The Governments of the Member States of the Organization of American States, desirous of concluding a convention on letters rogatory, have agreed as follows:

I. USE OF TERMS

Article 1

For the purposes of this Convention the terms "exhortos" and "cartas rogatorias" are synonymous in the Spanish text. The terms "letters rogatory", "commissions rogatoires", and "cartas rogatórias" used in the English, French and Portuguese texts, respectively, cover both "exhortos" and "cartas rogatorias".

II. SCOPE OF THE CONVENTION

Article 2

This Convention shall apply to letters rogatory, issued in conjunction with proceedings in civil and commercial matters held before the appropriate judicial or other adjudicatory authority of one of the States Parties to this Convention, that have as their purpose:

- a. The performance of procedural acts of a merely formal nature, such as service of process, summonses or subpoenas abroad;

[Text of the Treaty] [text in Spanish]

B-36: INTER-AMERICAN CONVENTION ON LETTERS ROGATORY

ADOPTED AT: PANAMA, PANAMA

DATE: 01/30/75

CONF/ASSEM/MEETING: INTER-AMERICAN SPECIALIZED CONFERENCE ON PRIVATE INTERNATIONAL LAW

ENTRY INTO FORCE: 01/16/76 IN ACCORDANCE WITH ARTICLE 22 OF THE CONVENTION.

DEPOSITORY: GENERAL SECRETARIAT, OAS (ORIGINAL INSTRUMENT AND RATIFICATIONS).

TEXT: OAS, TREATY SERIES, NO. 43.

UN REGISTRATION: 03/20/89 No. 24386 Vol.

OBSERVATIONS:

GENERAL INFORMATION OF THE TREATY: B-36

=====							
SIGNATORY COUNTRIES	SIGNATURE REF	RA/AC/AD REF	DEPOSIT INST	INFORMA REF			
=====							
Argentina	05/19/86	06/15/87	07/17/87 RA	/	/	n	
Bolivia	08/02/83	04/17/06	09/26/06 RA	/	/	11	

i. United States:

Reservations made at the time of ratification

On **January 21, 2021, the United States of America** provided the depository with [updated contact information for the United States Central Authority with additional practical guidance](#) regarding the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory.

j. Brazil:

(Provided information in accordance with Article 4)

Appointed the Ministry of Justice of the Brazil as the Central Authority competent to receive and distribute letters rogatory in reference to the articles provided for in the Convention.



B-36_inter_american_treaties_United_States_Reservations(2).pdf

Completed — 72.9 KB



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B-36: INTER-AMERICAN CONVENTION ON LETTERS ROGATORY

SIGNATORIES AND RATIFICATIONS

United States:

Reservations made at the time of ratification:

1. Pursuant to Article 2(b) of the Inter-American Convention on Letters Rogatory, letters rogatory that have as their purpose the taking of evidence shall be excluded from the rights, obligations and operation of this Convention between the United States and another State Party.
2. In ratifying the Inter-American Convention on Letters Rogatory, the United States accepts entry into force and undertakes treaty relations only with respect to States which have ratified or acceded to the Additional Protocol as well as the Inter-American Convention, and not with respect to States which have ratified or acceded to the Inter-American Convention alone."



(Provided information in accordance with Articles 4 and 18)

Pursuant to Article 4 of the Convention and Article 2 of the Additional Protocol, the Government of the United States wishes to inform the Secretary General that the Department of Justice is the Central Authority competent to receive and distribute letters rogatory.

Pursuant to Article 18 of the Convention, the Government of the United States wishes to inform the Secretary General that letters rogatory to be executed in the United States must be translated into the English language.

i. United States:

Reservations made at the time of ratification

On **January 21, 2021, the United States of America** provided the depository with [updated contact information for the United States Central Authority with additional practical guidance](#) regarding the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory.

j. Brazil:

(Provided information in accordance with Article 4)

Appointed the Ministry of Justice of the Brazil as the Central Authority competent to receive and distribute letters rogatory in reference to the articles provided for in the Convention.

The Office of International Judicial Assistance delegated the ministerial act of serving and transmitting documents in response to service requests submitted pursuant to the Inter-American Convention to a private contractor, ABC Legal Services. ABC Legal Services (ABC Legal) ceased using the name Process Forwarding International or PFI and thus all service requests should refer only to ABC Legal Services.

The current contract with ABC Legal is in force until January 31, 2025. The use of this private contractor to perform the service of judicial and extrajudicial documents function does not imply the designation of a new U.S. Central Authority for the Inter-American Convention, but rather reflects the contracting of certain activities conducted by the U.S. Central Authority, which remains the Office of International Judicial Assistance.

All requests for service on private individuals and companies should be transmitted to:

ABC Legal Services

633 Yesler Way

Seattle, WA 98104 USA

Telephone: (001) 206-521-9000

E-mail: internationalinfo@abclegal.com

Website: <https://www.abclegal.com>



INTER-AMERICAN NOT EXCLUSIVE

Article 2. "This Convention shall apply to letters rogatory, issued in conjunction with proceedings in civil and commercial matters held before the appropriate judicial or other adjudicatory authority of one of the State Parties to this Convention, that have as their purpose:

a. The performance of procedural acts of a merely formal nature, such as service of process, summons or subpoenas abroad...."
(emphasis added)

KEY CASES OF NON-EXCLUSIVITY

“The Inter-American Convention states that it shall apply to letters rogatory; it does not state that letters rogatory are the only means of serving process in the signatory countries...the Inter-American Convention does not prohibit other methods of service of process.”
Pizzabiocche v. Vinelli, 772 F. Supp. 1245 (M.D. Fla. 1991) (Personal Service of FL summons and tort action complaint upon Defendants in Argentina not prohibited by Inter-American Convention)

KEY CASES CONT'D

- “ ...nothing in the language of the Convention expressly reflects an intention to supplant all alternative methods of service. Rather, the Convention appears solely to govern the delivery of letters rogatory among the signatory States.” (Emphasis added)
Kreimerman v. Casa Veerkamp, S.A. de C.V., 22 F.3d 634 (5th Cir. Tex. 1994)

USE IAC FOR BRAZIL

- “...Brazilian law mandates that foreign legal pleadings be served upon corporate citizens of Brazil by means of letters rogatory issued to the Ministry of Foreign Relations...[s]ervice of process of legal pleadings /documents instituted by a foreign citizen in a foreign court of law that has been conducted upon a corporate citizen of Brazil by means of Federal Express is null, void and without effect.” Lake Charles Cane Lacassine Mill, LLC v. Smar Int'l Corp., 2007 U.S. Dist. LEXIS 41941 (W.D. La. June 8, 2007) (Service under the LA Long Arm Statute upon Brazilian defendant by federal express)

MEXICO LOCATE

Central Authority and courts have no access to location services

- **Ask Petitioner contact family and friends for possible employer or residential address**
- **Search social media for hints of location**
 - **Facebook**
 - **Instagram**
- **Decide whether private investigator is cost-effective**
- **Provide photos to assist with service of process**

INTERAMERICAN CONVENTION FORMS

- **USM-272 (English)**
- **USM-272A (Spanish)**
- **See English and Spanish USM 272 and 272A Sample Forms in materials.**

IAC PROCEDURES FOR MEXICO

- Same as for Hague Forms for Mexico
- Make 4 sets of English and 4 sets of Spanish
- Keep one set of Each
- Prepare a bilingual cover letter and send cover letter and remaining 6 sets to the Mexican Central Authority by FedEx or DHL and require a signature of receipt.

NON-CONVENTION SERVICE

➤ DOS

- <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-assistance.html>

➤ OIJA Judicial Assistance Website

- <https://www.justice.gov/civil/office-international-judicial-assistance-0>

➤ Shame - Press – Social Media – Business Reputation

- Caution: Shame in Japan v Shame in South Korea

➤ Attorney Lists: See Embassy website in Country

- [U.S. Embassy in Honduras \(usembassy.gov\)](https://usembassy.gov)



U.S. Embassy in Honduras



[Visas](#)

[U.S. Citizen Services](#)

[Our Relationship](#)

[Business](#)

[Education & Culture](#)

[Embassy](#)

[News & Events](#)



Statements

Statement by the Department of Homeland Security on Supreme Court Title 42 Order

[President Biden Delivers State of the Union Address](#)

[Joint Statement on the U.S.-Honduras Strategic and Human](#)

[Statement by the Department of Homeland Security on Supreme](#)

[U.S. Government, Honduras Government, and the Private Sector](#)

[U.S. Navy Hospital Ship Arrival to Honduras](#)

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LOCAL PROGRAMS

[Alumni](#)[Cultural Programs](#)[Exchange Visitors](#)[Grants Corner](#)

ON



Tak
ear

- Cellular phones
- Bags, luggage, backpacks, purses
- Any type of electronic devices (including laptops, cellphones, iPads, iPods, MP3 players, cameras, memory sticks, CDs, smart watches, etc.)

ucation-culture/ ons of any kind, explosive materials, tools of any size

[Sending](#)

Emergency Services

- [Emergency Contacts](#)
- [International Parental Child Abduction](#)
- [Arrest of a U.S. Citizen](#)
- [Death of a U.S. Citizen](#)
- [Victims of Crime](#)
- [Emergency Financial Assistance](#)

Local Resources

- [Legal Assistance](#)
- [Medical Assistance](#)
- [Notarial Services](#)
- [Additional Resources for U.S. Citizens](#)

Passports & Citizenship

- [Passport Services](#)
- [Citizenship Services](#)
- [Child and Family Matters](#)

Federal Programs

- [Internal Revenue Services](#)
- [Selective Service Registration](#)
- [Social Security](#)
- [Veterans Affairs](#)
- [Voting](#)

Please note: The Department of State assumes no responsibility or liability for the accuracy, completeness, or availability of information, or the quality of services provided by, the entities or names appear on the following lists. Inclusion on this list is in no way an endorsement by the Department or the U.S. government. Names are listed alphabetically, and the order in which they appear has no other significance. The information on the list is provided for informational purposes only; service providers; the Department is not in a position to vouch for such information.

- [List of Attorneys in Honduras \(PDF 325 KB\)](#)
-



LIST OF HONDURAN ATTORNEYS

U.S. Embassy Tegucigalpa, Honduras

Consular Section

American Citizen Services Unit

Avenida La Paz

Tegucigalpa, Honduras

Telephone: (504) 2238-5114

e-mail: usahonduras@state.gov

Embassy internet site: <http://hn.usembassy.gov>

LA CEIBA, ATLANTIDA

Name: *CINDY ROMERO*
Law Firm: CR LEGAL
Partners: Dania Reyes
Street Address: Avenida 14 de Julio, Edificio Recomar 1ra Planta
La Ceiba, Atlántida
Mailing Address: Same as above
Office Phone: (504) 9563-9689
Mobil Phone: (504) 9506-8757
Fax: N/A
E-mail: cromero@crlegalthonduras.com , info@crlegalthonduras.com
Web-Page: <https://crlegalthonduras.com/>
English Spoken: Fluent
Type of Cases:
Family Law, Adoptions, Child Custody, Marriage/Divorce, Commercial/Business Law, Civil Law, Commercial Law, Contracts, Corporations, Foreign Claims, Estates, Labor Relations, Immigration, Marketing Agreements.
Can provide certified translator and Notary
Will take cases outside of their city: Yes
Time Practicing Law since last update: 5 years

ABC LEGAL

- **ABC Legal**
- **633 Yesler Way**
Seattle, WA 98104
United States of America
- **Telephone: +206-521-9000**
E-mail: internationalinfo@abclegal.com
Website: <https://www.abclegal.com/>
- **No charge for service of process in Mexico if WA DCS fills out the forms. If ABC Legal completes the forms, fee of \$450 plus \$.20/word translation fees**

NON-COMPLIANCE OF MEMBER STATE

The Government of Nokumplaymahn:

- **Allows Article 8 Service by diplomats and consular officials of contracting states upon citizens of those states (USA diplomats & consular agents not allowed to serve process)**
- **is opposed to service alternatives of Article 10 a, b, and c; and**
- **Regarding Article 15 (2) “does not recognize the faculty of the Judicial Authority to give judgment when the defendant has not appeared and there is no communication establishing that the document was served, or that documents originating outside the country were indeed delivered, according to sub-paragraphs a) and b) of the first paragraph.**

NONCOMPLIANCE CONT'D

- 9 months have passed since Hague Service Documents sent to NCA by FEDEX and signed for by NCA official
- 4 emails not answered
- 10 telephone calls not answered
- Personal visit to NCA after 4 months – advised new policy prohibits commenting on status of service request – referred to political subdivision Supreme Court
- Local Court puts case on Drop Docket – after Hearing Drop Docket hearing postponed 90 Days

REMEDIES FOR NONCOMPLIANCE

➤ HAGUE CONVENTION – ARTICLE 14

“Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.”

➤ INTERAMERICAN CONVENTION - ?

➤ Démarche?

➤ Letter Rogatory to Complain?



PRACTICE TIP SUMMARY

- Use the Inter-American Convention, USM-272 Forms to serve in small towns in Latin American Countries
- Always check Hague & OAS status tables for country-specific requirements
- If you default a Mexican Respondent – even after good service, make sure you have the Court appoint an AAL in cases of default or it will jeopardize recognition in Mexico
- Department of State <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-asst.html>
- Department of Justice <https://www.justice.gov/civil/office-international-judicial-assistance-0>
- Check with Foreign Legal Consultant

QUESTIONS?

Gary Caswell, Esq.
Attorney & Foreign Legal Consultant
110 Broadway Street, Suite 510
San Antonio, Texas 78209

Ofc: 210-202-2312

Cel: 210-414-1645

Fax: 210-941-0880

caswell.gary@gmail.com



AVOIDING HICCUPS IN OVERSEAS SERVICE IN INTERNATIONAL FAMILY LAW CASES

Learning the Fundamentals for Your International
Family Law Practice: Contract Drafting and Litigation
(Day Two)

Gary Caswell, Esq.

February 13, 2021

ABA

PRESENTATION TOPICS

- Conventions for Service of Process
 - Hague Conference on Private International Law www.hcch.net/
 - Organization of American States www.oas.org/
- Service Case Analysis
- Forms, Procedures
- Non-Convention Service
- Practice Tips

ABA

JUDICIAL ASSISTANCE CONVENTIONS

- 1961 [Hague] Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (USA/MEX)
- 1965 [Hague] Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (USA/MEX/CAN)
- 1970 [Hague] Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (USA/MEX)
- 1975 InterAmerican Convention on Letters Rogatory and Protocol (USA/MEX members)

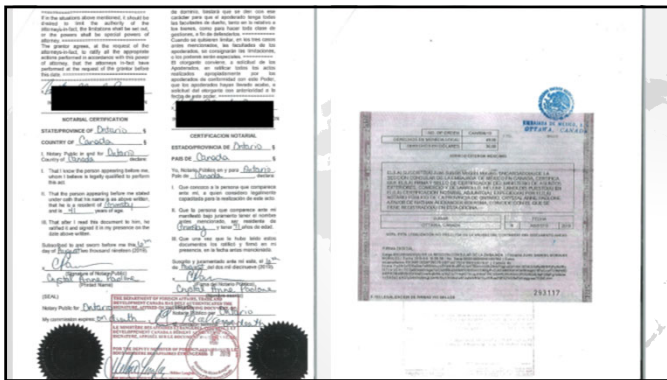
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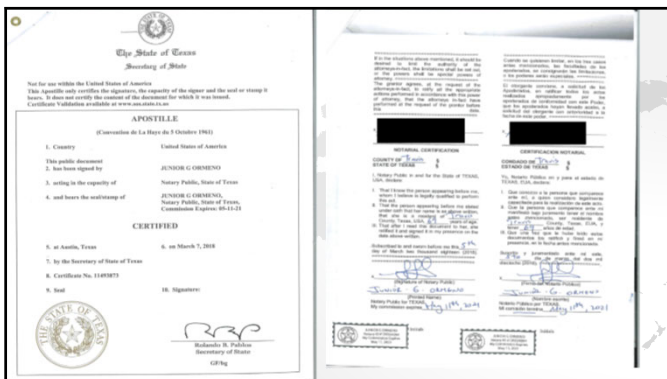
WHY THE APOSTILLE CONVENTION?

∞ ∞ ∞ Eliminate “∞ ∞ ∞ Chain ∞ ∞ ∞ Legalization ∞ ∞ ∞”

∞ ∞ ∞ Clerk certifies Judge's signature ∞ ∞ ∞ Judge certifies Clerk signature and seal ∞ ∞ ∞ Administrative Judge and or State Supreme Court of Texas certifies Clerk signature and seal ∞ ∞ ∞ Secretary of State of Texas, certifies State Supreme Court signature and seal ∞ ∞ ∞ U.S. Secretary of State certifies the Texas Secretary of State signature and seal ∞ ∞ ∞ Ministry of Foreign Affairs of Mexico via its Embassy in the USA certifies the seal and signature of the US Secretary of State ∞ ∞ ∞







CASE ANALYSIS – WHY SERVE ABROAD?

- Where the Respondent is!
- No need If R is a Company and Registered Agent in USA
 - Volkswagenwerk Aktiengesellschaft v Schlunk
- Satisfy the Forum
 - Jurisdiction
 - Notice

Enforcement in the Forum
vs
Recognition and Enforcement in Respondent's Country

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FOREIGN RESPONDENT IN PAT/CHILD SUPPORT

- Your IV-D agency has No or ineffective Reciprocity with Respondent's Country
- Long Arm basis for exercise of *In Personam* Jurisdiction over non-resident Respondent
- UIFSA 2008 Model Act § 201.
- Enforce Locally or Recognition & Enforcement in Foreign Country (domestication/exequatur/homologacion)

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UIFSA § 201[LONG ARM JURISDICTION]

- (1) personally served;
- (2) submits to the jurisdiction (by consent or waiver)
- (3) resided with the child in this state;
- (4) resided in state and provided prenatal expenses or support;
- (5) acts or directives;
- (6) sex and possible conception;
- (7) asserted parentage in [putative father registry]
- (8) any other state/federal Constitutional basis

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IS NATIONALITY A FACTOR?

- 45 CFR CH.III 303.11 (B)4: Can close if **NCP locate unknown** and have made diligent Efforts using Multiple Sources over 3 yrs via Automated Locate (if sufficient info to do Auto-Locate) & 1 yr if only have info for Non-Auto-Locate
- 45 CFR CH.III 303.11 (B)6: The **NCP is a citizen** of , and **lives in, a foreign country**, does not work for the Federal government or a company with headquarters or offices in the United States, and has **no reachable** domestic income or **assets**; and the State has been unable to establish reciprocity with the country (**focus on citizenship, not Reciprocity**) If US Citizen, can't close for lack of reciprocity alone.

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COMITY

Recognition and Enforcement on the basis of:

- Friendship
- Practicality - it makes no sense to relitigate the same issues involving the same parties all over again in another forum
- Due Process not offended - there has been no violation of due process in the eyes of the recognizing and enforcing forum

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NOT A WORLD OF COMITY

- 193 Nation States <https://www.un.org/en/about-us>
 - 68 Dependencies – Bermuda, Puerto Rico, Hong Kong, Aruba,
 - 2 Non-Member Observer States – Holy See & Palestine
 - X Non-universally recognized States (Taiwan, N & S Korea)
 - "Disputed Territories" Antarctica, Paracel & Spratley Islands, Western Sahara, West Bank
- 574 Indian Tribes "in" the USA
 - <https://www.bia.gov/service/tribal-leaders-directory>
- 50+ First Nation Tribes plus Inuit and Métis Aboriginals "in" Canada
 - <https://www.rcaanc-cimac.gc.ca/eng/1100100013785/1529102490303>

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HAGUE SERVICE CONVENTION

- Signed 11/15/1965 , Ratified 8/24/1967, E.I.F. 2/10/1969
- 20 U.S.T. 361; T.I.A.S. No. 6638, 658 U.N.T.S. 163
- 79 Members (Albania...Vietnam)
- Members designate Central Authorities for Receiving Requests
- Full Text http://www.hcch.net/index_en.php?act=conventions.text&cid=17
- Status Table http://www.hcch.net/index_en.php?act=conventions.status&cid=17

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HAGUE SERVICE - CONT'D

USA CENTRAL AUTHORITY

DOJ Office of International Judicial Assistance (OIJA)

- Office of International Judicial Assistance
U.S. Department of Justice
Benjamin Franklin Station
P.O. Box 14360
Washington, D.C. 20044
United States of America
Telephone: (001) 202-514-6700
E-mail: OIJA@usdoj.gov
Website: <https://www.justice.gov/civil/office-international-judicial-assistance-5>

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HAGUE SERVICE - CONT'D

OIJA

- Central Authority for Hague requests for service upon US Government, Agencies, Officials
- Plays no role with regard to Hague Service requests in private litigation matters
- Contract through 2025 with ABC Legal to handle incoming Hague service requests
- ABC charges no fees for serving incoming requests and will assist with outgoing Hague Service requests for a fee

ABA



HAGUE SERVICE - CONT'D

MEXICO CENTRAL AUTHORITY

Secretaría de Relaciones Exteriores, Dirección General de
Protección a Mexicanos en el Exterior

(MCA for Child Abduction, Child Support and Adoptions)

Plaza Juárez # 20, piso 17
Col. Centro, Del. Cuauhtémoc
México, D.F. 06010

dgpmexterior@sre.gob.mx

ABA



HAGUE SERVICE - CONT'D

CANADA CENTRAL AUTHORITY

PROVINCE/TERRITORY CENTRAL AUTHORITIES

(HCPIL) WEBSITE

[HTTP://WWW.HCCH.NET](http://www.hcch.net)

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HCCH

Hague Conference on
Private International Law

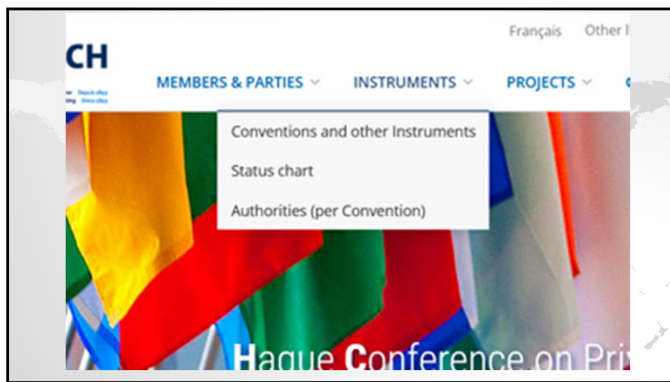
The World Organisation for Cross-border
Co-operation in Civil and Commercial Matters

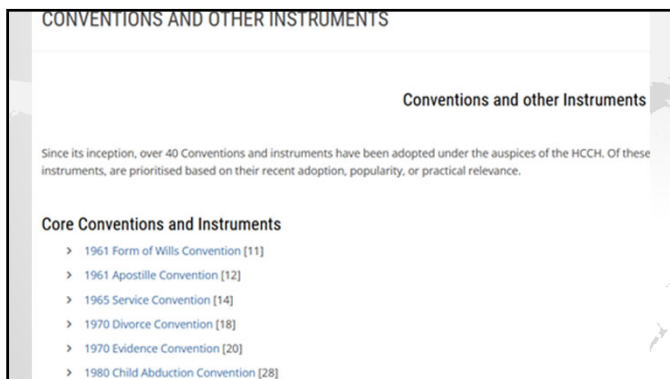
Conférence de La Haye de
droit international privé

L'Organisation mondiale pour la coopération
transfrontalière en matière civile et commerciale

◀ English Français ▶







SERVICE SECTION Home / Instruments / Conventions and other Instruments / Specialised

Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions

The Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (HCCJ 1965 Service Convention) provides for the channels of transmission to be used when a judicial or extrajudicial document is to be transmitted from one Contracting Party to the Convention to another Contracting Party for service in the latter. The Convention establishes a main channel of transmission via a designated Central Authority, as well as alternative channels of transmission. The Convention deals primarily with the expedient transmission of documents; it does not address or comprise substantive rules relating to the actual service of process. The framework provided by the Convention is both efficient and effective – statistical data shows that 75% of requests are executed within two months.

This specialised section contains a range of information on the Convention, including its full text, current status, and other practical information per Contracting Party, amongst others.

Text of the Convention
Translations
Outline of the Convention

Central and other Authorities
Practical Handbook
Mandatory Form

Contracting Parties
How to read the status table
Applicability of Articles 8(2),
10(1) & 10(2) 45(2) & 45(3)

Specialised Section
Full text
Status table
Authorities
Practical operation document
Model Forms
Special Commission meetings
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HCCJ Publications
Translations
Case law

AUTHORITIES Home / Instruments / Conventions and other Instruments

14: Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Entry into force: 10-11-1969

Search [Print contact details of all authorities](#)

- Albania - Central Authority & practical information
- Albania - Competent Authority (Art. 6, 18)
- Albania - Competent Authority (Art. 9)
- Andorra - Central Authority & practical information
- Andorra - Competent Authorities (Art. 6)
- Andorra - Competent Authority (Art. 9)
- Antigua and Barbuda - Central Authority & practical information
- Argentina - Central Authority & practical information
- Argentina - Forwarding Authorities (Art. 3)
- Armenia - Central Authority and practical information
- Australia - Central Authority & practical information
- Australia - Competent Authorities (Art. 6)
- Australia - Competent Authorities (Art. 8)

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- Brazil - Central Authority & practical information
- Bulgaria - Central Authority & practical information
- Bulgaria - Competent Authority (Art. 6)
- Bulgaria - Competent Authority (Art. 9)
- Canada - Central Authority & practical information
- Canada - Competent Authority (Art. 6)
- Canada - Competent Authority (Art. 9)
- Canada - Forwarding Authorities (Art. 3)
- China - Central Authority & practical information
- China - Competent Authority (Art. 9)
- China (Hong Kong SAR) - Competent Authority (Art. 6)
- China (Hong Kong SAR) - Competent Authority (Art. 9)
- China (Hong Kong SAR) - Other Authority (Art. 18) & practical information
- China (Macao SAR) - Competent Authority (Art. 6)

AUTHORITY	
Canada - Central Authority & practical information	
Central Authority(ies): Click here to access the list of all Central Authorities designated by Canada (list up-to-date as of May 2022). <i>Comment:</i> To save time, requests should be forwarded directly to the Central Authority of the province or territory concerned. They may, however, also be forwarded to the Federal Central Authority which will transmit them to the relevant Central Authority.	
Practical Information: <i>(The following information was provided by the relevant State authorities or was obtained from the replies to the Service Convention Questionnaires)</i>	
Forwarding authorities <i>(Art. 2(1))</i>	- Attorney General for Canada - <i>Attorney General, Minister of the Attorney General or Minister of</i>

MEMBERS & PARTIES	
Conventions (incl. Protocols and Principles) Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters [14]	
Practical Information: <i>Information was provided by the relevant State authorities</i>	

Central Authorities (Articles 2 and Art. 18(3))				
Comment: To save time, requests should be forwarded directly to the Central Authority of the province or territory concerned. They may, however, also be forwarded to the Federal Central Authority which will transmit them to the relevant provincial or territorial Central Authority.				
Federal Central Authority	Address	Telephone/ Fax	E-mail and website	Languages spoken by staff
Global Affairs Canada Criminal, Security and Diplomatic Law Division Contact person: James Johnson	Global Affairs Canada Criminal, Security and Diplomatic Law Division (SLA) 125 Sussex Drive Ottawa, Ontario K1A 0G2 Canada		E-mail: civil.judicial.cooperation-entraide.judiciaire.civile@international.gc.ca	-English -French
Provincial and Territorial Central Authorities	Address	Telephone/ Fax	E-mail and website	Languages spoken by staff
Alberta Ministry of Justice and Solicitor General Justice Services Division Contact person: Patricia Wilson	Office of the Sheriff-Civil Enforcement 9th floor, 10365-97 Street NW Edmonton Alberta T5J 3W7 Canada	Tel: +1 (780) 422-2481 Fax: +1 (587) 759-5355	E-mail: Sheriff.Civil.Enforcement@gov.ab.ca Website: https://www.alberta.ca/office-of-sheriff-civil-enforcement.aspx	-English
British Columbia Ministry of Justice for British Columbia	Ministry of Attorney General 5th Floor, 100-1100 (Box 9280)	Tel: +1 (778) 974-5706	E-mail: justice@gov.bc.ca	-English

Provincial and Territorial Central Authorities	Address	Telephone/ Fax	E-mail and website	Languages spoken by staff
Saskatchewan Ministry of Justice Court Services Division Contact person: Jennifer Fabian, Registrar, Court of Queen's Bench for Saskatchewan	Ministry of Justice Court Services Division c/o Jennifer Fabian Registrar, Court of Queen's Bench Court House 2425 Victoria Avenue Regina, Saskatchewan S4P 4W6 Canada	Tel: +1 (306) 787-0472 Fax: +1 (306) 780-6990	Demander au Québec la signification ou la notification d'actes en matière civile ou commerciale au tribunal ou d'un État étranger - Ministère de la Justice (gouv.qc.ca) Email: jfabian@judicom.ca	-English
Yukon Director Court Services	Mailing address: Director Court Services 1-3 P.O. Box 2703 Whitehorse, Yukon Y1A 2C6 Canada Court Registry Law Courts 2134 Second Avenue Whitehorse, Yukon Canada	Tel: +1 (867) 667-5942 / +1 (867) 667-5784 Fax: +1 (867) 399-6212	Email: courtservices@gov.yk.ca	-English

AUTHORITY	
Canada - Central Authority & practical information Central Authority(ies): Click here to access the list of all Central Authorities designated by Canada (list up-to-date as of May 2022). <i>Comment:</i> To save time, requests should be forwarded directly to the Central Authority of the province or territory concerned. They may, however, also be forwarded to the Federal Central Authority which will transmit them to the relevant Central Authority.	
Practical Information: <i>(The following information was provided by the relevant State authorities or was obtained from the replies to the Service Convention Questionnaires)</i>	
Forwarding authorities (Art. 3(1)):	- Attorney General for Canada - <i>Attorney General, Ministry of the Attorney General or Minister of</i>

Federal Court and Federal Court of Appeal: Federal Courts Rules, SOR/98-106. Alberta: Alberta Rules of Court, Alta. Reg. 124/2010. British Columbia: Supreme Court Civil Rules, B.C. Reg. 168/2009. Manitoba: Court of Queen's Bench Rules, Man. Reg. 553/88. New Brunswick: Rules of Court, N.B. Reg. 82-73. Newfoundland and Labrador: Rules of the Supreme Court, 1986, S.N.L. 1986, c 42, Sch D. Northwest Territories: Rules of the Supreme Court of the Northwest Territories, N.W.T. Reg. 010-96. Nova Scotia: Nova Scotia Civil Procedure Rules. Nunavut: Rules of the Supreme Court of the Northwest Territories, N.W.T. Reg. 010-96. Ontario: Rules of Civil Procedure, R.R.O. 1990, Reg. 194. Prince Edward Island: Rules of Civil Procedure. Québec: Service: Code of Civil Procedure, R.S.Q., chapter C-25.01. Notification: Code of Civil Procedure, R.S.Q., chapter C-25.01. Saskatchewan: Queen's Bench Rules. Yukon: Rules of Court, Y.O.J.C. 2009/65. <i>Service by a particular method (Art. 5 (1)(b))</i>	
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Costs relating to execution of the request for service (Art. 12):	Costs for the execution of service will be \$100 Can. In Québec, execution of service by a bailiff (huissier) costs \$100, and notification is free of charge. Click here to access the list of all provincial and territorial Central Authorities designated by Canada to receive requests for service in their jurisdiction. Click here for information on methods of payment.
Time for execution of request:	The average time for performance of service is: Alberta: 4 weeks British Columbia: 3-6 weeks Manitoba: 3-4 weeks New Brunswick: 2-4 weeks Newfoundland and Labrador: 4 - 6 weeks Northwest Territories: 3-6 weeks Nova Scotia: 2-4 weeks Nunavut: 4-6 weeks Ontario: 4-6 weeks Prince Edward Island: 2-3 weeks Québec: 4 weeks Saskatchewan: 2-4 weeks
Judicial officers, officials or other competent persons (Art. 10(b)(c))	Many businesses commonly referred to as "Process Servers" serve judicial and extra-judicial documents, for a fee. These businesses are listed in the <i>Yellow Pages</i> under "process servers". In the province of Québec , service must be effected by a sheriff or a

HAGUE CONVENTION IS "EXCLUSIVE"

➤ "The present Convention shall apply in all cases, in civil or commercial matters where there is an occasion to transmit a judicial or extrajudicial document for service abroad."
(Article 1, Hague Service Convention)

➤ "By virtue of the Supremacy Clause, U.S. Const., Art. VI, the Convention pre-empts inconsistent methods of service prescribed by state law in all cases to which it applies...If the internal law of the forum state defines the applicable method of serving process as requiring the transmittal of documents abroad, then the Hague Service Convention applies."
Volkswagenwerk Aktiengesellschaft v. Schlunk, 486 U.S. 694 (U.S. 1988)

HAGUE SERVICE - CONT'D

➤ Article 10 allows service by:

- Postal channels
- Court (IJ) to Court (RJ)
- Interested party (attorney in IJ) to competent persons in RJ (court)

➤ U.S. and Canada allow Article 10 service

➤ Mexico has taken a reservation and does NOT allow Article 10 service in Mexico

➤ You must use the **USM-94** or **InterAmerican** forms and send them to the **Central Authority**

F.R.C.P. 4(F) SERVING AN INDIVIDUAL IN A FOREIGN COUNTRY.

- (1) by ... **means reasonably calculated to give notice**, such as ... the **Hague Convention** ...
- (2) if there is no internationally agreed means,:
 - (A) as prescribed by **the foreign country's law for service** ...
 - (B) as the **foreign authority directs** ... or
 - (C) unless prohibited by the foreign country's law, by:
 - (i) **delivering a copy of the summons and of the complaint to the individual personally**; or
 - (ii) **using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt**
- (3) by other means not prohibited by international agreement, **as the court orders.** (emphasis added)

ABA

EXCUSIVITY CASES

- **Brockmeyer v. May**, 383 F.3d 798, 801 (9th Cir. 2004) Service of summons and complaint for trademark infringement upon British defendant by **first class international mail** – not only not provided for by FRCP but also not allowed by England)
- **OGM, Inc. v. Televisa, S.A.**, 2009 U.S. Dist. LEXIS 33409 (C.D. Cal. Apr. 15, 2009) "Mexico has in fact objected to service through the alternative methods specified in Article 10 of the Hague Convention, and that service through Mexico's Central Authority is the exclusive method by which Plaintiff can serve Televisa in Mexico."

ABA

FORMS

- **USM-94 (English/Spanish)**
- **Hague Model Form (French/Spanish/English)**
- **See English and Spanish Sample Forms in materials.**

ABA

HAGUE PROCEDURES FOR CANADA

All provinces except Quebec:

Fill out Hague Model Form (Spanish/English/French) in English. Obtain a file-stamped Copy of the Documents to be served. Prepare a document with the law for computation of time and time for Respondent to appear or answer to avoid default. Prepare 1 page of copies of photographs of Respondent. Make 3 additional copies of the Form, the documents to be served, the law of time for responding and photographs. Organize in 4 sets. Keep 1 set. Send set with Original form and documents and 2 additional sets to Province/Territory Central Authority.

ABA

TIME TO RESPOND - IMPORTANT!!!

ANNEX 1 / ANEXO 1

Time to Respond After Service of Citation

The rules of the Code of Civil Procedure of the state of Texas (Rule 99) require you to personally or through your attorney appear in Court or to file a written answer with the clerk who issued this the Citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) calendar days after you were served the Citation and lawsuit.

Tiempo para Responder Después de Notificación del Citatorio

Las Reglas del Código de Procedimientos Civiles del estado de Texas (Regla 99) se requiere que aparece usted personalmente o por medio de su abogado en la corte o archivar una respuesta escrito con la secretaria que emitió la Citación en o antes de las 10:00 de la mañana el lunes siguiente al vencimiento de veinte (20) días calendarios después de la notificación de la Citación y Demanda.

HAGUE PROCEDURES FOR MEXICO

As for Canada, prepare original and 3 copies of Form filled out in English, documents to be served, law of computation of time for responding and photographs of Respondent.

Fill out second Form in Spanish as shown in materials. Obtain translation of documents to be served, translation of law of computation of time, and photographs of Respondent. Make 3 additional copies of the form filled out in Spanish, translated documents to be served and law, and photographs. Keep 1 set.

Compile a Packet consisting of a cover letter, the Original and two copies of: English Form, documents to be served, law and photographs; and the Original and two copies of: the Spanish Form, translated documents to be served and photographs. Keep 1 set.

Send the Cover letter and 6 sets to the Mexican Central Authority by FedEx or DHL and require a signature proving receipt.

ABA

INTERAMERICAN CONVENTION ON LETTERS ROGATORY

- Signed 4/15/1980, Ratified 11/10/1986, Entry into Force 7/28/1988 (Service only for U.S.)
- O.A.S.T.S. No. 43, Jan. 30, 1975, reprinted in 14 I.L.M. 339 (1975)
- In force for Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay And Venezuela.
- Central Authorities for Sending and Receiving Requests
- Full Text <http://www.oas.org/juridico/english/treaties/b-36.html>
- Status Table <http://www.oas.org/juridico/english/sigs/b-36.html>

WWW.OAS.ORG/

The screenshot shows the OAS website with the URL WWW.OAS.ORG/. The header includes the OAS logo and the tagline "More rights for more people". The navigation menu lists: About the OAS, Topics, Strategic Partners, Member States, Media Center, Documents, Accountability, and Calendar. A featured article titled "General Secretariat Signs Judicial Training Agreements with Brazilian Institutions" is displayed. A sidebar on the right shows "Tweets from @OAS_official" with a tweet from @OAS_official about the presentation of the Minister of Foreign Affairs of Haiti.

Strategic Partners	Member States	Media Center	Documents
OAS Charter		Treaties and Agreements	
Inter-American Democratic Charter		Library Collection	
Social Charter of the Americas		Document Search	
Declarations and Resolutions		Annual Reports	
		Publications	



DEPARTMENT OF INTERNATIONAL LAW (DIL)

OAS » SLA » Department of International Law (DIL) » Multilateral Treaties & Bilateral Agreements

Agreements	Multilateral Treaties & Bilateral Agreements
Multilateral Treaties	The Secretariat for Legal Affairs (SLA) serves the Organization of American States (OAS) in the area of international law. It is responsible for the Secretariat's legal work, including the preparation of legal opinions, the drafting of legal instruments, and the representation of the OAS in legal matters. The Secretariat also serves as the depository for all bilateral agreements between OAS and Member States, Observer States, and entities of these states, or other Inter-American entities.
Bilateral Agreements	
Back to the Department's home page	

Inter-American Treaties	Inter-American Treaties
Text	To facilitate the search process, multilateral treaties are classified by Year and Subject. Inter-American Treaties approved: Text of the Treaties ■ By Year ■ By Subject Signatories and Ratifications ■ By Year ■ By Subject ■ By Member States Central Authorities ■ By Member States ■ By Convention
Signatories and Ratifications	
Central Authorities	
Suspension of Guarantees	
Recent actions regarding Multilateral Treaties	
Back to the Treaties and Agreements home page	

[See Judicial Cooperation, Sentences](#)

JUDICIAL COOPERATION

Criminal Matters

- [Mutual Assistance in Criminal Matters, Inter-American Convention on \(A-55\)](#)
- [Mutual Assistance in Criminal Matters, Optional Protocol related to the Inter-American Convention on \(A-59\)](#)

Evidence

- [Proof of and Information on Foreign Law, Inter-American Convention on \(B-43\)](#)
- [Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards \(B-41\)](#)
- [Taking of Evidence Abroad, Inter-American Convention on the \(B-37\)](#)
- [Taking of Evidence Abroad, Additional Protocol to the Inter-American Convention on the \(B-51\)](#)

Extradition

- [Extradition, Inter-American Convention on \(B-47\)](#)

Preventive Measures

- [Execution of Preventive Measures, Inter-American Convention on \(B-42\)](#)

Rogatory Letters

- [Letters Rogatory, Inter-American Convention on \(B-36\)](#)
- [Letters Rogatory, Additional Protocol to the Inter-American Convention on \(B-46\)](#)

Sentences

[Signatories and Ratifications] [text in Spanish]

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY

The Governments of the Member States of the Organization of American States, desirous of concluding a convention on letters rogatory, have agreed as follows:

I. USE OF TERMS

Article 1

For the purposes of this Convention the terms "exhortos" and "cartas rogatorias" are synonymous in the Spanish text. The terms "letters rogatory", "commissions rogatoires", and "cartas rogatorias" used in the English, French and Portuguese texts, respectively, cover both "exhortos" and "cartas rogatorias".

II. SCOPE OF THE CONVENTION

Article 2

This Convention shall apply to letters rogatory, issued in conjunction with proceedings in civil and commercial matters held before the appropriate judicial or other adjudicatory authority of one of the States Parties to this Convention, that have as their purpose:

- a. The performance of procedural acts of a merely formal nature,
such as service of process, summonses or subpoenas abroad;

[Text of the Treaty] [text in Spanish]

B-36: INTER-AMERICAN CONVENTION ON LETTERS ROGATORY

ADOPTED AT: PANAMA, PANAMA

DATE: 01/30/75

CONF/ASSEM/MEETING: INTER-AMERICAN SPECIALIZED CONFERENCE ON PRIVATE INTERNATIONAL LAW

ENTRY INTO FORCE: 01/16/76 IN ACCORDANCE WITH ARTICLE 22 OF THE CONVENTION.

DEPOSITORY: GENERAL SECRETARIAT, OAS (ORIGINAL INSTRUMENT AND RATIFICATIONS).

TEXT: OAS, TREATY SERIES, NO. 43.

UN REGISTRATION: 03/20/89 No. 24386 Vol.

OBSERVATIONS:**GENERAL INFORMATION OF THE TREATY: B-36**

SIGNATORY COUNTRIES	SIGNATURE REF	RA/AC/AD REF	DEPOSIT INST	INFORMA REF
Argentina	05/19/86	06/15/87	07/17/87 RA	/ / n
Bolivia	08/02/83	04/17/06	09/26/06 RA	/ / 11

i. United States:

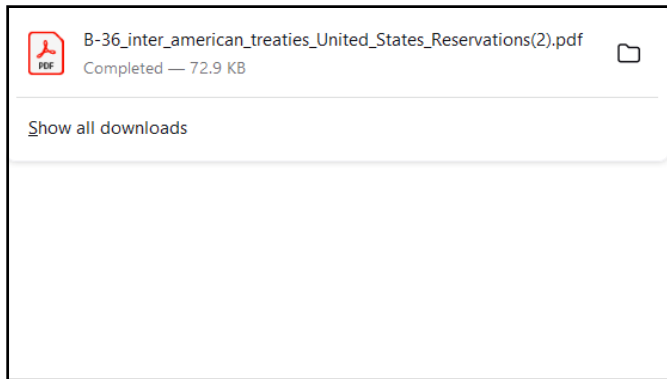
Reservations made at the time of ratification

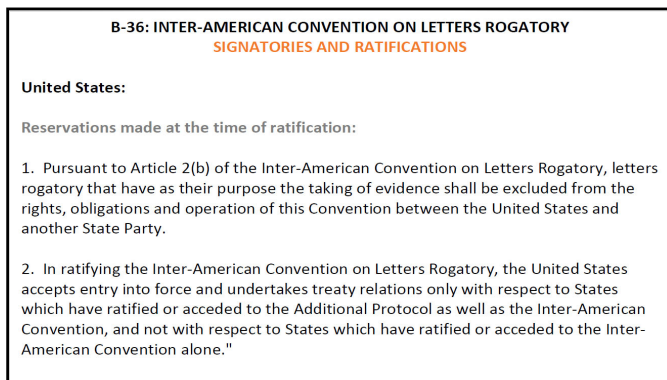
On **January 21, 2021**, the **United States of America** provided the depository with [updated contact information for the United States Central Authority with additional practical guidance](#) regarding the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory.

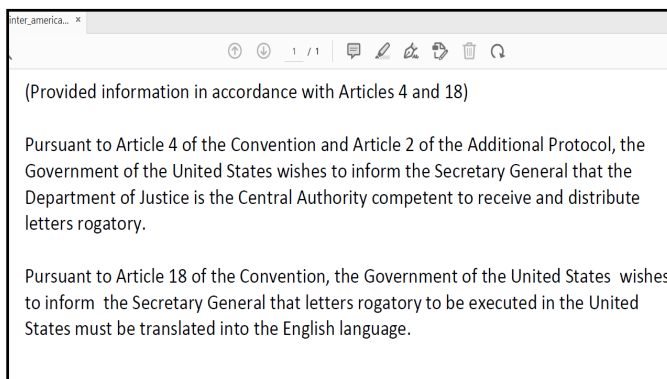
j. Brazil:

(Provided information in accordance with Article 4)

Appointed the Ministry of Justice of the Brazil as the Central Authority competent to receive and distribute letters rogatory in reference to the articles provided for in the Convention.







i. United States:

Reservations made at the time of ratification

On **January 21, 2021**, the **United States of America** provided the depository with [updated contact information for the United States Central Authority with additional practical guidance](#) regarding the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory.

j. Brazil:

(Provided information in accordance with Article 4)

Appointed the Ministry of Justice of the Brazil as the Central Authority competent to receive and distribute letters rogatory in reference to the articles provided for in the Convention.

The Office of International Judicial Assistance delegated the ministerial act of serving and transmitting documents in response to service requests submitted pursuant to the Inter-American Convention to a private contractor, ABC Legal Services. ABC Legal Services (ABC Legal) ceased using the name Process Forwarding International or PFI and thus all service requests should refer only to ABC Legal Services.

The current contract with ABC Legal is in force until January 31, 2025. The use of this private contractor to perform the service of judicial and extrajudicial documents function does not imply the designation of a new U.S. Central Authority for the Inter-American Convention, but rather reflects the contracting of certain activities conducted by the U.S. Central Authority, which remains the Office of International Judicial Assistance.

All requests for service on private individuals and companies should be transmitted to:
ABC Legal Services
633 Yesler Way
Seattle, WA 98104 USA
Telephone: (001) 206-521-9000
E-mail: internationalinfo@abclegalservices.com
Website: <https://www.abclegalservices.com>

INTER-AMERICAN NOT EXCLUSIVE

Article 2. "This Convention shall apply to letters rogatory, issued in conjunction with proceedings in civil and commercial matters held before the appropriate judicial or other adjudicatory authority of one of the State Parties to this Convention, that have as their purpose:

a. The performance of procedural acts of a merely formal nature, such as service of process, summons or subpoenas abroad...." (emphasis added)

KEY CASES OF NON-EXCLUSIVITY

"The Inter-American Convention states that it shall apply to letters rogatory; it does not state that letters rogatory are the only means of serving process in the signatory countries...the Inter-American Convention does not prohibit other methods of service of process."
Pizzablocche v. Vinelli, 772 F. Supp. 1245 (M.D. Fla. 1991) (Personal Service of FL summons and tort action complaint upon Defendants in Argentina not prohibited by Inter-American Convention)

"...nothing in the language of the Convention expressly reflects an intention to supplant all alternative methods of service. Rather, the Convention appears solely to govern the delivery of letters rogatory among the signatory States. (Emphasis added) Kreimerman v. Casa Veerkamp, S.A. de C.V., 22 F.3d 634 (5th Cir. Tex. 1994)

ABA

USE IAC FOR BRAZIL

"...Brazilian law mandates that foreign legal pleadings be served upon corporate citizens of Brazil by means of letters rogatory issued to the Ministry of Foreign Relations...[s]ervice of process of legal pleadings /documents instituted by a foreign citizen in a foreign court of law that has been conducted upon a corporate citizen of Brazil by means of Federal Express is null, void and without effect." *Lake Charles Cane Lacassine Mill, LLC v. Smar Int'l Corp.*, 2007 U.S. Dist. LEXIS 41941 (W.D. La. June 8, 2007) (Service under the LA Long Arm Statute upon Brazilian defendant by federal express)

ABA

MEXICO LOCATE

- Central Authority and courts have no access to location services
- Ask Petitioner contact family and friends for possible employer or residential address
- Search social media for hints of location
 - Facebook
 - Instagram
- Decide whether private investigator is cost-effective
- Provide photos to assist with service of process

ABA

INTERAMERICAN FORMS

- USM-272 (English)
- USM-272A (Spanish)
- See English and Spanish USM 272 and 272A Sample Forms in materials.

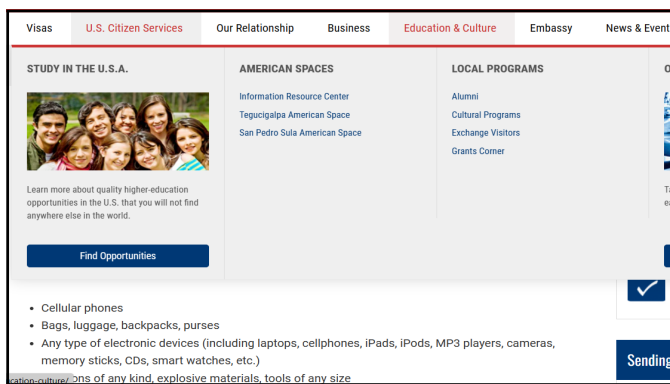
INTERAMERICAN PROCEDURES - MEXICO

- Same as for Hague Forms for Mexico
- Make 4 sets of English and 4 sets of Spanish
- Keep one set of Each
- Prepare a bilingual cover letter and send cover letter and remaining 6 sets to the Mexican Central Authority by FedEx or DHL and require a signature of receipt.

NON-CONVENTION SERVICE

- DOS
<https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-asst.html>
- OIJA Judicial Assistance Website
<https://www.justice.gov/civil/office-international-judicial-assistance-0>
- Shame - Press – Social Media – Business Reputation
 - Caution: Shame in Japan v Shame in South Korea
- Attorney Lists: See Embassy website in Country
[U.S. Embassy in Honduras \(usembassy.gov\)](https://usembassy.gov)







Please note: The Department of State assumes no responsibility or liability ability or reputation of, or the quality of services provided by, the entities or names appear on the following lists. Inclusion on this list is in no way an endorsement by the Department or the U.S. government. Names are listed alphabetically, and their inclusion on the list does not appear has no other significance. The information on the list is provided for informational purposes only; the Department is not in a position to vouch for such information.

- [List of Attorneys in Honduras \(PDF 325 KB\)](#)



LIST OF HONDURAN ATTORNEYS

U.S. Embassy Tegucigalpa, Honduras
 Consular Section
 American Citizen Services Unit
 Avenida La Paz
 Tegucigalpa, Honduras
 Telephone: (504) 2238-5114
 e-mail: usahonduras@state.gov
 Embassy internet site: <http://hn.usembassy.gov>

LA CEIBA, ATLANTIDA

Name: *CINDY ROMERO*
Law Firm: CR LEGAL
Partners: Dania Reyes
Street Address: Avenida 14 de Julio, Edificio Recomar 1ra Planta
 La Ceiba, Atlántida
Mailing Address: Same as above
Office Phone: (504) 9563-9689
Mobil Phone: (504) 9506-8757
Fax: N/A
E-mail: crromero@crlegalthonduras.com , info@crlegalthonduras.com
Web-Page: <https://crlegalthonduras.com/>
English Spoken: Fluent
Type of Cases:
 Family Law, Adoptions, Child Custody, Marriage/Divorce, Commercial/Business Law, Civil Law, Commercial Law, Contracts, Corporations, Foreign Claims, Estates, Labor Relations, Immigration, Marketing Agreements.
 Can provide certified translator and Notary
Will take cases outside of their city: Yes
Time Practicing Law since last update: 5 years



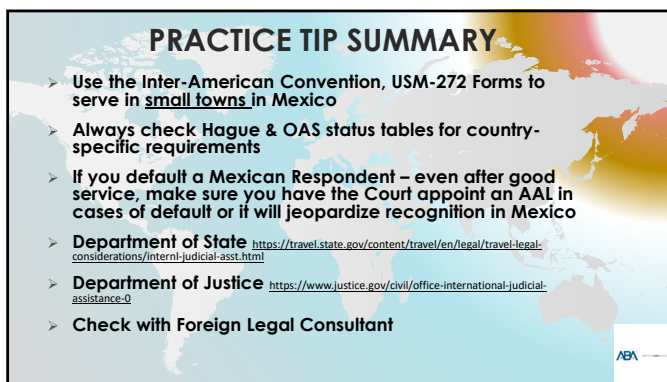
ABC LEGAL

ABC Legal
633 Yesler Way
Seattle, WA 98104
United States of America

Telephone: +206-521-9000
E-mail: internationalinfo@abclegal.com
Website: <https://www.abclegal.com/>

No charge for service of process in Mexico if WA DCS fills out the forms. If ABC Legal completes the forms, fee of \$450 plus \$.20/word translation fees

AIA



PRACTICE TIP SUMMARY

- Use the Inter-American Convention, USM-272 Forms to serve in small towns in Mexico
- Always check Hague & OAS status tables for country-specific requirements
- If you default a Mexican Respondent – even after good service, make sure you have the Court appoint an AAL in cases of default or it will jeopardize recognition in Mexico
- Department of State <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/inter-judicial-asst.html>
- Department of Justice <https://www.justice.gov/civil/office-international-judicial-assistance-0>
- Check with Foreign Legal Consultant

AIA



QUESTIONS?

Gary Caswell, Esq.
Attorney & Foreign Legal Consultant
110 Broadway Street, Suite 510
San Antonio, Texas 78209

Ofc: 210-202-2312
Cel: 210-414-1645
Fax: 210-941-0880
caswell.gary@gmail.com

AIA





VOLKSWAGENWERK AKTIENGESELLSCHAFT
v.
SCHLUNK, ADMINISTRATOR OF THE ESTATES OF SCHLUNK ET AL.

No. 86-1052.

Supreme Court of United States.

Argued March 21, 1988

Decided June 15, 1988

CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT

*695 *Herbert Rubin* argued the cause for petitioner. With him on the briefs were *Stephen M. Shapiro, Kenneth S. Geller, Michael Hoenig, and James K. Toohey*.

Jack Samuel Ring argued the cause for respondent. With him on the brief was *Judith E. Fors*.

Jeffrey P. Minear argued the cause for the United States as *amicus curiae* urging affirmance. With him on the brief were *Solicitor General Fried, Assistant Attorney General Willard, Deputy Solicitor General Merrill, Deputy Assistant* *696 *Attorney General Spears, David Epstein, and Abraham D. Sofaer*.^[1]

JUSTICE O'CONNOR delivered the opinion of the Court.

This case involves an attempt to serve process on a foreign corporation by serving its domestic subsidiary which, under state law, is the foreign corporation's involuntary agent for service of process. We must decide whether such service is compatible with the Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, Nov. 15, 1965 (Hague Service Convention), [1969] 20 U. S. T. 361, T. I. A. S. No. 6638.

I

The parents of respondent Herwig Schlunk were killed in an automobile accident in 1983. Schlunk filed a wrongful death action on their behalf in the Circuit Court of Cook County, Illinois. Schlunk alleged that Volkswagen of America, Inc. (VWoA), had designed and sold the automobile that his parents were driving, and that defects in the automobile caused or contributed to their deaths. Schlunk also alleged that the driver of the other automobile involved in the collision was negligent; Schlunk has since obtained a default judgment against that person, who is no longer a party to this lawsuit. Schlunk successfully served his complaint on VWoA, and VWoA filed an answer denying that it had designed or assembled the automobile in question. Schlunk then amended the complaint to add as a defendant Volkswagen Aktiengesellschaft (VWAG), which is the petitioner *697 here. VWAG, a corporation established under the laws of the Federal Republic of Germany, has its place of business in that country. VWoA is a wholly owned subsidiary of VWAG. Schlunk attempted to serve his amended complaint on VWAG by serving VWoA as VWAG's agent.

VWAG filed a special and limited appearance for the purpose of quashing service. VWAG asserted that it could be served only in accordance with the Hague Service Convention, and that Schlunk had not complied with the Convention's requirements. The Circuit Court denied VWAG's motion. It first observed that VWoA is registered to do business in Illinois and has a registered agent for receipt of process in Illinois. The court then reasoned that VWoA and VWAG are so closely related that VWoA is VWAG's agent for service of process as a matter of law, notwithstanding VWAG's failure or refusal to appoint VWoA formally as an agent. The court relied on the facts that VWoA is a wholly owned subsidiary of VWAG, that a majority of the members of the board of directors of VWoA are members of the board of VWAG, and that VWoA is by contract the exclusive importer and distributor of VWAG products sold in the United States. The court concluded that, because service was accomplished within the United States, the Hague Service Convention did not apply.

The Circuit Court certified two questions to the Appellate Court of Illinois. For reasons similar to those given by the Circuit Court, the Appellate Court determined that VWoA is VWAG's agent for service of process under Illinois law, and that the service of process in this case did not violate the Hague Service Convention. 145 Ill. App. 3d 594, 503 N. E. 2d 1045 (1986). After the Supreme Court of Illinois denied VWAG leave to appeal, 112 Ill. 2d 595 (1986), VWAG petitioned this Court for a writ of certiorari to review the Appellate Court's interpretation of the Hague Service Convention. We granted certiorari to address this issue, 484 U. S. 895 (1987), which has given rise to disagreement among the lower *698 courts. Compare *Ex parte Volkswagenwerk A. G.*, 443 So. 2d 880, 881 (Ala. 1983) (holding that the Hague Service Convention does not apply if a foreign national is served properly through its agent in this country); *Zisman v. Sieger*, 106 F. R. D. 194, 199-200 (ND Ill. 1985) (same); *Lamb v. Volkswagenwerk A. G.*, 104 F. R. D. 95, 97 (SD Fla. 1985) (same); *McHugh v. International Components Corp.*, 118 Misc. 2d 489, 491-492, 461 N. Y. S. 2d 166, 167-168 (1983) (same), with *Cippolla v. Picard Porsche Audi Inc.*, 496 A. 2d 130, 131-132 (R. I. 1985) (holding that the Hague Service Convention is the exclusive means of serving a foreign corporation); *Wingert v. Volkswagenwerk A. G.*, Civ. Action Nos. 3:XX-XXXX-XX and 3:XX-XXXX-XX (S. C. May 19, 1987), slip op., at 3-4 (same).

II

The Hague Service Convention is a multilateral treaty that was formulated in 1964 by the Tenth Session of the Hague Conference of Private International Law. The Convention revised parts of the Hague Conventions on Civil Procedure of 1905 and 1954. The revision was intended to provide a simpler way to serve process abroad, to assure that defendants sued in foreign jurisdictions would receive actual and timely notice of suit, and to facilitate proof of service abroad. 3 1964 Conference de la Haye de Droit International Prive, Actes et Documents de la Dixieme Session (Notification) 75-77, 363 (1965) (3 Actes et Documents); 1 B. Ristau, International Judicial Assistance (Civil and Commercial) § 4-1 (1984 and 1 Supp. 1986) (1 Ristau). Representatives of all 23 countries that were members of the Conference approved the Convention without reservation. Thirty-two countries, including the United States and the Federal Republic of Germany, have ratified or acceded to the Convention. Brief for United States as *Amicus Curiae* 2, n. 2 (filed Sep. 12, 1987).

699 The primary innovation of the Convention is that it requires each state to establish a central authority to receive requests for service of documents from other countries. 20 *699 U. S. T. 362, T. I. A. S. 6638, Art. 2. Once a central authority receives a request in the proper form, it must serve the documents by a method prescribed by the internal law of the receiving state or by a method designated by the requester and compatible with that law. Art. 5. The central authority must then provide a certificate of service that conforms to a specified model. Art. 6. A state also may consent to methods of service within its boundaries other than a request to its central authority. Arts. 8-11, 19. The remaining provisions of the Convention that are relevant here limit the circumstances in which a default judgment may be entered against a defendant who had to be served abroad and did not appear, and provide some means for relief from such a judgment. Arts. 15, 16.

Article 1 defines the scope of the Convention, which is the subject of controversy in this case. It says: "The present Convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad." 20 U. S. T., at 362. The equally authentic French version says, "La presente Convention est applicable, en matiere civile ou commerciale, dans tous les cas ou un acte judiciaire ou extrajudiciaire doit etre transmis a l'etranger pour y etre signifie ou notifie." *Ibid.* This language is mandatory, as we acknowledged last Term in *Societe Nationale Industrielle Aerospatiale v. United States District Court*, 482 U. S. 522, 534, n. 15 (1987). By virtue of the Supremacy Clause, U. S. Const., Art. VI, the Convention pre-empts inconsistent methods of service prescribed by state law in all cases to which it applies. Schlunk does not purport to have served his complaint on VWAG in accordance with the Convention. Therefore, if service of process in this case falls within Article 1 of the Convention, the trial court should have granted VWAG's motion to quash.

700 When interpreting a treaty, we "begin `with the text of the treaty and the context in which the written words are used.'" \*700 *Societe Nationale*, *supra*, at 534 (quoting *Air France v. Saks*, 470 U. S. 392, 397 (1985)). Other general rules of construction may be brought to bear on difficult or ambiguous passages. " `Treaties are construed more liberally than private agreements, and to ascertain their meaning we may look beyond the written words to the history of the treaty, the negotiations, and the practical construction adopted by the parties.'" *Air France v. Saks*, *supra*, at 396 (quoting *Choctaw Nation of Indians v. United States*, 318 U. S. 423, 431-432 (1943)).

The Convention does not specify the circumstances in which there is "occasion to transmit" a complaint "for service abroad." But at least the term "service of process" has a well-established technical meaning. Service of process refers to a formal delivery of documents that is legally sufficient to charge the defendant with notice of a pending action. 1 Ristau § 4-5(2), p. 123 (interpreting the Convention); Black's Law Dictionary 1227 (5th ed. 1979); see 4 C. Wright & A. Miller, Federal Practice and Procedure § 1063, p. 225 (2d ed. 1987). The legal sufficiency of a formal delivery of documents must be measured against some standard. The Convention does not prescribe a standard, so we almost necessarily must refer to the internal law of the forum state. If the internal law of the forum state defines the applicable method of serving process as requiring the transmittal of documents abroad, then the Hague Service Convention applies.

701 The negotiating history supports our view that Article 1 refers to service of process in the technical sense. The committee that prepared the preliminary draft deliberately used a form of the term "notification" (formal notice), instead of the more neutral term "remise" (delivery), when it drafted Article 1. 3 Actes et Documents, at 78-79. Then, in the course of the debates, the negotiators made the language even more exact. The preliminary draft of Article 1 said that the present Convention shall apply in all cases in which there are grounds *to transmit or to give formal notice of* *701 a judicial or extrajudicial document in a civil or commercial matter to a person staying abroad. *Id.*, at 65 ("La presente Convention est applicable dans tous les cas ou il y a lieu *de transmettre ou de notifier* un acte judiciaire ou extrajudiciaire en matiere civile ou commerciale a une personne se trouvant a l'etranger") (emphasis added). To be more precise, the delegates decided to add a form of the juridical term "signification" (service), which has a narrower meaning than "notification" in some countries, such as France, and the identical meaning in others, such as the United States. *Id.*, at 152-153, 155, 159, 366. The delegates also criticized the language of the preliminary draft because it suggested that the Convention could apply to transmissions abroad that do not culminate in service. *Id.*, at 165-167. The final text of Article 1, *supra*, eliminates this possibility and applies only to documents transmitted for service abroad. The final report (*Rapport Explicatif*) confirms that the Convention does not use more general terms, such as delivery or transmission, to define its scope because it applies only when there is both transmission of a document from the requesting state to the receiving state, and service upon the person for whom it is intended. *Id.*, at 366.

The negotiating history of the Convention also indicates that whether there is service abroad must be determined by reference to the law of the forum state. The preliminary draft said that the Convention would apply "where there are grounds" to transmit a judicial document to a person staying abroad. The committee that prepared the preliminary draft realized that this implied that the forum's internal law would govern whether service implicated the Convention. *Id.*, at 80-81. The reporter expressed regret about this solution because it would decrease the obligatory force of the Convention. *Id.*, at 81. Nevertheless, the delegates did not change the meaning of Article 1 in this respect.

702 The Yugoslavian delegate offered a proposal to amend Article 1 to make explicit that service abroad is defined according *702 to the law of the state that is requesting service of process. *Id.*, at 167. The delegate from the Netherlands supported him. *Ibid.* The German delegate approved of the proposal in principle, although he thought it would require a corresponding reference to the significance of the law of the state receiving the service of process, and that this full explanation would be too complicated. *Id.*, at 168. The President opined that there was a choice to be made between the phrase used by the preliminary draft, "where grounds exist," and the Yugoslavian proposal to modify it with the phrase, "according to the law of the requesting state." *Ibid.* This prompted the Yugoslavian delegate to declare that the difference was immaterial, because the phrase "where grounds exist" necessarily refers to the law of the forum. *Ibid.* The French delegate added that, in his view, the law of the forum in turn is equivalent to the law of the requesting state. *Id.*, at 169. At that point, the President recommended entrusting the problem to the drafting committee.

The drafting committee then composed the version of Article 1 that ultimately was adopted, which says that the Convention applies "where there is occasion" to transmit a judicial document for service abroad. *Id.*, at 211. After this revision, the reporter again explained that one must leave to the requesting state the task of defining when a document must be served abroad; that this solution was a consequence of the unavailability of an objective test; and that while it decreases the obligatory force of the Convention, it does provide clarity. *Id.*, at 254. The inference we draw from this history is that the Yugoslavian proposal was rejected because it was superfluous, not because it was inaccurate, and that "service abroad" has the same meaning in the final version of the Convention as it had in the preliminary draft.

703 VWAG protests that it is inconsistent with the purpose of the Convention to interpret it as applying only when the internal law of the forum requires service abroad. One of the two stated objectives of the Convention is "to create *703 appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time." 20 U. S. T., at 362. The Convention cannot assure adequate notice, VWAG argues, if the forum's internal law determines whether it applies. VWAG warns that countries could circumvent the Convention by defining methods of service

of process that do not require transmission of documents abroad. Indeed, VWAG contends that one such method of service already exists and that it troubled the Conference: *notification au parquet*.

Notification au parquet permits service of process on a foreign defendant by the deposit of documents with a designated local official. Although the official generally is supposed to transmit the documents abroad to the defendant, the statute of limitations begins to run from the time that the official receives the documents, and there allegedly is no sanction for failure to transmit them. 3 Actes et Documents, at 167-169; S. Exec. Rep. No. 6, 90th Cong., 1st Sess., 12 (1967) (statement of Philip Amram, member of the United States delegation); 1 Ristau § 4-33, p. 172. At the time of the 10th Conference, France, the Netherlands, Greece, Belgium, and Italy utilized some type of *notification au parquet*. 3 Actes et Documents, at 75.

There is no question but that the Conference wanted to eliminate *notification au parquet*. *Id.*, at 75-77. It included in the Convention two provisions that address the problem. Article 15 says that a judgment may not be entered unless a foreign defendant received adequate and timely notice of the lawsuit. Article 16 provides means whereby a defendant who did not receive such notice may seek relief from a judgment that has become final. 20 U. S. T., at 364-365. Like Article 1, however, Articles 15 and 16 apply only when documents must be transmitted abroad for the purpose of service. 3 Actes et Documents, at 168-169. VWAG argues that, if this determination is made *704 according to the internal law of the forum state, the Convention will fail to eliminate variants of *notification au parquet* that do not expressly require transmittal of documents to foreign defendants. Yet such methods of service of process are the least likely to provide a defendant with actual notice.

The parties make conflicting representations about whether foreign laws authorizing *notification au parquet* command the transmittal of documents for service abroad within the meaning of the Convention. The final report is itself somewhat equivocal. It says that, although the strict language of Article 1 might raise a question as to whether the Convention regulates *notification au parquet*, the understanding of the drafting Commission, based on the debates, is that the Convention would apply. *Id.*, at 367. Although this statement might affect our decision as to whether the Convention applies to *notification au parquet*, an issue we do not resolve today, there is no comparable evidence in the negotiating history that the Convention was meant to apply to substituted service on a subsidiary like VWoA, which clearly does not require service abroad under the forum's internal law. Hence neither the language of the Convention nor the negotiating history contradicts our interpretation of the Convention, according to which the internal law of the forum is presumed to determine whether there is occasion for service abroad.

Nor are we persuaded that the general purposes of the Convention require a different conclusion. One important objective of the Convention is to provide means to facilitate service of process abroad. Thus the first stated purpose of the Convention is "to create" appropriate means for service abroad, and the second stated purpose is "to improve the organisation of mutual judicial assistance for that purpose by simplifying and expediting the procedure." 20 U. S. T., at 362. By requiring each state to establish a central authority to assist in the service of process, the Convention implements this enabling function. Nothing in our decision today interferes with this requirement.

*705 VWAG correctly maintains that the Convention also aims to ensure that there will be adequate notice in cases in which there is occasion to serve process abroad. Thus compliance with the Convention is mandatory in all cases to which it applies, see *supra*, 700-701, and Articles 15 and 16 provide an indirect sanction against those who ignore it, see 3 Actes et Documents, at 92, 363. Our interpretation of the Convention does not necessarily advance this particular objective, inasmuch as it makes recourse to the Convention's means of service dependent on the forum's internal law. But we do not think that this country, or any other country, will draft its internal laws deliberately so as to circumvent the Convention in cases in which it would be appropriate to transmit judicial documents for service abroad. For example, there has been no question in this country of excepting foreign nationals from the protection of our Due Process Clause. Under that Clause, foreign nationals are assured of either personal service, which typically will require service abroad and trigger the Convention, or substituted service that provides "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 314 (1950).^[2]

*706 Furthermore, nothing that we say today prevents compliance with the Convention even when the internal law of the forum does not so require. The Convention provides simple and certain means by which to serve process on a foreign national. Those who eschew its procedures risk discovering that the forum's internal law required transmittal of documents for service abroad, and that the Convention therefore provided the exclusive means of valid service. In addition, parties that comply with the Convention ultimately may find it easier to enforce their judgments abroad. See Westin, *Enforcing Foreign Commercial Judgments and Arbitral Awards in the United States, West Germany, and England*, Law & Policy Int'l Bus. 325, 340-341 (1987). For these reasons, we anticipate that parties may resort to the Convention voluntarily, even in cases that fall outside the scope of its mandatory application.

III

In this case, the Illinois long-arm statute authorized Schlunk to serve VWAG by substituted service on VWoA, without sending documents to Germany. See Ill. Rev. Stat., ch. 110, ¶ 2-209(a)(1) (1985). VWAG has not petitioned for review of the Illinois Appellate Court's holding that service was proper as a matter of Illinois law. VWAG contends, however, that service on VWAG was not complete until VWoA transmitted the complaint to VWAG in Germany. According to

VWAG explains that, as a practical matter, VWoA was certain to transmit the complaint to Germany to notify VWAG of the litigation. Indeed, as a legal matter, the Due Process Clause requires every method of service to provide "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, *supra*, at 314. VWAG argues that, because of this notice requirement, every case involving service on a foreign national will present an "occasion to transmit a judicial . . . document for service abroad" within the meaning of Article 1. Tr. of Oral Arg. 8. VWAG emphasizes that in this case, the Appellate Court upheld service only after determining that "the relationship between VWAG and VWoA is so close that it is certain that VWAG 'was fully apprised of the pendency of the action' by delivery of the summons to VWoA." 145 Ill. App. 3d, at 606, 503 N. E. 2d, at 1053 (quoting *Maulander v. DeHavilland Aircraft of Canada, Ltd.*, 102 Ill. 2d 342, 353, 466 N. E. 2d 217, 223, cert. denied, 469 U. S. 1036 (1984)).

We reject this argument. Where service on a domestic agent is valid and complete under both state law and the Due Process Clause, our inquiry ends and the Convention has no further implications. Whatever internal, private communications take place between the agent and a foreign principal are beyond the concerns of this case. The only transmittal to which the Convention applies is a transmittal abroad that is required as a necessary part of service. And, contrary to VWAG's assertion, the Due Process Clause does not require an official transmittal of documents abroad every time there is service on a foreign

708 national. Applying this analysis, we conclude that this case does not present an occasion to transmit a judicial document for service abroad within the meaning *708 of Article 1. Therefore the Hague Service Convention does not apply, and service was proper. The judgment of the Appellate Court is

Affirmed.

JUSTICE BRENNAN, with whom JUSTICE MARSHALL and JUSTICE BLACKMUN join, concurring in the judgment.

We acknowledged last Term, and the Court reiterates today, *ante*, at 699, that the terms of the Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, [1969] 20 U. S. T. 361, T. I. A. S. No. 6638, are "mandatory," not "optional" with respect to any transmission that Article 1 covers. *Societe Nationale Industrielle Aerospatiale v. United States District Court*, 482 U. S. 522, 534, and n. 15 (1987). Even so, the Court holds, and I agree, that a litigant may, consistent with the Convention, serve process on a foreign corporation by serving its wholly owned domestic subsidiary, because such process is not "service abroad" within the meaning of Article 1. The Court reaches that conclusion, however, by depriving the Convention of any mandatory effect, for in the Court's view the "forum's internal law" defines conclusively whether a particular process is "service abroad," which is covered by the Convention, or domestic service, which is not. *Ante*, at 704. I do not join the Court's opinion because I find it implausible that the Convention's framers intended to leave each contracting nation, and each of the 50 States within our Nation, free to decide for itself under what circumstances, if any, the Convention would control. Rather, in my view, the words "service abroad," read in light of the negotiating history, embody a substantive standard that limits a forum's latitude to deem service complete domestically.

709 The first of two objectives enumerated in the Convention's preamble is "to create appropriate means to ensure that judicial . . . documents to be served abroad shall be brought to the notice of the addressee in sufficient time" 20 U. S. T., at 362. See also *ante*, at 702-703. Until the Convention *709 was implemented, the contracting nations followed widely divergent practices for serving judicial documents across international borders, some of which did not ensure any notice, much less timely notice, and therefore often produced unfair default judgments. See generally International Co-Operation in Litigation: Europe (H. Smit ed. 1965); 3 1965 Conference de la Haye de Droit International Prive, Actes et Documents de la Dixieme Session (Notification) 11-12 (1965) (hereinafter 3 Actes et Documents). Particularly controversial was a procedure, common among civil-law countries, called "*notification au parquet*," which permitted delivery of process to a local official who was then ordinarily supposed to transmit the document abroad through diplomatic or other channels. See S. Exec. Rep. No. 6, 90th Cong., 1st Sess., 11-12, 14-16 (1967) (S. Exec. Rep. No. 6); S. Doc. C, 90th Cong., 1st Sess., 5-6, 21 (1967) (S. Exec. Doc. C). Typically, service was deemed complete upon delivery of the document to the official whether or not the official succeeded in transmitting it to the defendant and whether or not the defendant otherwise received notice of the pending lawsuit.^[1]

710 *710 The United States delegation to the Convention objected to *notification au parquet* as inconsistent with "the requirements of 'due process of law' under the Federal Constitution." 3 Actes et Documents 128 (citations omitted). The head of the delegation has derided its " '[i]njustice, extravagance, [and] absurdity . . . ' " Amram 651 (citation omitted). In its classic formulation, he observed, *notification au parquet* " 'totally sacrificed all rights of the defense in favor of the plaintiff.' " *Id.*, at 652, n. 9 (citation omitted). The Convention's official reporter noted similar " 'spirited criticisms of the system' . . . which we wish to see eliminated." 3 Actes et Documents 76 (translated).

In response to this and other concerns, the Convention prescribes the exclusive means for service of process emanating from one contracting nation and culminating in another. As the Court observes, the Convention applies only when the document is to be "transmit[ted] . . . for service abroad"; it covers not every transmission of judicial documents abroad, but only those transmissions abroad that constitute formal "service." See *ante*, at 700. It is common ground that the Convention governs when the procedure prescribed by the internal law of the forum nation or state provides that service is not complete until the document is transmitted abroad. That is not to say, however, as does the Court, that the forum nation may designate any type of service "domestic" and thereby avoid application of the Convention.

711 Admittedly, as the Court points out, *ibid.*, the Convention's language does not prescribe a precise standard to distinguish between "domestic" service and "service abroad." But the Court's solution leaves contracting nations free to ignore its terms entirely, converting its command into exhortation. Under the Court's analysis, for example, a forum nation could prescribe direct mail service to any foreigner and deem service effective upon deposit in the mailbox, or could arbitrarily designate a domestic agent for any foreign defendant and deem service complete upon receipt domestically by *711 the agent even though there is little likelihood that service would ever reach the defendant. In fact, so far as I can tell, the Court's interpretation permits any contracting nation to revive *notification au parquet* so long as the nation's internal law deems service complete domestically, but cf. *ante*, at 704, even though, as the Court concedes, "such methods of service are the least likely to provide a defendant with actual notice," and even though "[t]here is no question but that the Conference wanted to eliminate *notification au parquet*," *ante*, at 703 (citation omitted).

The Court adheres to this interpretation, which (in the Court's words) "does not necessarily advance" the primary purpose that the Convention itself announces, *ante*, at 705, notwithstanding its duty to read the Convention "with a view to effecting the objects and purposes of the States thereby contracting." *Rocca v. Thompson*, 223 U. S. 317, 331-332 (1912). See *Factor v. Laubenheimer*, 290 U. S. 276, 293-294 (1933); *Wright v. Henkel*, 190 U. S. 40, 57 (1903). Even assuming any quantum of evidence from the negotiating history would suffice to support an interpretation so fundamentally at odds with the Convention's primary purpose, the evidence the Court amasses in support of its reading — two interim comments by the reporter on initial drafts of the Convention suggesting that the forum's internal law would dictate whether a particular form of service implicates the Convention — falls far short. See *ante*, at 701-702.

712 In the first place, the reporter's comments were by no means uncontroversial. One participant, for example, directly challenged the "report[s] allusion . . . to the danger that the court hearing the proceeding could decide that there were no grounds for service," and observed that "[n]ow, the preamble of [the] draft specifies the objective of the convention, which is to ensure the service of writs to persons in foreign countries in order to *guarantee that these persons will have knowledge of them*." 3 Actes et Documents 165 (United Kingdom delegate) (translation) (emphasis added). *712 In fact, the delegates considered a version of Article 1 explicitly prescribing that the Convention's scope would be defined " 'according to the law of the petitioning state,' " *id.*, at 167 (quoting proposal of Yugoslavian delegate) (translation), but rejected the proposal at least in part "because it would allow [domestic] law to determine the cases in which transmission is not obligatory." *Ibid.* (Italian delegate) (translation).

If the delegates did not resolve their differences upon tabling the proposal, they apparently did by the time the official reporter issued his *Rapport Explicatif*. This final report, which presumably supersedes all interim comments, stresses "the opinion of the Third Commission [that] the Convention was 'obligatory,' " making no reference to internal law. 3 Actes et Documents 366 (translation). By way of example, the *Rapport* acknowledges that a literal reading of the

Convention might raise doubts as to the Convention's coverage of *notification au parquet*, yet announces the understanding of the drafting commission that the Convention would prohibit such service.^[2] Thus, reading Article 1 "in the liberal spirit in which it is intended[,]" "to address" "the hardship and injustice, which [the Convention] seeks to relieve," *id.*, at 367 (citation omitted), the *Rapport* interprets the Convention to impose a substantive standard proscribing *notification au parquet* whether the forum nation deems the service "domestic" or "abroad." That substantive standard is captured in the *Rapport's* admonition that

713 "[a]ll of the transmission channels (prescribed by the convention) *must have as a consequence the fact that the act reach the addressee in due time*. That is a requirement "713 of justice, which assumes its full importance when the act to be transmitted is an act instituting proceedings." *Ibid.* (translation) (footnote omitted; emphasis added).

The Court belittles the *Rapport's* significance by presuming that the reporter assumed, as a matter of the internal law of the various nations then permitting *notification au parquet*, that such service always required transmission abroad, and therefore would always have been deemed "service abroad." See *ante*, at 703-704. But the above-cited passage purports to interpret the Convention, not to survey the various forms of *notification au parquet* then prevalent, and does not so much as hint at the possibility that *notification au parquet* might continue if the domestic law of a forum nation were to deem it "domestic." Moreover, the assumption that the Court imputes to the *Rapport* is inaccurate; as noted above, *notification au parquet* was typically deemed complete upon delivery to the local official. See *supra*, at 709, and n. 1. Any requirement of transmission abroad was no more essential to formal service than is the informal arrangement by which a domestic subsidiary might transmit documents served on it as an agent for its foreign parent. See, e. g., 3 Actes et Documents 169. Thus, if the Court entertains the possibility that the Convention bans *notification au parquet* under all circumstances, *ante*, at 704, it can only be because (notwithstanding the Court's stated analysis) the Convention, read in light of its negotiating history, sets some substantive limit on the forum state's latitude to deem such service "domestic."

Significantly, our own negotiating delegation, whose contemporaneous views are "entitled to great weight," *Societe Nationale*, 482 U. S., at 536, n. 19, took seriously the *Rapport's* conclusion that the Convention is more than just precatory. The delegation's report applauded the Convention as "mak[ing] substantial changes in the practices of many of the civil law countries, moving their practices in the direction of the U. S. approach to international judicial assistance and our "714 concepts of due process in the service of process." S. Exec. Doc. C, at 20 (emphasis added). The delegation's chief negotiator emphasized that "the convention sets up the minimum standards of international judicial assistance which each country which ratifies the convention *must* offer to all others who ratify," S. Exec. Rep. No. 6, at 13 (statement by Philip W. Amram) (emphasis in original). Then-Secretary of State Rusk reiterated the same point,^[3] as did the State Department's Deputy Legal Advisor,^[4] and President Johnson.^[5] The repeated references to "due process" were not, of course, intended to suggest that every contracting nation submitted itself to the intricacies of our constitutional jurisprudence. Rather, they were shorthand formulations of the requirement, common to both due process and the Convention, that process directed on a party abroad should be designed so that the documents "reach the addressee in due time," 3 Actes et Documents 367 (translation).

The negotiating history and the uniform interpretation announced by our own negotiators confirm that the Convention limits a forum's ability to deem service "domestic," thereby avoiding the Convention's terms. Admittedly, the Convention does not precisely define the contours. But that imprecision does not absolve us of our responsibility to apply the Convention mandatorily, any more than imprecision permits us to discard the words "due process of law," U. S. Const., Amdt. 14, § 1. And however difficult it might be in some circumstances to discern the Convention's precise limits, it is "715 remarkably easy to conclude that the Convention does not prohibit the type of service at issue here. Service on a wholly owned, closely controlled subsidiary is reasonably calculated to reach the parent "in due time" as the Convention requires. See, e. g., 9 W. Fletcher, *Cyclopedia of Law of Private Corporations* § 4412, p. 400 (rev. ed. 1985). That is, in fact, what our own Due Process Clause requires, see *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 314-315 (1950), and since long before the Convention's implementation our law has permitted such service, see, e. g., *Perkins v. Benguet Consolidated Mining Co.*, 342 U. S. 437, 444-445 (1952); *Latimer v. S/A Industrias Reunidas F. Matarazzo*, 175 F. 2d 184, 185 (CA2 1949) (L. Hand, J.). This is significant because our own negotiators made clear to the Senate their understanding that the Convention would require no major changes in federal or state service-of-process rules.^[6] Thus, it is unsurprising that nothing in the negotiating history suggests that the contracting nations were dissatisfied with the practice at issue here, of which they were surely aware, much less that they intended to abolish it like they intended to abolish *notification au parquet*. And since notice served on a wholly owned domestic subsidiary is infinitely more likely to reach the foreign parent's attention than was notice served *au parquet* (or by any other procedure that the negotiators singled out for criticism) there is no reason to interpret the Convention to bar it.

716 *716 My difference with the Court does not affect the outcome of this case, and, given that any process emanating from our courts must comply with due process, it may have little practical consequence in future cases that come before us. But cf. S. Exec. Rep. No. 6, at 15 (statement by Philip W. Amram suggesting that Convention may require "a minor change in the practice of some of our States in long-arm and automobile accident cases" where "service on the appropriate official need be accompanied only by a minimum effort to notify the defendant"). Our Constitution does not, however, bind other nations haling our citizens into their courts. Our citizens rely instead primarily on the forum nation's compliance with the Convention, which the Senate believed would "provide increased protection (due process) for American Citizens who are involved in litigation abroad." *Id.*, at 3. And while other nations are not bound by the Court's pronouncement that the Convention lacks obligatory force, after today's decision their courts will surely sympathize little with any United States national pleading that a judgment violates the Convention because (notwithstanding any local characterization) service was "abroad."

It is perhaps heartening to "think that [no] countr[y] will draft its internal laws deliberately so as to circumvent the Convention in cases in which it would be appropriate to transmit judicial documents for service abroad," *ante*, at 705, although from the defendant's perspective "circumvention" (which, according to the Court, entails no more than exercising a prerogative not to be bound) is equally painful whether deliberate or not. The fact remains, however, that had we been content to rely on foreign notions of fair play and substantial justice, we would have found it unnecessary, in the first place, to participate in a Convention "to ensure that judicial. . . documents to be served abroad [would] be brought to the notice of the addressee in sufficient time," 20 U. S. T., at 362.

[*] *Peter Heidenberger* filed a brief for the Federal Republic of Germany as *amicus curiae* urging reversal.

Leonard M. Ring filed a brief for the Trial Lawyers of America as *amicus curiae* urging affirmance.

Briefs of *amici curiae* were filed for the Illinois Trial Lawyers Association by *William J. Harte*; and for the Motor Vehicle Manufacturers Association of the United States, Inc., by *Jay M. Smyser*, *William H. Crabtree*, and *Edward P. Good*.

[*] The concurrence believes that our interpretation does not adequately guarantee timely notice, which it denominates the "primary" purpose of the Convention, albeit without authority. *Post*, at 711. The concurrence instead proposes to impute a substantive standard to the words, "service abroad." *Post*, at 708. Evidently, a method of service would not

be deemed to be "service abroad" within the meaning of Article 1 unless it provides notice to the recipient "in due time." *Post*, at 712, 714. This due process notion cannot be squared with the plain meaning of the words, "service abroad." The contours of the concurrence's substantive standard are not defined, and we note that it would create some uncertainty even on the facts of this case. If the substantive standard tracks the Due Process Clause of the Fourteenth Amendment, it is not self-evident that substituted service on a subsidiary is sufficient with respect to the parent. In the only cases in which it has considered the question, this Court held that the activities of a subsidiary are not necessarily enough to render a parent subject to a court's jurisdiction, for service of process or otherwise. *Cannon Mfg. Co. v. Cudahy Packing Co.*, 267 U. S. 333, 336-337 (1925); *Consolidated Textile Corp. v. Gregory*, 289 U. S. 85, 88 (1933); see 18A W. Fletcher, *Cyclopedia of Law of Private Corporations* § 8773 pp. 250-254 (rev. ed. 1988). Although the particular relationship between VWAG and VWoA might have made substituted service valid in this case, a question that we do not decide, the factbound character of the necessary inquiry makes us doubt whether the standard suggested by the concurrence would in fact be "remarkably easy" to apply, see *post*, at 715.

[1] The head of the United States delegation to the Convention described *notification au parquet* as follows:

"This is a system which permits the entry of judgments in personam by default against a nonresident defendant without requiring adequate notice. There is also no real right to move to open the default judgment or to appeal, because the time to move to open judgment or to appeal will generally have expired before the defendant finds out about the judgment.

"Under this system of service, the process-server simply delivers a copy of the writ to a public official's office. The time for answer begins to run immediately. Some effort is supposed to be made through the Foreign Office and through diplomatic channels to give the defendant notice, but failure to do this has no effect on the validity of the service. . . .

"There are no . . . limitations and protections [comparable to due process or personal jurisdiction] under the *notification au parquet* system. Here jurisdiction lies merely if the plaintiff is a local national; nothing more is needed." S. Exec. Rep. No. 6, at 11-12 (statement by Philip W. Amram). See also S. Exec. Doc. C, at 5 (letter of submittal from Secretary of State Rusk); Amram, *The Revolutionary Change in Service of Process Abroad in French Civil Procedure*, 2 *Int'l Law.* 650, 650-651 (1968) (Amram).

[2] 3 Actes et Documents 367 (emphasis in original; footnote omitted):

"However, when confronted with the strict letter of the provision, one can always ask the question of knowing whether or not, when a State permits the service or notification of a person in a foreign country to be made [*au parquet*], the convention is applicable.

"THE AUTHENTIC INTERPRETATION OF THE COMMISSION AS IT EMERGES FROM THE DISCUSSIONS, IS IN THE SENSE OF THE APPLICATION OF THE CONVENTION."

[3] See S. Exec. Doc. C, at 8 ("[T]he convention . . . requires . . . major changes, in the direction of modern and efficient procedures, in the present practices of many other" nations) (emphasis added).

[4] See S. Exec. Rep. No. 6, at 7 ("It is to our great advantage to obtain *binding commitments* from other governments that they will adhere to [the] principles" embodied in due process) (statement by Richard D. Kearney) (emphasis added).

[5] See S. Exec. Doc. C, at 1 ("[T]he convention makes important changes in the practices of many civil law countries, moving those practices in the direction of our generous system of international judicial assistance and our concept of due process in the service of documents").

[6] In words reiterated by Secretary of State Rusk, the delegation observed that "[i]n its broadest aspects the convention makes no basic changes in U. S. practices." S. Exec. Doc. C, at 20. See also *id.*, at 8 ("The most significant aspect of the convention is the fact that it requires so little change in the present procedures in the United States") (letter of submittal of Secretary of State Rusk). The delegation's head likewise repeatedly observed that the Convention "leaves our common-law due-process principles unaffected and unchanged." S. Exec. Rep. No. 6, at 11. See also *id.*, at 9 ("By our internal law . . . we already give to foreign litigants all that this convention would require us to provide"); *id.*, at 16 (Convention "requires no changes in our law of judicial assistance").

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1

2023-Ohio-1633

**ANIL REDDY ANUMANDLA, Plaintiff -
Appellee**

v.

**SPANDANA KONDAPALLI, Defendant-
Appellant**

No. 2022CA00094

**Court of Appeals of Ohio, Fifth District,
Stark**

May 15, 2023

Appeal from the Stark County Court of
Common Pleas, Domestic Relations Division,
Case No. 2021 DR 00680

For Plaintiff-Appellee SUSAN PUCCI

For Defendant-Appellant DOUGLAS BOND
D. COLEMAN BOND

JUDGES: Hon. William B. Hoffman, P.J.
Hon. Craig R. Baldwin, J. Hon. Andrew J. King, J.

OPINION

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Baldwin, J.

{¶1} Appellant, Spandana Kondapalli,
appeals the decision of the Stark County Court of
Common Pleas, Domestic Relations Division,
granting the divorce sought by appellee, Anil
Reddy Anumandla.

**STATEMENT OF THE FACTS AND
THE CASE**

{¶2} Kondapalli and Anumandla were
married in 2016 and, on June 25, 2021,
Anumandla filed a complaint for divorce in the
Stark County Court of Common Pleas, Domestic
Relations Division. The summons, complaint and
all additional relevant documentation were sent

to Kondapalli via registered mail on June 25,
2021. On September 13, 2021, Kondapalli filed a
document captioned "Complaint for Divorce" in
which she admits she is the defendant and wife of
Anumandla and that she received the summons.
She further contends that "all the facts narrated
by the plaintiff are completely false" and that he
"has blatantly lied on affidavit before this Court
about the date of marriage, reasons for divorce,
financial and economic status. (Kondapalli,
"Complaint for Divorce" □□ 1, 3, 4).

{¶3} Though Kondapalli had acknowledged
receipt of the documents from the trial court, on
October 13, 2021, the pretrial was continued for
perfection of service. On November 12, 2021,
summons and copies of the praecipe along with
documents filed on June 25, 2021 and October 13,
2021 were issued to Kondapalli purportedly
through the process required by the Hague
Convention. On May 24, 2022, Anumandla filed a
pleading captioned "Plaintiffs Verified Motion for
Order of Service by Publication attached to which
was documentation demonstrating that on
November 26, 2021 the documents from the case
were delivered to the Central Authority in India
pursuant to the requirements

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of the Hague Convention. The attachments also
document attempts to solicit a response from the
Central Authority in February, March and April
2022 and that no response was received. A
previously scheduled pretrial was conducted on
June 6, 2022 and Kondapalli did not appear in
person or through counsel. Pursuant to Stark
Court of Common Pleas Local Rule 13, the court
conducted a hearing and heard the testimony of
Anumandla and, via telephone, a witness on
behalf of Anumandla.

{¶4} The trial court issued a judgment entry
on June 15, 2022 finding from the evidence
presented that requirements of the Hague
Convention were sufficiently satisfied to permit it
to render judgment. The trial court further found
from the evidence that:

* * * at least one of the parties was a bona fide resident of the State of Ohio for more than six (6) months, the County of Stark for more than ninety (90) days immediately preceding the commencement of this action; that the parties were married on October 4, 2016 at Westlake, Ohio; and that there have been no children born as issue of this marriage.

a. The court finds from the evidence that has jurisdiction of the parties and the subject matter.

b. The Court finds that plaintiff alleged grounds as enumerated Ohio revised code section 3105.01 that include that plaintiff and defendant have lived, without interruption for one year, separate and apart without cohabitation. The court further finds no evidence the parties were separated on March 18, 2018.

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{¶5} Thereafter the trial court granted the divorce and made the requisite findings regarding spousal support and the division of property. Copies of the decree were issued to Kondapalli by registered mail on June 15, 2022.

{¶6} Kondapalli filed a notice of appeal on July 14, 2022 and submitted three assignments of error:

{¶7} "I. THE TRIAL COURT ERRED WHEN IT GRANTED DEFAULT JUDGMENT AGAINST APPELLANT AS CIVIL RULE 55, WHICH PROVIDES FOR THE METHODS FOR A DEFAULT JUDGMENT TO BE ENTERED DOES NOT APPLY TO DIVORCE PROCEEDINGS. (sic)"

{¶8} "II. THE TRIAL COURT ERRED WHEN IT ISSUED THE DECREE OF DIVORCE BECAUSE IT NEVER PROVIDED APPELLANT

WITH NOTICE OF A TRIAL ON THE MERITS AS REQUIRED BY CIVIL RULE 75(L)."

{¶9} "III. THE TRIAL COURT LACKED PERSONAL JURISDICTION OVER APPELLANT, AND THUS THE DECREE OF DIVORCE ISSUED IS VOID, AS THE APPELLANT WAS NEVER SERVED WITH THE SUMMONS AND COMPLAINT PURSUANT TO THE TERMS OF THE HAGUE CONVENTION."

STANDARD OF REVIEW

{¶10} Kondapalli's assignments of error require the interpretation of the Civil Rules of Procedure and the Hague Convention which are questions of law, so we review the trial court's decision de novo. (Citations omitted.) *Matter of E.S.*, 5th Dist. Perry No. 20 CA 00008, 2020-Ohio-4843, ¶ 20.

ANALYSIS

I.

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{¶11} In her first assignment of error, Kondapalli claims that the trial court erred by granting default judgment to Anumandla, but her contention that the trial court granted default judgment pursuant to Civ.R 55 is not supported by the facts in the record and is contradicted by her argument offered in support of her second assignment of error.

{¶12} Default judgment is available only "when a party against whom judgment for affirmative relief is sought has failed to plead or otherwise defend [and] * * * the party entitled to a judgment by default" applies in writing or orally to the court for relief. (Civ.R. 55 (A)). Kondapalli has not directed us to any portion of the record reflecting a request by Anumandla for default judgment nor has she demonstrated that the court issued default judgment. Instead, when she failed to appear for the pretrial on June 6, 2022, the court, pursuant to Local Rule 13 of the Stark County Court of Common Pleas, converted the

matter to a hearing and took evidence from Anumandla and his witness and entered judgment accordingly. The fact that she did not attend this hearing or arrange to have counsel present does not convert the trial court's actions into default judgment.

{¶13} Kondapalli concedes default judgment was not granted in her argument offered in support of her second assignment of error. While complaining that she was not provided notice or an opportunity to appear on June 6, she acknowledges that: "Nevertheless the trial court proceeded to an ex parte trial on the merits to substantially prejudice appellant as it did not provide notice to appellant." (Appellant's brief, page 8-9). We find that appellant has confessed that default judgment was not granted but, instead, the trial went forward without her being present. As noted above, her absence from the trial does not convert judgment rendered by the trial court into a default judgment.

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{¶14} Further, we acknowledge that the trial court did refer to the proceeding as a default judgment in the transcript of the hearing. However, the court's characterization of the proceedings as default judgment does not conclusively establish that default judgment was granted. A review of the record establishes that the judgment was not granted as a default judgment under Civ.R. 55, but was based upon testimony and evidence presented to the trial court.

{¶15} Kondapalli's first assignment of error is overruled.

II.

{¶16} In her second assignment of error, Kondapalli claims that the trial court erred when it issued the decree of divorce because it never provided her with notice of a trial on the merits as required by Civ.R. 75(L). This matter was originally scheduled for a pretrial on October 13, 2021. Kondapalli does not contend that she did

not receive this notice. The pretrial was continued to June 6, 2022 and Kondapalli does not contend that she did not receive notice of the continuance of the pretrial. Neither Kondapalli nor counsel on her behalf appeared at the pretrial.

{¶17} Kondapalli claims the trial court failed to provide proper notice relying on the language of Civ. R. 75(L) to support her argument. The relevant portion of that Rule states: "In all cases where there is no counsel of record for the adverse party, the court shall give the adverse party notice of the trial upon the merits." Anumandla responds by directing our attention to Local Rule 13(E) of the Stark County Court of Common Pleas, which states: "In the event that neither the Defendant nor counsel appears for a pretrial conference, the Court at Plaintiff's request, may hear evidence and decide a case triable to the Court, or if it be a case triable to a jury, may accept Plaintiff's waiver of trial by jury,

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hear evidence and decide the case." Kondapalli does not dispute that the record shows that the trial court followed this Rule.

{¶18} The Ohio Constitution authorizes courts to adopt and enforce their own rules: "Courts may adopt additional rules concerning local practice in their respective courts which are not inconsistent with the rules promulgated by the supreme court. *Ohio Constitution, Article IV, Section 5*. The Stark County Court of Common Pleas adopted Local Rule 13(E) pursuant to that authorization and we find that the consequence of moving forward with the merits of a trial when neither defendant nor counsel appears at a pretrial is not in conflict with requirement of notice of a hearing on the merits contained in Civ.R 75.

{¶19} We have held that a trial court could not expedite a final hearing if one of the parties failed to appear at a pretrial, in part because no local rule provided for that sanction. *Gorius-Hogle v. Hogle*, 5th Dist. Licking No. 2005 CA 00020, 2005-Ohio-5306, ¶ 16. The trial court in

this case has adopted a Local Rule that expressly provides for that sanction and we find that the trial court was authorized to expedite the final hearing and issue judgment as a result.

{¶20} Kondapalli's second assignment of error is denied.

III.

{¶21} In her third assignment of error, Kondapalli argues that the trial court lacked personal jurisdiction over her, and thus the decree of divorce issued is void, as she was not served with the summons and complaint pursuant to the terms of the Hague Convention.

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{¶22} Appellant did not invoke the Hague Convention or other international accord before the trial court as a basis for vacating the judgment for want of service. An appellate court will generally not consider any error which a party complaining of the trial court's judgment could have called but did not call to the trial court's attention at a time when such error could have been avoided or corrected by the trial court. See, e.g., *Pastor v. Pastor*, Fairfield App.No. 04 CA 67, 2005-Ohio-6946, ¶ 17, citing *State v. 1981 Dodge Ram Van* (1988), 36 Ohio St.3d 168, 170, 522 N.E.2d 524. Furthermore, a claim of insufficiency of service of process attacks the personal jurisdiction of the Court over the movant. See, e.g., *In re Shepard, Highland* App.No. 00CA12.2001, 2001-Ohio-2499, citing *In re Zaria Crews* (July 30, 1999), Montgomery App. No. 17670. This Court has recognized that a question of personal jurisdiction may not be raised for the first time on appeal. *Trilogy Health Services, LLC v. Frenzley*, 5th Dist. Muskingum No. CT2017-0070, 2018-Ohio-1790, ¶ 8, quoting *In re Bailey Children*, 5th Dist. Stark No. 2004CA00386, 2005-Ohio-2981.

{¶23} We find Kondapalli's third assignment of error regarding service of legal documents has been waived on appeal.

{¶24} The outcome would be the same even if we were to consider the merits of the argument. Kondapalli's assignment of error is based upon a conclusion that the Hague Convention requires the service be completed prior to issuing a judgment. On the contrary, Article 15 of the Convention contains a provision that provides for judgment without a certificate of service or delivery:

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give

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judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled-

a) the document was transmitted by one of the methods provided for in this Convention,

b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,

c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

b. Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

{¶25} The trial court found that the conditions had been fulfilled and, therefore, it was not prohibited from entering judgment by the Hague Convention. Kondapalli does not address Article 15 of the Hague Convention in her brief

and did not argue that the trial court erred when it relied upon Article 15, but instead argued that the Central Authority in India, home state of Kondapalli, did not confirm perfection of service. Because the trial court applied Article 15 of the Hague Convention and the facts support its application and because Kondapalli did not cite the trial court's action as error, we would not find the trial court's judgment was error, even if we were to consider the merits of the assignment.

{¶26} Kondapalli's third assignment of error is denied.

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{¶27} The decision of the Stark County Court of Common Pleas, Domestic Relations Division, is affirmed.

By: Baldwin, J. Hoffman, P.J. and King, J.
concur.

ZELHIDETH MONTAÑO LINARES, Plaintiff, v. JOSE LUIS..., Slip Copy (2023)

2023 WL 2644340

Only the Westlaw citation is currently available.
United States District Court, S.D. New York.

ZELHIDETH MONTAÑO LINARES, Plaintiff,
v.
JOSE LUIS HERRERA VIRGUEZ, Defendant.

22-CV-7272 (VSB)

|
Filed 03/27/2023

Attorneys and Law Firms

Appearances:

Jennifer L. Harrington, Ross Pitcoff Law, New York, New York, Counsel for Plaintiff

OPINION & ORDER

Vernon S. Broderick United States District Judge

*1 On August 25, 2022, Plaintiff Zelhideth Montaña Linares (“Montaña” or “Plaintiff”) filed a complaint against Defendant Jose Luis Herrera Virguez (“Herrera” or “Defendant”) seeking declaratory judgment. (Doc. 1.) On December 15, 2022, Plaintiff filed the present Motion for Alternative Service. (Doc. 8.) In support of her motion, Plaintiff filed a memorandum of law and affidavit of Karen Adams, an employee of ABC Legal Services, Inc., a process server. (Docs. 9, 9-1.) Plaintiff also filed an affirmation by attorney Ross Pitcoff. (Doc. 10.) Ms. Adams attested to ABC Legal's translation of the court documents and attempts at service upon the Venezuelan Central Authority. (*See id.*) On January 3, 2023, I issued an order requesting additional details related to Plaintiff's motion for alternative service. (Doc. 12.) On January 12, 2023, Plaintiff filed a declaration detailing why the proposed method of alternative service is appropriate. (Doc. 13.) For the reasons stated herein, Plaintiff's motion is GRANTED.

I. Service Pursuant to Rule 4(e)(1)

Plaintiff claims that I should permit alternative service pursuant to [Federal Rule of Civil Procedure 4\(e\)\(1\)](#) (“Rule 4(e)(1)”) and [New York Civil Practice Law and Rules § 308\(5\)](#). Because Plaintiff is attempting to serve a defendant outside of the United States, Rule 4(e)(1) does not apply since it only applies to individuals who are to “be served in a judicial district of the United States.” *See Fed. R. Civ. P. 4(e)(1)*. Therefore, I do not consider Plaintiff's arguments made pursuant to Rule 4(e)(1) or New York state law.

II. Service Pursuant to Rule 4(f)(3)

Plaintiff also presents arguments concerning why alternative service should be permitted under [Federal Rule of Civil Procedure 4\(f\)\(3\)](#) (“Rule 4(f)(3)”). Rule 4(f)(3) permits service on an individual in a foreign country “by other means not prohibited by international agreement, as the court orders.” *Fed. R. Civ. P. 4(f)(3)*. Whether to allow alternative service under Rule 4(f)(3) is “committed to the sound discretion of the district court.” *RSM Prod. Corp. v. Fridman*, No. 06 Civ. 11512(DLC), 2007 WL

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1515068, at *1 (S.D.N.Y. May 24, 2007) (cleaned up). Although service under [Rule 4\(f\)\(3\)](#) is not considered a last resort, some courts have required a plaintiff seeking service under [Rule 4\(f\)\(3\)](#) to have already reasonably attempted to serve the defendant and for court intervention to be necessary. *See, e.g., Halvorssen v. Simpson*, 328 F.R.D. 30, 34 (E.D.N.Y. 2018); *In GLG Life Tech Corp. Sec. Litig.*, 287 F.R.D. 262, 265 (S.D.N.Y. 2012); *Devi v. Rajapaska*, No. 11 CIV. 6634 NRB, 2012 WL 309605, at *2 (S.D.N.Y. Jan. 31, 2012). Here, Defendant is located in a foreign country, Venezuela. (Doc. 9, at 2.) Plaintiff hired ABC Legal Services to effectuate service on the Defendant in a manner consistent with the Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, Nov. 15, 1965, (1969) 20 U.S.T. 361, T.I.A.S. No. 6638 (“Hague Convention” or the “Convention”). (See Doc. 9-1.) On October 11, 2022, ABC Legal Services dispatched the legal documents and a Spanish translation using DHL to the Central Authority in Venezuela. (*Id.*, at 2.) On November 2, 2022, ABC was notified that the package was not accepted by the Central Authority. (*Id.*) In her declaration, Karen Adams, an employee of ABC Legal Services, explained that they have not been able to successfully have packages delivered to the Venezuelan Central Authority in the past three years. (*Id.*, at 3.) I find that Plaintiff’s attempted service is sufficient to show that Court intervention is necessary.

*2 Venezuela objects to Article 10 of the Hague Convention which authorizes service by postal channels. Hague Convention art. 10(a). Courts in this circuit are divided as to whether service by postal channels under the Hague Convention encompasses service by email. *Compare AMTO, LLC v. Bedford Asset Mgmt., LLC*, No. 14–cv–9913, 2015 WL 3457452, at * 7 (S.D.N.Y. June 1, 2015) (Although Russia has objected to Article 10 of the Hague Convention “the Court concludes that, as a general matter, service via email for a defendant residing in Russia may qualify as an alternative means of service under [Rule 4\(f\)\(3\)](#).” (collecting cases)) and *F.T.C. v. Pecon Software Ltd.*, No. 12 CIV. 7186 PAE, 2013 WL 4016272, at *5 (S.D.N.Y. Aug. 7, 2013) (“service by means of email ... is not prohibited by international agreement”) with *Smart Study Co. v. Acuteye-Us*, No. 21-CV-5860-GHW, 2022 WL 2872297 (S.D.N.Y. July 21, 2022) (denying request to serve Chinese defendant by email because China objected to service by mail under Article 10).

I find the circumstances in *Smart Study* to be sufficiently distinct so as not to preclude alternative service in this case. Unlike in *Smart Study*, where Plaintiff indisputably did not send the relevant documents to China’s Central Authority or in any other way comply with the Hague Convention, *see Smart Study Co. v. Acuteye-Us*, No. 1:21-CV-5860-GHW, 2022 WL 2872297 *14 (S.D.N.Y. July 21, 2022), here Plaintiff made a reasonable effort to serve the defendant through Venezuela’s Central Authority as provided by the Hague Convention, (see Doc 9-1). The Venezuelan Central Authority did not decline to complete service in light of sovereignty or security concerns under Article Thirteen of the Hague Convention. Rather, it simply refused to accept the package. In addition, ABC Legal Services, has not been able to successfully have packages delivered to the Venezuelan Central Authority in the past three years. (Doc. 9-1, at 3.) In similar cases, where compliance with the Hague Convention’s approved means of service would be futile, courts have allowed alternative means of service. *See Goldfarb v. Channel One Russia*, No. 18-CV-8128 (RJS), 2018 WL 11225240, at *1 (S.D.N.Y. Oct. 19, 2018) (allowing alternative service because “Russia refuses to transmit service requests through its Central Authority.” (cleaned up)); *Henry F. Teichmann, Inc. v. Caspian Flat Glass OJSC*, 2013 WL 1644808 at *1 (W.D. Pa. April 16, 2013) (granting plaintiff’s motion for alternative service where defendants in Russia could not be served through the channels of the Hague Convention). To hold otherwise would leave Plaintiff with no recourse. *See Live Brands Holdings, LLC v. Gastronomico Gracias a Dios*, No. 20 CIV. 1213 (JPC), 2021 WL 6064202, at *1 (S.D.N.Y. Dec. 21, 2021) (allowing alternative service through means not included in the Hague Convention after Plaintiff “reasonably attempted to serve Defendants through other means”); *Arista Recs. LLC v. Media Servs. LLC*, No. 06 CIV. 15319NRB, 2008 WL 563470, at *2 (S.D.N.Y. Feb. 25, 2008) (“Because there is no reason to believe that service would be effective if plaintiffs were required to serve [Defendant] in accordance with the Hague Service Convention procedures, substituted service pursuant to [Rule 4\(f\)\(3\)](#) is appropriate.”).

Accordingly, I find that Plaintiff may serve Defendant through alternative means.

III. Due Process

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When effectuating service under alternative means, the method selected must satisfy constitutional requirements of due process, which requires “notice reasonably calculated ... to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *In re Petrobras Secs. Litig.*, No. 14-CV-9662 (JSR), 2015 WL 10846515, at *1 (S.D.N.Y. Nov. 2, 2015) (cleaned up). It is well-settled that service of foreign defendants by email can satisfy due process. *See AMTO, LLC*, 2015 WL 3457452, at * 7 (“the Court concludes that, as a general matter, service via email for a defendant residing in Russia may qualify as an alternative means of service under Rule 4(f)(3)”; *Philip Morris USA Inc. v. Veles Ltd.*, No. 06 CV 2988 GBD, 2007 WL 725412, at *2 (S.D.N.Y. Mar. 12, 2007) (“federal courts have approved email service of process as an appropriate means under Rule 4 in proper circumstances.”); *PCCare247 Inc.*, 2013 WL 841037, at *4 (granting service by email and Facebook on a defendant in India).

*3 Plaintiff has already attempted service under the Hague Convention and for reasons outside of their control, are unable to effectuate service. (See Doc. 9-1.) Plaintiff is the Defendant's former common law wife and as such, would be reasonably expected to have knowledge of his email address. (Doc. 10.) Plaintiff also provides support that this email address is accurate and has been regularly and recently used by Defendant. In Plaintiff's declaration, she explains that Defendant has filed numerous actions against her in Venezuelan courts and Defendant has filed his email address in connection with those actions. (*Id.*, at 2.) Attached as an exhibit to Plaintiff's Complaint is a translation of the May 2022 Venezuelan complaint filed by Defendant, which includes the proposed email address of “herrerajotale@hotmail.com.” (Doc. 1-1, at 3.) Plaintiff also explained that her Venezuelan attorney communicates directly with Defendant using this email address. (Doc. 13, at 2.) In support of this claim, Plaintiff attaches a January 10, 2023, email communication received by Plaintiff's counsel from the Defendant at this email address. (See Doc. 13-1.)

Plaintiff also explains why other methods of alternative service are unlikely to provide Defendant with notice of the action. Defendant is restricted from speaking with Plaintiff and as a result, she is not connected to Defendant on any social media outlets and is not confident that she has his most current cellphone number. (Doc. 13, at 2.) She is also concerned that newspapers in Venezuela would not properly effectuate service by publication, which would disadvantage Defendant. (*Id.*) Given these facts, service by email is reasonably calculated to provide the defendant with notice of this action and is the means most likely to provide Defendant notice of this case. Accordingly, I find that service of defendant by email comports with due process.

IV. Conclusion

For the reasons stated herein, Plaintiff's motion to serve by alternate means is GRANTED. Plaintiff may serve Defendant Jose Luis Herrera Virguez by email at herrerajotale@hotmail.com. The Clerk's Office is respectfully directed to terminate the open motions at Docs. 8 and 9.

SO ORDERED.

All Citations

Slip Copy, 2023 WL 2644340

OGM, Inc. v. Televisa, S.A. de C.V., Not Reported in F.Supp.2d (2009)

2009 WL 1025971

Only the Westlaw citation is currently available.

United States District Court,
C.D. California.

OGM, INC., et al

v.

TELEVISA, S.A. DE C.V., et al.

No. CV 08-5742-JFW (JCx).

I

April 15, 2009.

Attorneys and Law Firms

Henry L. Self, III, Martin D. Singer, Lavelly and Singer APC, Los Angeles, CA, for OGM, Inc., et al.

Dylan Ruga, Seong H. Kim, Steptoe and Johnson, Johari Nailah Townes, Sidley Austin, Los Angeles, CA, for Televisa, S.A. De C.V., et al.

PROCEEDINGS (IN CHAMBERS): ORDER QUASHING SERVICE OF PROCESS ON DEFENDANT TELEVISA, S.A. DE C.V.

ORDER DENYING DEFENDANT TELEVISA, S.A. DE C.V.'S MOTION TO DISMISS UNDER FRCP 12(b)(5) FOR DEFICIENT SERVICE OF PROCESS [filed 3/16/2009; Docket No. 32];

Honorable JOHN F. WALTER, District Judge.

*1 Shannon Reilly, Courtroom Deputy.

On March 16, 2009, Defendant Televisa, S.A. de C.V. ("Televisa") filed a Motion to Dismiss under [FRCP 12\(b\)\(5\)](#) for Deficient Service of Process. On April 6, 2009, Plaintiffs OGM, Inc., Group Pro Inc., and Ole Georg ("Plaintiffs") filed their Opposition. On April 10, 2009, Televisa filed a Reply. Pursuant to [Rule 78 of the Federal Rules of Civil Procedure](#) and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for April 20, 2009 is hereby vacated and the matter taken off calendar. After considering the moving, opposing, and reply papers and the arguments therein, the Court rules as follows:

I. Procedural and Factual Background

On September 3, 2008, Plaintiffs filed this action against Televisa, a Mexican corporation, and other defendants, alleging claims for relief for copyright infringement and breach of contract.

Plaintiffs have made three separate attempts to serve the summons and complaint on Televisa. First, on November 20, 2008, Plaintiffs' counsel sent copies of the summons and complaint to Televisa's office in Mexico City via international registered mail, return receipt requested. The return receipt was received by the Plaintiffs' counsel in January 2009, indicating that the documents were delivered to Armando Verusco on December 15, 2008. Second, on January 30, 2009, copies of the summons and complaint

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were personally delivered to Televisa's office in Mexico City by a Mexican notary public. Finally, on March 17, 2009, the day after Televisa filed this Motion to Dismiss claiming insufficient service of process, Plaintiffs submitted translated copies of the summons and complaint, together with an official Request for Service Abroad of Judicial or Extrajudicial Documents, to Mexico's Central Authority for service pursuant to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, *opened for signature* Nov. 15, 1965, 20 U.S.T. 361, T.I.A.S. No. 6638 (the “Hague Convention”). As yet, the Central Authority has not certified that the summons and complaint have been served.

Televisa moves to dismiss under [Federal Rule of Civil Procedure 12\(b\)\(5\)](#), contending that it was not properly served in accordance with the Hague Convention.

II. Standard

[Federal Rule of Civil Procedure 12\(b\)\(5\)](#) authorizes a defendant to move for dismissal based on insufficient service of process. When a defendant challenges service, the plaintiff bears the burden of establishing the validity of service. *See Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir.2004).

III. Discussion

[Rule 4 of the Federal Rules of Civil Procedure](#) expressly authorizes service of process on foreign business entities, such as Televisa, “by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention” *See Fed.R.Civ.P. 4(f)(1), 4(h)(2)*. Because the United States and Mexico are both signatories to the Hague Convention, the Hague Convention provides the exclusive means by which Plaintiff can serve Televisa. *See Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 705, 108 S.Ct. 2104, 100 L.Ed.2d 722 (1988) (“[C]ompliance with the Convention is mandatory in all cases to which it applies.”); *Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir.2004) (“Because service of process was attempted abroad, the validity of that service is controlled by the Hague Convention, to the extent that the Convention applies”).

*2 The primary method by which service is accomplished under the Hague Convention is by forwarding the summons and complaint to the “Central Authority” for the country in which service is to be made, along with a request for service. *See* Hague Convention, Arts. 2, 3, and 5. Once the Central Authority receives a request that complies with the Hague Convention, the Central Authority must itself serve the documents or arrange to have them served by an appropriate agency. *See id.* at Art. 5. After service has been completed, the Central Authority must then “complete a Certificate in the form of the model annexed to the ... Convention,” detailing “the method, the place, and the date of service” or explaining why service did not occur, and thereafter forward the completed Certificate “directly to the applicant.” *See id.* at Art. 6

In addition to service through a country's Central Authority, Article 10 of the Hague Convention permits service of process by alternative methods, including personal service or service by mail “[p]rovided the State of destination does not object.” *See id.* at Art. 10. The parties dispute whether Mexico has objected to these alternative methods of service under Article 10.

When Mexico acceded to the Hague Convention, it filed with the Ministry of Foreign Affairs of the Netherlands (the “Ministry”) declarations in Spanish, objecting to all alternative methods of service under Article 10 of the Hague Convention. Specifically, Mexico's Article 10 declaration provides in relevant part:

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En relación con el artículo 10, los Estados Unidos Mexicanos no reconocen la facultad de remitir directamente los documentos judiciales a las personas que se encuentren en su territorio conforme a los procedimientos previstos en los incisos a), b) y c)

See Declaration of Dylan Ruga, Exhibit B at p. 26; Accession (with Declarations) of Mexico to the Hague Service Convention, 2117 U.N.T.S. 318 (2000) (Spanish text of Declarations). According to a certified translation by American Language Services, a company specializing in the translation of documents, this declaration provides:

In relation to Article 10, the United Mexican States are opposed to the direct service of documents to persons in Mexican territory according to the procedures described in subparagraphs a), b) and c)

See Declaration of Dylan Ruga, Exhibit H at p. 126.

This translation comports with the translation and analysis of the original Mexican declaration in a forthcoming law review article, and the translation by Fernando Guerrero Ponce, one familiar with the English and Spanish languages for 32 years. See Declaration of Dylan Ruga, Exhibit F at pp. 86-92 (Charles B. Campbell, No Sirve: *The Invalidity of Service of Process Abroad by Mail or Private Process Server on Parties in Mexico Under the Hague Service Convention*, 19 Minn. J. Int'l L. 107 (forthcoming Winter 2010) [hereinafter "Campbell"]; Exhibit C at p. 41 (translation by Fernando Guerrero Ponce).

*3 Unfortunately, however, when Mexico filed its declarations with the Ministry, the Ministry prepared an erroneous "courtesy translation" of Mexico's declarations from the original Spanish text into English, which makes it appear that Mexico did not object to certain of the alternative methods of service under Article 10. Declaration of Dylan Ruga, Exhibit D; Exhibit F at p. 77/ Campbell at p. 2 ("Unfortunately, a mistake occurred in the English courtesy translation of Mexico's Article 10 declaration, making it appear that Mexico's opposition applies only to the alternative methods of service of process under Article 10 when attempted 'through diplomatic or consular agents.'"). Apparently relying on the English courtesy translation, a section on the U.S. State Department's website, entitled "International Judicial Assistance in Mexico," states that service may be accomplished in Mexico by international registered mail or by personal service because "[t]here is no provision in Mexico law specifically prohibiting service" by these methods.¹ See http://travel.state.gov/law/info/judicial/judicial_677.html (last visited April 14, 2009). Several courts, relying on the State Department's website and/or the erroneous English courtesy translation, have concluded that Mexico did not object to certain of the alternative methods of service under Article 10. See, e.g., *Casa de Cambio Delgado, Inc. v. Casa de Cambio Puebla, A.A. de C.V.*, 196 Misc.2d 1, 7, 763 N.Y.S.2d 434 (N.Y.Supr.Ct.2003) (citing English courtesy translation, and U.S. State Department's website in support of its conclusion that "[a]s Mexico did not expressly prohibit the private service of process through a privately retained agent/attorney in its declaration regarding article 10 of the Hague Convention, this court finds that such service was proper under article 10(b) or (c) of the Hague Convention."); *In re Alyssa F.*, 112 Cal.App.4th 846, 854, 6 Cal.Rptr.3d 1 (2003) (citing State Department website and concluding that "Mexico apparently does not prohibit service on a person by registered mail."); *NSM Music, Inc. v. Alvarez*, 2003 WL 685338, at * 2 (N.D.Ill. Feb.25, 2003) ("Mexico does not appear to have a prohibition on service by registered mail, at least according to a U.S. State Department Web site.").

The Court is bound by the original Mexican declaration, not the "courtesy translation," the U.S. State Department's website, or the state or district court decisions relying on the courtesy translation and/or the U.S. State Department's website. See, e.g.,

OGM, Inc. v. Televisa, S.A. de C.V., Not Reported in F.Supp.2d (2009)

Todak v. Union State Bank of Harvard, Neb., 281 U.S. 449, 453, 50 S.Ct. 363, 74 L.Ed. 956 (1930) (rejecting an English translation and explaining that “[t]he text of the treaty of 1783 with Sweden was in French only, and the French text is therefore controlling.”); *In re Alyssa F.*, 112 Cal.App.4th at 855 n. 10, 6 Cal.Rptr.3d 1 (“[T]he State Department web site is not authority and lacks the force of law”). Accordingly, based on the original Mexican declaration, the Court concludes that Mexico has in fact objected to service through the alternative methods specified in Article 10 of the Hague Convention, and that service through Mexico's Central Authority is the exclusive method by which Plaintiff can serve Televisa in Mexico. See *Restatement (Third) of Foreign Relations Law* § 471 cmt. e (1987) (“[F]or states that have objected to all of the alternative methods, service through the Central Authority is in effect the exclusive means.”). Although Plaintiffs have submitted a Request for Service to Mexico's Central Authority, such service is not complete as the Central Authority has yet to provide Plaintiffs with a certificate of service under Article 6 of the Hague Convention, and the requirements of Article 15 have not been satisfied.² See *Universal Trading & Investment Co. v. Kiritchenko*, 2007 WL 66083 (N.D. Cal Feb. 28, 2007).

*4 Where service of process is insufficient, federal courts have broad discretion to dismiss the action or to retain the case but quash the service of process. *Stevens v. Security Pac. Nat'l Bank*, 538 F.2d 1387, 1389 (9th Cir.1976) (“The choice between dismissal and quashing service of process is in the district court's discretion.”). “[D]ismissal of a complaint is inappropriate when there exists a reasonable prospect that service may yet be obtained. In such instances, the district court should, at most, quash service, leaving the plaintiffs free to effect proper service.” *Umbenhauer v. Woog*, 969 F.2d 25, 30-31 (3rd Cir.1992) (citing, *inter alia*, 5AB Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1354 (2004)). Because there exists a reasonable prospect that Plaintiffs will be able to serve Televisa, the Court quashes the service on Televisa, but declines to dismiss the action.

IV. Conclusion

For the foregoing reasons, the Court **QUASHES** the service of process on Defendant Televisa, S.A. de C.V, but **DENIES** Defendant Televisa, S.A. de C.V.'s Motion to Dismiss under *FRCP 12(b)(5)* for Deficient Service of Process.

IT IS SO ORDERED.

The Clerk shall serve a copy of this Minute Order on all parties to this action.

All Citations

Not Reported in F.Supp.2d, 2009 WL 1025971

Footnotes

- 1 Yet, the State Department's Foreign Affairs Manual, also available on its website, states that service of process in Mexico by registered mail is prohibited because Mexico lodged objections to Article 10(a) of the Hague Convention. See 7 Foreign Affairs Manual § 953.5 (2007).
- 2 According to Article 15 of the Hague Convention, the Court may hold that service is complete even if the Central Authority has not returned a certificate under Article 6, if the following three conditions are satisfied: (1) “the document was transmitted by one of the methods provided for in this Convention,” (2) “a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,”

OGM, Inc. v. Televisa, S.A. de C.V., Not Reported in F.Supp.2d (2009)

and (3) “no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.” Hague Convention, Art. 15.

End of Document

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PETICIÓN A LOS FINES DE NOTIFICACIÓN O TRASLADO EN EL EXTRANJERO DE UN DOCUMENTO JUDICIAL O EXTRAJUDICIAL

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS
DEMANDE AUX FINS DE SIGNIFICATION OU DE NOTIFICATION À L'ÉTRANGER
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convenio relativo a la Notificación o Traslado en el Extranjero de Documentos Judiciales y Extrajudiciales en Materia Civil o Comercial, firmado en La Haya, el 15 de noviembre de 1965.

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.
*Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en
matière civile ou commerciale, signée à La Haye le 15 novembre 1965.*

Identidad y dirección del requirente Identity and address of the applicant <i>Identité et adresse du requérant</i> (NAME OF PERSON ISSUING CITATION) (TITLE OF PERSON ISSUING CITATION, E.G. CLERK OF COURT) (COURT OR ADMINISTRATIVE AGENCY) (ADDRESS OF COURT OR ADMINISTRATIVE AGENCY)	Dirección de la autoridad destinataria Address of receiving authority <i>Adresse de l'autorité destinataire</i> Direccion General de Asuntos Jurídicos Plaza Juárez No. 20, Planta Baja Col. Centro, Alcaldía Cuauhtémoc C.P. 06010 Ciudad de México Mexico
--	---

El requirente infrascrito tiene el honor de remitir – en doble ejemplar – a la autoridad destinataria los documentos enumerados, rogándole, conforme al artículo 5 del Convenio antes citado, haga remitir sin demora un ejemplar al destinatario, a saber:

The undersigned applicant has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.:
Le requérant soussigné a l'honneur de faire parvenir – en double exemplaire – à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir :

(identidad y dirección) (identity and address) / (identité et adresse)
(NAME AND ADDRESS OF THE PERSON TO BE SERVED)

☐	a) Según las formas legales (artículo 5, párrafo primero, letra a)* in accordance with the provisions of sub-paragraph a) of the first paragraph of Article 5 of the Convention* <i>selon les formes légales (article 5, alinéa premier, lettre a)*</i>
☒	b) Según la forma particular siguiente (artículo 5, párrafo primero, letra b)* in accordance with the following particular method (sub-paragraph b) of the first paragraph of Article 5)*: <i>selon la forme particulière suivante (article 5, alinéa premier, lettre b)* :</i> ENTREGA EN PERSONA AL RESPONDIENTE (NAME OF RESPONDENT) LOS DOCUMENTOS A SER NOTIFICADOS
☐	c) En su caso, por simple entrega al interesado (artículo 5, párrafo segundo)* by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5) * <i>le cas échéant, par remise simple (article 5, alinéa 2) *</i>

Se ruega a esa autoridad envíe o haga enviar al requirente un ejemplar del documento – y de sus anexos* – con el certificado adjunto.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with the attached certificate
Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte - et de ses annexes - avec l'attestation ci-jointe.*

Enumeración de los documentos

List of documents / Énumération des pièces

(Citatorio Petición Para Establecer una Orden de Manutención de Niños " " (Ejecutar) " " " (Modificar) " " " Establecer Paternidad)

* Si procede
if appropriate / s'il y a lieu

Hecho en Done at / Fait à el the / le	City, State, EUA (day) de (mo in Spanish), del (year)	Firma y / o sello Signature and/or stamp / Signature et / ou cachet (Signature of Clerk and Seal)
--	--	---

CERTIFICADO

CERTIFICATE
ATTESTATION

La autoridad infrascrita tiene el honor de certificar, conforme al artículo 6 de dicho Convenio,

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,
L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,

☐ **1. que la petición ha sido ejecutada***

that the document has been served *
*que la demande a été exécutée**

— el (fecha): the (date) / le (date) :	
— en (localidad, calle, número): at (place, street, number) / à (localité, rue, numéro) :	

— en una de las formas siguientes previstas en el artículo 5: in one of the following methods authorised by Article 5: <i>dans une des formes suivantes prévues à l'article 5 :</i>	
☐ a)	según las formas legales (artículo 5, párrafo primero, letra a)* in accordance with the provisions of sub-paragraph a) of the first paragraph of Article 5 of the Convention* <i>selon les formes légales (article 5, alinéa premier, lettre a)*</i>
☐ b)	según la forma particular siguiente*: in accordance with the following particular method*: <i>selon la forme particulière suivante* :</i>
☐ c)	por simple entrega* by delivery to the addressee, if he accepts it voluntarily* <i>par remise simple*</i>

Los documentos mencionados en la petición han sido entregados a:

The documents referred to in the request have been delivered to:
Les documents mentionnés dans la demande ont été remis à :

Identidad y calidad de la persona: Identity and description of person : <i>Identité et qualité de la personne :</i>	
Vínculos de parentesco, subordinación u otros, con el destinatario del documento: Relationship to the addressee (family, business or other): <i>Liens de parenté, de subordination ou autres, avec le destinataire de l'acte :</i>	

☐ **2. que la petición no ha sido ejecutada, en razón a los hechos siguientes*:**

that the document has not been served, by reason of the following facts*:
que la demande n'a pas été exécutée, en raison des faits suivants :*

--

☐ **Conforme al artículo 12, párrafo 2, de dicho Convenio, se ruega al requirente el pago o reembolso de los gastos cuyos detalles figuran en la declaración adjunta*.**

In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*.

Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.*

Anexos

Annexes / Annexes

Documentos reenviados: Documents returned: <i>Pièces renvoyées :</i>	
En su caso, los documentos justificativos de la ejecución: In appropriate cases, documents establishing the service: <i>Le cas échéant, les documents justificatifs de l'exécution :</i>	

* Si procede
if appropriate / s'il y a lieu

Hecho en Done at / Fait à el the / le	Firma y / o sello Signature and/or stamp / <i>Signature et / ou cachet</i>
--	--

AVISO
WARNING
AVERTISSEMENT

Identidad y dirección del destinatario

Identity and address of the addressee
Identité et adresse du destinataire

(NAME AND ADDRESS OF PERSON TO BE SERVED)

IMPORTANTE

EL DOCUMENTO ADJUNTO ES DE NATURALEZA JURÍDICA Y PUEDE AFECTAR SUS DERECHOS Y OBLIGACIONES. LOS “ELEMENTOS ESENCIALES DEL DOCUMENTO” LE PROPORCIONAN INFORMACIÓN SOBRE SU NATURALEZA Y OBJETO. NO OBSTANTE, ES INDISPENSABLE LEER ATENTAMENTE EL TEXTO DEL DOCUMENTO. PUEDE REQUERIR ASISTENCIA JURÍDICA.

SI SUS RECURSOS SON INSUFICIENTES, INFÓRMESE SOBRE LA POSIBILIDAD DE OBTENER ASISTENCIA JUDICIAL O ASESORAMIENTO JURÍDICO EN SU PAÍS O EN EL PAÍS DE ORIGEN DEL DOCUMENTO.

LAS SOLICITUDES DE INFORMACIÓN SOBRE LA POSIBILIDAD DE OBTENER ASISTENCIA JUDICIAL O ASESORAMIENTO JURÍDICO EN EL PAÍS DE ORIGEN DEL DOCUMENTO PUEDEN DIRIGIRSE A:

IMPORTANT

THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE ‘SUMMARY OF THE DOCUMENT TO BE SERVED’ WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.

IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.

ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO:

TRÈS IMPORTANT

LE DOCUMENT CI-JOINT EST DE NATURE JURIDIQUE ET PEUT AFFECTER VOS DROITS ET OBLIGATIONS. LES « ÉLÉMENTS ESSENTIELS DE L'ACTE » VOUS DONNENT QUELQUES INFORMATIONS SUR SA NATURE ET SON OBJET. IL EST TOUTEFOIS INDISPENSABLE DE LIRE ATTENTIVEMENT LE TEXTE MÊME DU DOCUMENT. IL PEUT ÊTRE NÉCESSAIRE DE DEMANDER UN AVIS JURIDIQUE.

SI VOS RESSOURCES SONT INSUFFISANTES, RENSEIGNEZ-VOUS SUR LA POSSIBILITÉ D'OBTENIR L'ASSISTANCE JUDICIAIRE ET LA CONSULTATION JURIDIQUE SOIT DANS VOTRE PAYS SOIT DANS LE PAYS D'ORIGINE DU DOCUMENT.

LES DEMANDES DE RENSEIGNEMENTS SUR LES POSSIBILITÉS D'OBTENIR L'ASSISTANCE JUDICIAIRE OU LA CONSULTATION JURIDIQUE DANS LE PAYS D'ORIGINE DU DOCUMENT PEUVENT ÊTRE ADRESSÉES À :

(Here you may put DCS or a Legal Aid Agency and Contact Information)

Se recomienda que las menciones impresas en esta nota se redacten en francés y en inglés y, en su caso, además, en otra lengua o en otra de las lenguas oficiales del Estado de origen del documento. Los espacios en blanco podrían completarse en la lengua del Estado al que deba remitirse el documento, en francés o en inglés.

It is recommended that the standard terms in the notice be written in English and French and where appropriate also in the official language, or in one of the official languages of the State in which the document originated. The blanks could be completed either in the language of the State to which the document is to be sent, or in English or French.

Il est recommandé que les mentions imprimées dans cette note soient rédigées en langue française et en langue anglaise et le cas échéant, en outre, dans la langue ou l'une des langues officielles de l'État d'origine de l'acte. Les blancs pourraient être remplis soit dans la langue de l'État où le document doit être adressé, soit en langue française, soit en langue anglaise.

ELEMENTOS ESENCIALES DEL DOCUMENTO

SUMMARY OF THE DOCUMENT TO BE SERVED
ÉLÉMENTS ESSENTIELS DE L'ACTE

Convenio relativo a la Notificación o Traslado en el Extranjero de Documentos Judiciales y Extrajudiciales en materia Civil o Comercial, firmado en La Haya, el 15 de noviembre de 1965 (artículo 5, párrafo cuarto).

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965
(Article 5, fourth paragraph).

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye le 15 novembre 1965 (article 5, alinéa 4).

Nombre y dirección de la autoridad requirente: Name and address of the requesting authority: <i>Nom et adresse de l'autorité requérante :</i>	(Clerk of Court) (Court) (Address)
Identidad de las partes*: Particulars of the parties*: <i>Identité des parties* :</i>	(Name of Petitioner) (Name of Respondent)

* Si procede, identidad y dirección de la persona interesada en la remisión del documento.
if appropriate, identity and address of the person interested in the transmission of the document
s'il y a lieu, identité et adresse de la personne intéressée à la transmission de l'acte



DOCUMENTO JUDICIAL **

JUDICIAL DOCUMENT**
ACTE JUDICIAIRE**

Naturaleza y objeto del documento: Nature and purpose of the document: <i>Nature et objet de l'acte :</i>	Notificación de un juicio civil para (Establecer/Ejecutar/Modificar una Orden de Manutención de Niños) or (Establecer Paternidad)
Naturaleza y objeto del procedimiento y, en su caso, cuantía del litigio: Nature and purpose of the proceedings and, when appropriate, the amount in dispute: <i>Nature et objet de l'instance, le cas échéant, le montant du litige :</i>	(Establecer/Ejecutar/Modificar una Orden de Manutención de Niños) or (Establecer Paternidad)
Fecha y lugar de comparecencia**: Date and Place for entering appearance**: <i>Date et lieu de la comparution** :</i>	Vea Anexo (usually not enough space to clearly explain answer date and computing time)
Autoridad judicial que ha dictado la decisión**: Court which has given judgment**: <i>Jurisdiction qui a rendu la décision** :</i>	(If enforcing or modifying an order then put Court, Cause No. and Court Address here)
Fecha de la decisión**: Date of judgment**: <i>Date de la décision** :</i>	(If enforcing or modifying an order then put date of order here)
Indicación de los plazos que figuran en el documento**: Time limits stated in the document**: <i>Indication des délais figurant dans l'acte** :</i>	Vea Anexo (again, usually not enough space to clearly explain answer date and computing time)

** Si procede
if appropriate / s'il y a lieu



DOCUMENTO EXTRAJUDICIAL **

EXTRAJUDICIAL DOCUMENT**
ACTE EXTRAJUDICIAIRE**

Naturaleza y objeto del documento: Nature and purpose of the document: <i>Nature et objet de l'acte :</i>	
Indicación de los plazos que figuran en el documento**: Time-limits stated in the document**: <i>Indication des délais figurant dans l'acte** :</i>	

** Si procede
if appropriate / s'il y a lieu

ERASE

PRINT

PETICIÓN A LOS FINES DE NOTIFICACIÓN O TRASLADO EN EL EXTRANJERO DE UN DOCUMENTO JUDICIAL O EXTRAJUDICIAL

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS
DEMANDE AUX FINS DE SIGNIFICATION OU DE NOTIFICATION À L'ÉTRANGER
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convenio relativo a la Notificación o Traslado en el Extranjero de Documentos Judiciales y Extrajudiciales en Materia Civil o Comercial, firmado en La Haya, el 15 de noviembre de 1965.

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.
Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en
matière civile ou commerciale, signée à La Haye le 15 novembre 1965.

Identidad y dirección del requirente Identity and address of the applicant <i>Identité et adresse du requérant</i> (NAME OF PERSON ISSUING CITATION) TITLE OF PERSON ISSUING CITATION, E.G. CLERK OF COURT COURT OR ADMINISTRATIVE AGENCY ADDRESS OF COURT OR ADMINISTRATIVE AGENCY	Dirección de la autoridad destinataria Address of receiving authority <i>Adresse de l'autorité destinataire</i> Direccion General de Asuntos Jurídicos Plaza Juárez No. 20, Planta Baja Col. Centro, Alcaldía Cuauhtémoc C.P. 06010 Ciudad de México Mexico
--	---

El requirente infrascrito tiene el honor de remitir – en doble ejemplar – a la autoridad destinataria los documentos enumerados, rogándole, conforme al artículo 5 del Convenio antes citado, haga remitir sin demora un ejemplar al destinatario, a saber:

The undersigned applicant has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.:
Le requérant soussigné a l'honneur de faire parvenir – en double exemplaire – à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir :

(identidad y dirección) (identity and address) / (<i>identité et adresse</i>) (NAME AND ADDRESS OF THE PERSON TO BE SERVED)
--

☐	a) Según las formas legales (artículo 5, párrafo primero, letra a)* in accordance with the provisions of sub-paragraph a) of the first paragraph of Article 5 of the Convention* <i>selon les formes légales (article 5, alinéa premier, lettre a)*</i>
☒	b) Según la forma particular siguiente (artículo 5, párrafo primero, letra b)* in accordance with the following particular method (sub-paragraph b) of the first paragraph of Article 5)*: <i>selon la forme particulière suivante (article 5, alinéa premier, lettre b)* :</i> DELIVER IN PERSON TO (NAME OF RESPONDENT) THE DOCUMENTS TO BE SERVED
☐	c) En su caso, por simple entrega al interesado (artículo 5, párrafo segundo)* by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5) * <i>le cas échéant, par remise simple (article 5, alinéa 2) *</i>

Se ruega a esa autoridad envíe o haga enviar al requirente un ejemplar del documento – y de sus anexos* – con el certificado adjunto.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with the attached certificate
Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte - et de ses annexes - avec l'attestation ci-jointe.*

Enumeración de los documentos

List of documents / *Énumération des pièces*

(Citation Petition to Establish a Child Support Order " " (Enforce) " " " (Modify) " " " Establish Parentage Laws regarding time to respond or appear in Court. Photographs)

* Si procede
if appropriate / *s'il y a lieu*

Hecho en Done at / <i>Fait à</i> el the / <i>le</i> (City, State) USA __ day of __ 20__	Firma y / o sello Signature and/or stamp / <i>Signature et / ou cachet</i> (Signature of Clerk and Seal)
--	---

CERTIFICADO

CERTIFICATE
ATTESTATION

La autoridad infrascrita tiene el honor de certificar, conforme al artículo 6 de dicho Convenio,

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,
L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,

☐ **1. que la petición ha sido ejecutada***

that the document has been served *
*que la demande a été exécutée**

— el (fecha): the (date) / le (date) :	
— en (localidad, calle, número): at (place, street, number) / à (localité, rue, numéro) :	

— en una de las formas siguientes previstas en el artículo 5: in one of the following methods authorised by Article 5: <i>dans une des formes suivantes prévues à l'article 5 :</i>	
☐ a)	según las formas legales (artículo 5, párrafo primero, letra a)* in accordance with the provisions of sub-paragraph a) of the first paragraph of Article 5 of the Convention* <i>selon les formes légales (article 5, alinéa premier, lettre a)*</i>
☒ b)	según la forma particular siguiente*: in accordance with the following particular method*: <i>selon la forme particulière suivante* :</i> Deliver in Person to (name of Respondent) the documents to be served
☐ c)	por simple entrega* by delivery to the addressee, if he accepts it voluntarily* <i>par remise simple*</i>

Los documentos mencionados en la petición han sido entregados a:

The documents referred to in the request have been delivered to:
Les documents mentionnés dans la demande ont été remis à :

Identidad y calidad de la persona: Identity and description of person : <i>Identité et qualité de la personne :</i>	
Vínculos de parentesco, subordinación u otros, con el destinatario del documento: Relationship to the addressee (family, business or other): <i>Liens de parenté, de subordination ou autres, avec le destinataire de l'acte :</i>	

☐ **2. que la petición no ha sido ejecutada, en razón a los hechos siguientes*:**

that the document has not been served, by reason of the following facts*:
que la demande n'a pas été exécutée, en raison des faits suivants :*

--

☐ **Conforme al artículo 12, párrafo 2, de dicho Convenio, se ruega al requirente el pago o reembolso de los gastos cuyos detalles figuran en la declaración adjunta*.**

In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*.

Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.*

Anexos

Annexes / Annexes

Documentos reenviados: Documents returned: <i>Pièces renvoyées :</i>	
En su caso, los documentos justificativos de la ejecución: In appropriate cases, documents establishing the service: <i>Le cas échéant, les documents justificatifs de l'exécution :</i>	

* Si procede
if appropriate / s'il y a lieu

Hecho en Done at / Fait à el the / le	Firma y / o sello Signature and/or stamp / <i>Signature et / ou cachet</i>
--	--

AVISO
WARNING
AVERTISSEMENT

Identidad y dirección del destinatario

Identity and address of the addressee
Identité et adresse du destinataire

(NAME AND ADDRESS OF PERSON TO BE SERVED)

IMPORTANTE

EL DOCUMENTO ADJUNTO ES DE NATURALEZA JURÍDICA Y PUEDE AFECTAR SUS DERECHOS Y OBLIGACIONES. LOS “ELEMENTOS ESENCIALES DEL DOCUMENTO” LE PROPORCIONAN INFORMACIÓN SOBRE SU NATURALEZA Y OBJETO. NO OBSTANTE, ES INDISPENSABLE LEER ATENTAMENTE EL TEXTO DEL DOCUMENTO. PUEDE REQUERIR ASISTENCIA JURÍDICA.

SI SUS RECURSOS SON INSUFICIENTES, INFÓRMESE SOBRE LA POSIBILIDAD DE OBTENER ASISTENCIA JUDICIAL O ASESORAMIENTO JURÍDICO EN SU PAÍS O EN EL PAÍS DE ORIGEN DEL DOCUMENTO.

LAS SOLICITUDES DE INFORMACIÓN SOBRE LA POSIBILIDAD DE OBTENER ASISTENCIA JUDICIAL O ASESORAMIENTO JURÍDICO EN EL PAÍS DE ORIGEN DEL DOCUMENTO PUEDEN DIRIGIRSE A:

IMPORTANT

THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE ‘SUMMARY OF THE DOCUMENT TO BE SERVED’ WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.

IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.

ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO:

TRÈS IMPORTANT

LE DOCUMENT CI-JOINT EST DE NATURE JURIDIQUE ET PEUT AFFECTER VOS DROITS ET OBLIGATIONS. LES « ÉLÉMENTS ESSENTIELS DE L'ACTE » VOUS DONNENT QUELQUES INFORMATIONS SUR SA NATURE ET SON OBJET. IL EST TOUTEFOIS INDISPENSABLE DE LIRE ATTENTIVEMENT LE TEXTE MÊME DU DOCUMENT. IL PEUT ÊTRE NÉCESSAIRE DE DEMANDER UN AVIS JURIDIQUE.

SI VOS RESSOURCES SONT INSUFFISANTES, RENSEIGNEZ-VOUS SUR LA POSSIBILITÉ D'OBTENIR L'ASSISTANCE JUDICIAIRE ET LA CONSULTATION JURIDIQUE SOIT DANS VOTRE PAYS SOIT DANS LE PAYS D'ORIGINE DU DOCUMENT.

LES DEMANDES DE RENSEIGNEMENTS SUR LES POSSIBILITÉS D'OBTENIR L'ASSISTANCE JUDICIAIRE OU LA CONSULTATION JURIDIQUE DANS LE PAYS D'ORIGINE DU DOCUMENT PEUVENT ÊTRE ADRESSÉES À :

(Here you may put name of any Legal Aid Agency and Contact Information)

Se recomienda que las menciones impresas en esta nota se redacten en francés y en inglés y, en su caso, además, en otra lengua o en otra de las lenguas oficiales del Estado de origen del documento. Los espacios en blanco podrían completarse en la lengua del Estado al que deba remitirse el documento, en francés o en inglés.

It is recommended that the standard terms in the notice be written in English and French and where appropriate also in the official language, or in one of the official languages of the State in which the document originated. The blanks could be completed either in the language of the State to which the document is to be sent, or in English or French.

Il est recommandé que les mentions imprimées dans cette note soient rédigées en langue française et en langue anglaise et le cas échéant, en outre, dans la langue ou l'une des langues officielles de l'État d'origine de l'acte. Les blancs pourraient être remplis soit dans la langue de l'État où le document doit être adressé, soit en langue française, soit en langue anglaise.

ELEMENTOS ESENCIALES DEL DOCUMENTO

SUMMARY OF THE DOCUMENT TO BE SERVED
ÉLÉMENTS ESSENTIELS DE L'ACTE

Convenio relativo a la Notificación o Traslado en el Extranjero de Documentos Judiciales y Extrajudiciales en materia Civil o Comercial,

firmado en La Haya, el 15 de noviembre de 1965 (artículo 5, párrafo cuarto).

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965 (Article 5, fourth paragraph).

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye le 15 novembre 1965 (article 5, alinéa 4).

Nombre y dirección de la autoridad requirente: Name and address of the requesting authority: <i>Nom et adresse de l'autorité requérante :</i>	(Clerk of Court) (Court) (Court Address)
Identidad de las partes*: Particulars of the parties*: <i>Identité des parties* :</i>	(Name of Petitioner, e.g. Custodial Parent) Name of Respondent, e.g. Non-Custodial Parent

* Si procede, identidad y dirección de la persona interesada en la remisión del documento.
if appropriate, identity and address of the person interested in the transmission of the document
s'il y a lieu, identité et adresse de la personne intéressée à la transmission de l'acte



DOCUMENTO JUDICIAL **

JUDICIAL DOCUMENT**
ACTE JUDICIAIRE**

Naturaleza y objeto del documento: Nature and purpose of the document: <i>Nature et objet de l'acte :</i>	Notice of a civil suit to (Establish/Enforce/Modify a Child Support Order) or (Establish Parentage)
Naturaleza y objeto del procedimiento y, en su caso, cuantía del litigio: Nature and purpose of the proceedings and, when appropriate, the amount in dispute: <i>Nature et objet de l'instance, le cas échéant, le montant du litige :</i>	(Establish/Enforce/Modify a Child Support Order) or (Establish Parentage)
Fecha y lugar de comparecencia**: Date and Place for entering appearance**: <i>Date et lieu de la comparution** :</i>	See Attachment (usually not enough space to clearly explain answer date and computing time)
Autoridad judicial que ha dictado la decisión**: Court which has given judgment**: <i>Jurisdiction qui a rendu la décision** :</i>	(If enforcing or modifying an order then put Court, Cause No. and Court Address here)
Fecha de la decisión**: Date of judgment**: <i>Date de la décision** :</i>	(If enforcing or modifying an order then put date of order here)
Indicación de los plazos que figuran en el documento**: Time limits stated in the document**: <i>Indication des délais figurant dans l'acte** :</i>	See Attachment (again, usually not enough space to clearly explain answer date and computing time)

** Si procede
if appropriate / s'il y a lieu



DOCUMENTO EXTRAJUDICIAL **

EXTRAJUDICIAL DOCUMENT**
ACTE EXTRAJUDICIAIRE**

Naturaleza y objeto del documento: Nature and purpose of the document: <i>Nature et objet de l'acte :</i>	
Indicación de los plazos que figuran en el documento**: Time-limits stated in the document**: <i>Indication des délais figurant dans l'acte** :</i>	

** Si procede
if appropriate / s'il y a lieu

ERASE

PRINT



**REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL
DOCUMENTS PURSUANT TO THE ADDITIONAL PROTOCOL TO THE
INTER-AMERICAN CONVENTION ON LETTERS ROGATORY**

FORM A

LETTER ROGATORY₁

1 REQUESTING JUDICIAL OR OTHER ADJUDICATORY AUTHORITY Name HONORABLE (Name of Person issuing Citation) Address COURT NAME AND ADDRESS	2 CASE: (Style of Case) DOCKET No.: File: (DCS File Number) Case: (Cause/Docket Number)
3 CENTRAL AUTHORITY OF THE STATE OF ORIGIN Name ABC LEGAL SERVICES Address 633 Yessler Way, Seattle, WA 98104 USA	4 CENTRAL AUTHORITY OF THE STATE OF DESTINATION Name Directorate-General of Legal Affairs, SRE Address Plaza Juarez no. 20, Planta Baja, Colonia Centro Alcaldía Cuauhtémoc, C.P. 06010 Ciudad de Mexico, MEXICO
5 REQUESTING PARTY Name (Name of Petitioner) Address (Address of Petitioner or c/o Attorney or Agency)	6 COUNSEL TO THE REQUESTING PARTY Name (Petitioner Atty, Agency or "No Counsel") Address
PERSON DESIGNATED TO ACT IN CONNECTION WITH THE LETTER ROGATORY Name Address Is this person responsible for costs and expenses? YES ☐NO ☐ * If not, check in the amount of _____ is attached * Or proof of payment is attached	

1 Complete the original and two copies of this form; if A(l) is applicable, attach the original and two copies of the translation of this item in the language of the State of destination.

* Delete if inapplicable.

The Central Authority signing this letter rogatory has the honor to transmit to you in triplicate the documents listed below and, in conformity with the Protocol to the Inter-American Convention on Letters Rogatory:

* A. Requests their prompt service on:

(NAME OF RESPONDENT AND ADDRESS)

The undersigned authority requests that service be carried out in the following manner:

* (1) In accordance with the special procedure or additional formalities that are described below, as provided for in the second paragraph of Article 10 of the above-mentioned Convention; or

DELIVERY IN PERSON TO (NAME OF RESPONDENT) OF THE DOCUMENTS TO BE SERVED

* (2) By service personally on the identified addressee or, in the case of a legal entity, on its authorized agent; or

* (3) If the person or the authorized agent of the entity to be served is not found, service shall be made in accordance with the law of the State of destination.

* B. Requests the delivery of the documents listed below to the following judicial or administrative authority:
Authority:

(e.g. Clerk of Court, Court Name and full address)

* C. Requests the Central Authority of the State of destination to return to the Central Authority of the State of origin one copy of the documents listed below and attached to this letter rogatory, and an executed Certificate on the attached Form C.

Done at (City, State, USA) this (day) date of (month) 2020

(e.g. Signature of Clerk of Court)

Signature and stamp of the
judicial or other adjudicatory
authority of the State of origin

(Leave Blank - ABC will sign here)

Signature and stamp of the
Central Authority of the
State of origin

Title or other identification of each document to be delivered:

See Part III, List of Attached Documents, Below

(Attach additional pages, if necessary.)

* Delete if inapplicable.

**ANNEX TO THE ADDITIONAL PROTOCOL TO THE INTER-AMERICAN
CONVENTION ON LETTERS ROGATORY**

FORM B

ESSENTIAL INFORMATION FOR THE ADDRESSEE¹

To (Name and address of the person being served)

(NAME OF RESPONDENT)

(ADDRESS OF RESPONDENT)

You are hereby informed that (Brief statement of nature of service)

You are the Respondent in a [Petition to Establish/Enforce/Modify a Child Support Order
[Petition to Establish Paternity] filed in _____ City, State, USA

A copy of the letter rogatory that gives rise to the service or delivery of these documents is attached to this document. This copy also contains essential information for you. Also attached are copies of the complaint or pleading initiating the action in which the letter rogatory was issued, of the documents attached to the complaint or pleading, and of any rulings that ordered the issuance of the letter rogatory.

ADDITIONAL INFORMATION

I *

FOR SERVICE

A. The document being served on you (original or copy) concerns the following:

Citation and [Petition to Establish/Enforce/Modify a Child Support Order] [Petition to Establish Paternity]

B. The remedies sought or the amount in dispute is as follows:

[Establish/Enforce/Modify of a Child Support Order] [Establish Parentage] [Withhold Income]

C. By this service, you are requested:

Personally appear in Court or file a written answer to the suit

D. * In case of service on you as a defendant you can answer the complaint before the judicial or other adjudicatory authority specified in Form A, Box I (State place, date and hour):

See Attachment (State) Rules for answering the petition

* You are being summoned to appear as:

the Respondent named in the suit

¹ Complete the original and two copies of this form in the language of the State of origin and two copies in the language of the State of destination.

* Delete if inapplicable.

* If some other action is being requested of the person served, please describe:

E. If you fail to comply, the consequences might be:

You might have a default judgment entered against you granting the relief requested

F. You are hereby informed that a defense counsel appointed by the Court or the following legal aid societies are available to you at the place where the proceeding is pending.

Name: _____

Address: _____

The documents listed in Part III are being furnished to you so that you may better understand and defend your interests.

II *

FOR INFORMATION FROM JUDICIAL OR ADMINISTRATIVE AUTHORITY

To: _____

(Name and address of the judicial or administrative authority)

You are respectfully requested to furnish the undersigned authority with the following information:

The documents listed in Part III are being furnished to you to facilitate your reply.

* Delete if inapplicable.

III
LIST OF ATTACHED DOCUMENTS

1) Citation; 2) Petition to Establish a Child Support Order; (add others as needed); 3) (Law with
relation to computation of time to appear or answer); 4) Photograph of (Name of Respondent)

(Attach additional pages if necessary.)

Done at City, State, USA this (day) day

of (Month) 20

(e.g., Signature and Seal of Clerk of Court)

Signature and stamp of the
judicial or other adjudicatory
authority of the State of Origin

(Leave Blank - ABC will sign)

Signature and stamp of
the Central Authority
of the State of Origin

**ANNEX TO THE ADDITIONAL PROTOCOL TO THE
INTER-AMERICAN CONVENTION ON LETTERS ROGATORY**

FORM C

CERTIFICATE OF EXECUTION¹

To: [Clerk or Court - This is filled out as a courtesy]

[This is where you want it sent - also done as a courtesy and to make sure there is no doubt to
whom and where you want proof of service sent back]

(Name and address of judicial or other adjudicatory
authority that issued the letter rogatory)

In conformity with the Additional Protocol to the Inter-American Convention on Letters Rogatory, signed at Montevideo on May 8, 1979, and in accordance with the attached original letter rogatory, the undersigned Central Authority has the honor to certify the following:

- * A. That one copy of the documents attached to this Certificate has been served or delivered as follows:

Date: _____

At (Address) _____

By one of the following methods authorized by the Convention.

- * (1) In accordance with the special procedure or additional formalities that are described below, as provided for in the second paragraph of Article 10 of the above-mentioned Convention, or

- * (2) By service personally on the identified addressee or, in the case of a legal entity, on its authorized agent, or

- * (3) If the person or the authorized agent of the entity to be served was not found, in accordance with the law of the State of destination: (Specify method used)

¹ Complete the original and one copy in the language of the State of destination.

* Delete if inapplicable.

- * B. That the documents referred to in the letter rogatory have been delivered to:

Identity of person _____

Relationship to the addressee _____
(Family, business or other)

- * C. That the documents attached to the Certificate have not been served or delivered for the
*following reason(s):

- * D. In conformity with the Protocol, the party requesting execution of the letter rogatory is
requested to pay the outstanding balance of costs in the amount indicated in the attached statement.

Done at _____ the _____ day of _____ 20 _____

Signature and stamp of Central Authority of the State of destination

Where appropriate, attach originals or
copies of any additional documents proving
service or delivery, and identify them.

* Delete if inapplicable.



**SOLICITUD PARA EJECUTAR EN EL EXTRANJERO DOCUMENTOS
JUDICIALES O EXTRAJUDICIALES BASADO EN EL PROTOCOLO
ADICIONAL A LA CONVENCION INTERAMERICANA SOBRE EXHORTOS
O CARTAS ROGATORIAS**

EXHORTO O CARTA ROGATORIA ¹

FORMULARIO A

1

ORGANO JURISDICCIONAL
REQUIRENTE

Nombre Hon. (Person issuing Citation)

Direccion

(COURT NAME AND ADDRESS)

2

EXPEDIENTE

(Style of Case)

Archivo: (DCS Case Reference Number)

Caso: (Court Cause/Docket Number)

3

AUTORIDAD CENTRAL REQUIRENTE

Nombre ABC LEGAL SERVICES

Direccion

633 Yessler Way, Seattle, WA 98104
USA

4

AUTORIDAD CENTRAL REQUERIDA

Nombre Dir. General de Asuntos Juridicos

Direccion

Plaza Juarez no. 20, Planta Baja, Colonia
Centro, Alcaldía Cuauhtémoc, C.P. 06010
Ciudad de Mexico, MEXICO

5

PARTE SOLICITANTE

Nombre (Name of Petitioner)

Direccion

(Petitioner Address)

6

APODERADO DEL SOLICITANTE

Nombre (Pet Atty, DCS or "No abogado")

Direccion

PERSONA DESIGNADA PARA INTERVENIR EN EL DILIGENCIAMIENTO

Nombre _____

Direccion

* Esta persona se hara responsable de las
costas y gastos? SI ☐ NO ☐

* En caso contrario, se acompaña cheque
por la suma de _____

* O se agrega documento que prueba el pago

¹ Debe elaborarse un original y dos copias de este Formulario; en caso de ser aplicable el A (1) debe ser
traducido al idioma del Estado requerido y se adjuntaran dos copias.

* Tachese si no corresponde.

La autoridad que suscribe este exhorto o carta rogatoria tiene el honor de transmitir a usted por triplicado los documentos abajo enumerados, conforme al Protocolo Adicional a la Convencion Inter-americana sobre Exhortos o Cartas Rogatorias.

- * A. Se solicita la pronta notificacion a:
(NAME OF RESPONDENT AND ADDRESS)

La autoridad que suscribe solicita que la notificacion se practique en la siguiente forma:

- * (1) De acuerdo con el procedimiento especial o formalidades adicionales, que a continuacion se describen, con fundamento en el segundo parrafo del articulo 10 de la mencionada Convencion;

ENTREGA EN PERSONA AL RESPONDIENTE (NAME OF RESPONDENT) LOS DOCUMENTOS A SER NOTIFICADOS

- * (2) Mediante notificacion personal a la persona a quien se dirige, o al representante legal de la persona juridica;
- * (3) En caso de no encontrarse la persona natural o el representante legal de la persona juridica que deba ser notificada, se hara la notificacion en la forma prevista por la ley del Estado requerido.

- * B. Se solicita que se entregue a la autoridad judicial o administrative que se identifica, los documentos abajo enumerados:

Autoridad

(e.g. Clerk of Court, Court Name and full address)

- * C. Se ruega a la autoridad central requerida devolver a la autoridad central requirente una copia de los documentos adjuntos al presente exhorto o carta rogatoria, abajo enumerados, y un certificado de cumplimiento conforme a lo dispuesto en el Formulario C adjunto.

Hecho en City, State, USA el dia (day) de (month) de 20

(e.g. Signature of Clerk of Court)

Firma y sello del organo
jurisdiccional requirente

(Leave Blank - ABC will sign here)

Firma y sello de la autoridad
central requirente

Titulo u otra identificacion de cada uno de los documentos que deban ser entregados:

Vea III, Lista de Documentos Anexos, abajo

(Agregar hojas en caso necesario)

* Tachese si no corresponde.

**ANEXO AL PROTOCOLO ADICIONAL A LA CONVENCION
INTERAMERICANA SOBRE EXHORTOS O CARTAS ROGATORIAS**

INFORMACION ESENCIAL PARA EL NOTIFICADO¹

FORMULARIO B

A *(Nombre y direccion del notificado)*

(NAME OF RESPONDENT)

(ADDRESS OF RESPONDENT)

Por la presente se le comunica que *(explicar brevemente la que se notifica)*

Usted es el Demandado en un [Petición de (pick Establecer/Ejecutar/Modificar) una Orden para
Manutención de Niños] [Petición para Establecer Paternidad] archivado en el Condado de
_____, (State), EUA

A este documento se anexa una copia del exhorto o carta rogatoria que motiva la notificación o entrega de estos documentos. Esta copia contiene también información esencial para usted. Asimismo, se adjuntan copias de la demanda o de la petición con la cual se inició el procedimiento en el que se libró el exhorto o carta rogatoria, de los documentos que se han adjuntado a dicha demanda o petición y de las resoluciones jurisdiccionales que ordenaron el libramiento del exhorto e carta rogatoria.

**INFORMACION ADICIONAL
I*
PARA EL CASO DE NOTIFICACION**

A. El documento que se le entrega consiste en: *(original o copia)*

Citatorio y copia de la [Petición de (pick Establecer/Ejecutar/Modificar) una Orden para
Manutención de Niños] [Petición para Establecer Paternidad]

B. Las pretensiones o la cuantía del proceso son las siguientes:

[Establecer/Ejecutar/Modificar) una Orden para Manutención de Niños] [Establecer
Paternidad] [Embargar Salario]

C. En esta notificación se le solicita que:

Aparacer personalmente en la Corte o archivar una Respuesta Escrita en la Corte

D. * En caso de citación al demandado, este puede contestar la demanda ante el órgano jurisdiccional indicado en el cuadro 1 del Formulario A *(indicar lugar, fecha y hora)*:

Vea Anexo A, Reglamentos de (Name of State), EUA para contestar la demanda

* Usted está citado para comparecer como:

El Demandado nombrado en la Petición

¹ Completar el original y dos copias de este Formulario en el idioma del Estado requerido y dos copias en el idioma del Estado requerido.

*Táchese lo que no corresponde.

* En caso de solicitarse, otra cosa del notificado, sirvase describirla:

E. En caso de que usted no compareotere, las consecuencias aplicables podrian ser:

Es posible que se falta una sentencia en rebeldia contra usted

F. Se le informa que existe a su disposici6n la defensoria de oficio, o sociedad de auxilio legal en el lugar del juicio.

Nombre: _____

Direccion: _____

Los documentos enumerades en la parte III se le suministran para su mejor conocimiento y defensa.

II*

PARA EL CASO DE SOLICITUD DE INFORMACION DEL ORGANO JURISDICCIONAL

A:

(Nombre y direccion del organo jurisdiccional)

Se le solicita respetuosamente proporcionar al organo que suscribe, la siguiente informacion

Los documentos enumerados en la Parte III se le suministran para facilitar su respuesta.

*Tachese si no corresponde.

III
LISTA DE LOS DOCUMENTOS ANEXOS

1) CITATORIO; 2) PETICION3) Anexo "A", EL ESTADO DE (NAME OF STATE), EUA
RELAMENTOS DE CITATORIOS Y CALCULACION DE TIEMPO; 4) ANNEXO "B"
FOTOGRAFIA DEL RESPONDIENTE

(Agregar hojas si fuera necesario)

Hecho en City, State, EUA el día (day) de (month in Spanish) de 20

(e.g., Signature and Seal of Clerk of Court)

Firma y sello del
organo jurisdiccional
requirente

(Leave Blank - ABC will sign)

Firma y sello de la
autoridad central requirente

**ANEXO AL PROTOCOLO ADICIONAL A LA CONVENCION
INTERAMERICANA SOBRE EXHORTOS O CARTAS ROGATORIAS**

FORMULARIO C

CERTIFICADO DE CUMPLIMIENTO¹

A: [NAME OF CLERK OR JUDGE
COURT NAME
COURT ADDRESS] [This is filled out in English just like the English Form]

*(Identificacion y direccion del organo jurisdiccional que
libro el exhorto o carta rogatoria)*

De conformidad con el Protocolo Adicional a la Convencion Interamericana sobre Exhortos o Cartas Rogatorias, suscrito en Montevideo el 8 de mayo de 1979, y con el exhorto o carta rogatoria adjunto, la autoridad que suscribe tiene el honor de certificar lo siguiente:

- * A. Que un ejemplar de los documentos adjuntos al presente Certificado ha sido notificado o entregado como sigue:

Fecha: _____

Lugar (direccion): _____

De conformidad con uno de los siguientes metodos autorizados en la Convencion:

- * (1) De acuerdo con el procedimiento especial o formalidades adicionales que a continuacion se describen, con fundamento en el segundo, parrafo del articulo 10 de la mencionada Convencion

- * (2) Mediante notificacion personal a la persona a quien se dirige, o al representante legal de una persona juridica,

- * (3) En caso de no haberse encontrado la persona que debio haber sido notificada, se hizo la notificación en la forma prevista por la ley del Estado requerido: (Sirvase describirla)

¹ Original y una copia en el idioma del Estado requerido.

* Tachese si no corresponde.

- * B. Que los documentos indicados en el exhorto o carta rogatoria han sido entregados a:
Identidad de la persona

Relacion con el destinatario

(familiar, comercial u otra)

- * C. Que los documentos no han sido notificados o entregados por los siguientes motivos:

- * D. De conformidad con el Protocolo, se solicita al interesado que pague el saldo adeudado cuyo detalle se adjunta.

Hecho en _____ el día _____ de _____ de 20 _____

(Firma y sello de la autoridad central requerida)

Cuando corresponda, adjuntar original o copia de cualquier documento adicional necesario para probar que se ha hecho la notificación o entrega, e identificar el citado documento.

*Tachese si no corresponde.

Gary Caswell

Attorney at Law

One Ten Broadway Building, 110 Broadway, Suite 510
San Antonio, Texas 78205 USA
TEL +210-202-2312 • caswell.gary@gmail.com • Fax +210-941-0880

13 de febrero de 2023 / February 13, 2023

Dirección General de Asuntos Jurídicos
Plaza Juárez No. 20, Planta Baja
Col. Centro, Alcaldía Cuauhtémoc
C.P. 06010 Ciudad de México, México

Re: Asistencia Jurídica Internacional/*International Judicial Assistance*

Estimada/o Director/a/ *Dear Director*

Lo agradecería su apoyo en la obtención de notificación del demandado [name of [defendant] en el estado de Baja California Sur, bajo el Convenio relativo a la Notificación o Traslado en el Extranjero de Documentos Judiciales y Extrajudiciales en Materia Civil o Comercial, firmado en La Haya, el 15 de noviembre de 1965.

I would appreciate your assistance in obtaining service of process upon the Defendant [name of Defendant] in the state of Baja California Sur, pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

Se anexo: *See attached:*

1 Original Formulario Trilingüe de la Haya relleno en el Inglés; 1 Original Formulario Trilingüe de la Haya relleno en el Español; 1 Original Citatorio y Petición con dos Anexos en el Inglés; y 1 Original Citatorio y Petición con dos Anexos traducido al Español;

1 Original Trilingual Hague Form filled out in English; 1 Original Trilingual Hague Form filled out in Spanish; 1, Original Citation and Petition with 2 Annexes in English; and 1 Original Citation and Petition with 2 Annexes in Spanish.

2 copias completas en el Inglés y el Español de los documentos descritos anteriormente
2 complete copies of the English and Spanish documents described above.

Muchas gracias de antemano/*Many thanks in advance*

Saludos cordiales/*Kind regards*

//s//

Gary Caswell

Cc: File

IAFL AGM, USA/Canada Chapter Meeting – Sept. 2023 Santiago, Chile

FAMILY LAW IN LATIN AMERICA

Chaired by: Caroline Harnois

— Lavery



Panelists



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Argentina



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Brazil



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Mexico

TOPIC 1

DE FACTO UNION VS MARRIAGE



DE FACTO UNIONS VS MARRIAGE

- Same-sex marriage in Argentina has been legal since July 22, 2010.
- Argentina was the first country in Latin America to legalize same-sex marriage.
- Civil unions have also been available nationwide since 2015, providing some of the rights of marriage, seeking a balance between personal autonomy and family solidarity.
- The cohabitants have no succession rights.



DE FACTO UNIONS VS MARRIAGE



The family, the basis of society, has special protection from the State

Brazilian Constitution, Article 226



Break up of the heritage paradigm of the classic system to the existentialist paradigm



PLINIA CAULIFLORA

DE FACTO UNIONS VS MARRIAGE



Brazilian Constitution of 1988

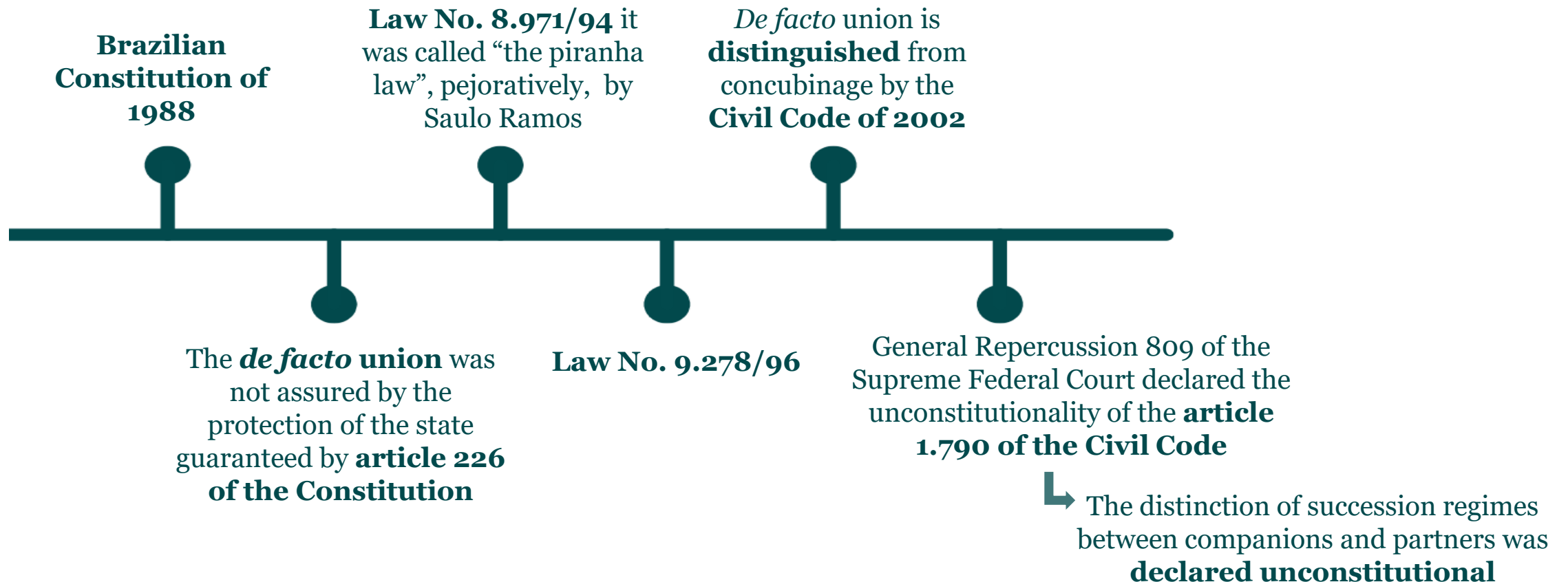
Plural conception of family:
various forms of family
deserve state protection

Equality between
companions and
equality of filiation

Priority protection of
the human person and
his **dignity**



DE FACTO UNIONS VS MARRIAGE



De facto union or Stable Union or Cohabitation Agreement

A *de facto* union is mainly characterized by:

- Continuous coexistence with **affection, durability, publicity, mutual assistance**
- The **intention** to form a family
- A *de facto* union does **not require a minimum period** for its configuration
- Cohabitation, financial dependence and children are **not essential** requirements for a relationship to be considered stable, but when they exist, the finding of a stable relationship is practically unequivocal
- Formalized and effective after the proper registration of the **deed**

3 classifications:

- (i) non-formalized *de facto* union;
- (ii) *de facto* union formalized by simple title – private instrument;
- (iii) *de facto* formalized by qualified title by an agent with public faith; or
- (iv) registered *de facto* union

Same Sex Unions Recognition • *de facto* & marriages

May 5, 2011

The Supreme Federal Court recognized, in 2011, that a *de facto* union **can be formed by people of the same sex**, through judgments aimed at maintaining the constitutional text (ADI 4277/DF and ADPF 132/RJ). Two years later, the National Council of Justice (CNJ) edited the **Resolution 175/2013** determining the **obligation** of civil registration and **conversion of same sex *de facto* union into civil marriage** in all registry offices in Brazil.

Purpose of conferring “**interpretation according to the Constitution**”, in order to to **prohibit discrimination** against people on the basis of their sex and to **preserve the intimacy** of all people, to article 1.723 of the Civil Code:

“It is recognized as a family entity the stable union between man and woman, configured in public, continuous and lasting coexistence and established with the purpose of family constitution.”

Dissolution of a *de facto* union

A *de facto* union can only be dissolved when produced **patrimonial effects**, by sharing of property and/or fixing of alimony, and **developments regarding** the children (assignment of custody, alimony and regulation of coexistence).

The companions have the **right to choose** de property regime that will assure their relationship. The regimes are the same as the marriage property regimes.

And so...

The division of property for unmarried companions (heterosexual or same sex) **presupposes proof** of the existence of a *de facto* union maintained between them, that is, of a relationship lived with the **purpose of establishing a married life** in common.



Dissolution of a *de facto* union

PROHIBITION OF DISCRIMINATION OF PEOPLE ON THE REASON OF SEX, WHETHER IN THE PLAN OF THE MAN/WOMAN DICHOTOMY (GENDER), OR IN THE PLAN OF THE SEXUAL ORIENTATION OF EACH OF THEM. THE PROHIBITION OF PREJUDICE AS A CHAPTER OF FRATERNAL CONSTITUTIONALISM. TRIBUTE TO PLURALISM AS A SOCIO-POLITICAL-CULTURAL VALUE. FREEDOM TO DISPOSE OF ONE'S SEXUALITY, INSERTED IN THE CATEGORY OF FUNDAMENTAL RIGHTS OF THE INDIVIDUAL, AN EXPRESSION THAT IS THE AUTONOMY OF WILL. RIGHT TO INTIMACY AND PRIVATE LIFE. STONE CLAUSE.



Marriage & *De facto* union Property Regimes in Brazil

Partial Community of Property



Is the regime adopted as default if the parties do not choose one specific



Does **not require** a prenuptial agreement



Presupposes the **common effort** and **communication** of the property acquired at a cost by either party during the term of the marriage or *de facto* union relationship



The sharing will take place in the proportion of **50%** of the collection considered common, regardless of who acquired it



Property received by donation or inheritance, as well as subrogated assets, **remain incommunicable** regardless of the acquisition date



Marriage & *De facto* union Property Regimes in Brazil

Universal Community of Property



Requires a prenuptial agreement signed by public deed, in which specific rules of incommunicability can be established



As a rule, **there is the communication** of property, even those belonging to each companion/partner, acquired before or after marriage, free of charge or for a fee. Liabilities **are also** communicated



The sharing will take place in the proportion of **50%** of all property and liabilities, for each of the companions or partners



The sharing will take place in the proportion of 50% of the collection considered common, **regardless of who acquired it**



Marriage & *De facto* union Property Regimes in Brazil

Separation of Property



Requires a prenuptial agreement



There is **no communication** of property, except if the common effort of the claims is duly proven, as provided for in **Precedent 377** of the Supreme Federal Court



The titleholders will always be the acquirers and there is **no need to speak of a presumption of common effort**, much less of sharing in the event of a divorce



Donation between companions/partners is **allowed**, except when prohibited in the prenuptial agreement



It does **not require** granting of rights over private property

Marriage & *De facto* union Property Regimes in Brazil



Legal or Mandatory Separate Property

This regime is **imposed by law** in certain situations, as of:

-  People who contract marriage in breach of the suspensive causes of marriage
-  All those who depend on judicial supply to marry
-  A person over 70 years old

Final participation in the quests

-  Each companion or partner will **own and manage their own property**, which will always remain incommunicable. At the end of the union, **the claims for the time of marriage or *de facto* union will be determined**, even if arising from private or common property and divided in the proportion of **50%** for each one
-  **Requires** the granting of rights over property, even if private

Succession

December 5, 2018



General Repercussion Theme 809

The Supreme Federal Court deemed unconstitutional the provisions set on **article 1.790** of the Civil Code, determining that is has to be given to the companion **the same treatment** given to the partner, as established by **article 1.829** of the Civil Code



No hierarchization between families



Priority to the **protection of the human person and his/her dignity**



Succession



Requirements to the division of property for unmarried couples

-  Existence of a **public** and **notorious** relationship, with the **purpose** of establishing a married life in common
-  There is **not** a minimum period for its configuration
-  If it has not been previously declared by the parties by the means of a public deed or a private instrument, the **existence** of the union must be **demonstrated** and **recognized in court**





DE FACTO UNIONS VS MARRIAGE

- DE FACTO UNIONS ARE NOT REGULATED
- “ACUERDO DE UNIÓN CIVIL” (AUC) IS THE LEGAL CIVIL UNION
- SAME SEX CAN NOT MARRY, BUT CELEBRATE CIVIL UNION

DE FACTO UNIONS VS MARRIAGE

- De facto unions are admitted and regulated in Mexico.
- In Mexico City, Article 291 Bis of the Civil Code establishes as requirements for the recognition of de facto unions that the parties have no impediments to contract marriage and that they have lived together constantly, exclusively and permanently for a minimum period of two years or that they have a child in common.
- It is not necessary to register the cohabitation to demonstrate the existence of such union, but if the parties wish to do so, the same article mentioned in this paragraph provides that the Civil Registry Judges may receive declarations regarding the existence or cessation of cohabitation.

DE FACTO UNIONS VS MARRIAGE

Regarding the difference between marriage and de facto unions in relation to compensation or alimony, the isolated thesis with the heading "*pensión compensatoria derivada de la terminación del concubinato. El artículo 291 quintus, último párrafo, del código civil para el distrito federal, aplicable para la ciudad de México, vulnera el derecho a la igualdad y no discriminación*" may shed more light on the matter, as translated below:

Articles 288 and 291 Quintus, last paragraph, of the Civil Code for the Federal District, applicable to Mexico City, provide that in cases of divorce and termination of cohabitation, the former spouse or former cohabitant who has developed an economic dependency during the relationship and needs to receive alimony may demand such alimony. In addition, they state that such obligation will be periodic and for an amount fixed according to the needs of the creditor and the possibilities of the debtor. In the same vein, they provide that the obligation will subsist for a period equal to the duration of the marriage or cohabitation relationship, as the case may be, unless a different cause for termination set forth in said legal provision arises.

From the foregoing it is clear that the purpose of the subsistence of the maintenance obligation once the relationship in question -marriage, cohabitation- is terminated, coincides in that it is a measure of protection for that member of the family union, who for some reason does not have the possibility of obtaining food, derived from the internal dynamics of the family group.

DE FACTO UNIONS VS MARRIAGE

Now, notwithstanding the fact that the purpose of the food subsistence coincides in both figures, the local legislator provided for a different treatment as to the period or term during which the alimony is enforceable;

Thus, in the case of marriage, this right is extinguished when a term equal to the duration of the marriage has elapsed, and therefore, while this term elapses, the right to obtain alimony can always be exercised, whereas in the case of cohabitation, it is provided that this right can only be exercised during the year following the cessation of the cohabitation.

Therefore, the aforementioned Article 291 Quintus, last paragraph, of the Civil Code for the Federal District, applicable to Mexico City, violates the right to equality and non-discrimination, since the difference in treatment between spouses and cohabitants in relation to the term to request alimony is not justified, since the purpose of both figures is to balance the different economic realities in which people are placed by a certain distribution of family work during the time that the bond lasted, regardless of the form in which they have decided to join together.

Therefore, in light of the right of individuals to have access to a decent standard of living, it is discriminatory that those who decided to join in marriage have a flexible term that takes into account the duration of the marital bond to demand a compensatory pension, while cohabitants are limited to exercise their right within a period of one year, without the duration of their family union being relevant.

Registration and separation

All marriages must be registered in the Civil Registry and in the case of de facto unions, those that do not comply with the legal requirements for their recognition do not produce any legal consequence, therefore, the parties will have no reciprocal rights or obligations between them, as would be the case of marriage.

In the event of a separation; in the case of a married couple getting divorced, both parties have parental rights over their children who are minors: on the other hand, Article 291 Ter of the Civil Code for Mexico City establishes that de facto unions will be governed by all the rights and obligations inherent to the family, to the extent applicable. Therefore, in the event of a separation, the cohabitants do not automatically have rights or obligations with respect to the children of the other.

Assets

Article 291 Quintus of the Civil Code for Mexico City establishes that "upon termination of the cohabitation, the de facto 'wife' or de facto 'husband' who lacks sufficient income or assets for her/his support is entitled to alimony for a period of time equal to the duration of the cohabitation".

Since it is a de facto union, there is no patrimonial regime that can contemplate the existence of a common patrimony, therefore each party will be the owner of the assets she/he has before and after the cohabitation. However, in the thesis titled "*Mandate of protection of the family. It requires that the compensation mechanism foreseen in article 4.46, second paragraph, of the Civil Code of the State of Mexico operates at the end of a cohabitation relationship*". The figure of compensation is contemplated for the cohabitant who has devoted himself/herself predominantly to the home.

In the event that there are assets in common, the process to dissolve a co-ownership will be followed through civil, not family, proceedings.

Procedural rules

In the case of marriage, a separation would imply initiating a divorce proceeding, while the separation of a de facto union in which the parties did not have children does not require any judicial proceeding, except for the case in which one of the cohabitants has dedicated himself/herself predominantly to the home, in which case he/she will have one year from the separation to demand alimony from the other. In the event that the cohabitants have procreated children, and at the time of the separation the children are still minors, a controversy of the family order for custody, visitation and alimony for the children of the parties could be initiated before a competent judge according to the domicile of the minors.

TOPIC 2

TRIPLE FILIATION AND SOCIOAFFECTIVITY



TRIPLE FILIATION AND SOCIO-AFFECTIVITY

- NO LEGAL RECOGNITION
- RELEVANT RECENT JUDGMENTS THAT RECOGNIZE TRIPLE FILIATION
- SOCIO AFFECTIVITY IS ONLY EXPRESSLY RECOGNIZED REGARDING VISITATION RIGHTS

TRIPLE FILIATION AND SOCIO-AFFECTIVITY

- The triple filiation brought into crisis the binary rule, deeply rooted in the Argentine legal tradition.
- In Argentina, the first cases were accepted directly by the Civil Registry of La Plata (2062/2015) and by the Civil Registry of the City of Buenos Aires.
- Since 2015 it's forbidden by law, but in the last 8 years, the Courts have been recognizing cases of triple filiation. The Argentine family Courts have granted triple filiation in more than 24 cases since 2015

TRIPLE FILIATION AND SOCIO-AFFECTIVITY



The legal concept of family is no longer exhaustive and restricted as previously predicted, in view of the various changes that have occurred in the conception of the family entity.

And so the Brazilian Constitution of 1988 had to **adapt** to all changes in society

TRIPLE FILIATION AND SOCIO-AFFECTIVITY

Brazilian legislation admits three types of kinship:



Consanguineous or **natural** kinship, resulting from people who maintain a biological or blood bond among themselves



Kinship by **affinity**, existing between a companion/partner and the relatives of the other



Civil kinship, that resulting from another origin, other than consanguinity or affinity, as stated in article 1.593 of the Civil Code



TRIPLE FILIATION AND SOCIO-AFFECTIVITY



The constant evolution of the concept of family created the **need to change the understanding** of the issue of multiparentality

These changes are substantiated over the principles of **human dignity** and the **pursuit of happiness**

Best interest of the child



Right to declare paternity

Generates the **need of** protection of the multiple forms of family

TRIPLE FILIATION AND SOCIO-AFFECTIVITY

For these reasons, it was concluded that situations of **pluri-parenthood** cannot remain without protection, and, **even if there is a recognized biological bond, the socio-affective affiliation must also be legally protected**

What led the legal text to **admit** the possibility of **simultaneous coexistence between two bonds**, whether it's biological or affective

*Supreme Court granted **General Repercussion to theme n. 622**, September 2016, in the leading case of RE 898060/SC, understood that “socio-affective paternity, declared or not in public record, **does not** prevent the recognition of the concomitant filiation bond based on biological origin, with its own legal effects.”*





TOPIC 3

ASSISTED HUMAN REPRODUCTION TECHNOLOGY / SURROGACY

Assisted Human Reproduction Technology



Cryopreserved embryos: legal regulation and bioethical aspects in Brazil

Absence of specific legislation on assisted reproductive techniques



Assisted Human Reproduction Technology

- 🌳 A paradoxical situation
- 🌳 Very advanced medicine
- 🌳 True legislative vacuum

➡ There is only a resolution of the Federal Council of Medicine

Resolution 2320/22 Ethical Deontological standard

It adopts ethical standards for the use of assisted reproductive techniques, always in defense of the improvement of practices and compliance with ethical and bioethical principles that help to provide greater safety and efficacy to medical treatments and procedures, becoming the deontological device to be followed by Brazilian doctors.

Assisted Human Reproduction Technology

DONATION OF GAMETES OR EMBRYOS



🌳 The donation **may not be profitable** or commercial in nature

🌳 Donors will **not know the identity** of the recipients and vice versa, except in the donation of gametes or embryos by relationship of up to 4th (fourth) degree, of one of the recipients (first degree: parents and children; second degree: grandparents and brothers; third degree: uncles and nephews; fourth degree: cousins), as long as they do not inbreed.

Assisted Human Reproduction Technology

Is the embryonic cell a subject of rights?

That is a lot of controversy on the subject

May 2008

ADI 3510/DF

CONSTITUTIONALITY OF THE USE OF
EMBRYONIC STEM CELLS IN
SCIENTIFIC RESEARCH FOR
THERAPEUTIC PURPOSES.
DECHARACTERIZATION OF
ABORTION.



Assisted Human Reproduction Technology

The Question of the Limitation Period

Precedent 149 of the Supreme Court

The paternity investigation action is **imprescriptible**, but the inheritance petition is not.

The limitation period for the inheritance petition action is **10 years** (article 206 of the Civil Code)

When does the limitation period start to run? What is the initial term of this period?

Theories



The term begins to run from the opening of the succession



The term begins to run from the *res judicata* in the paternity investigation action: theory of the *actio nata*

Assisted Human Reproduction Technology



The prevalence of the child's interest?

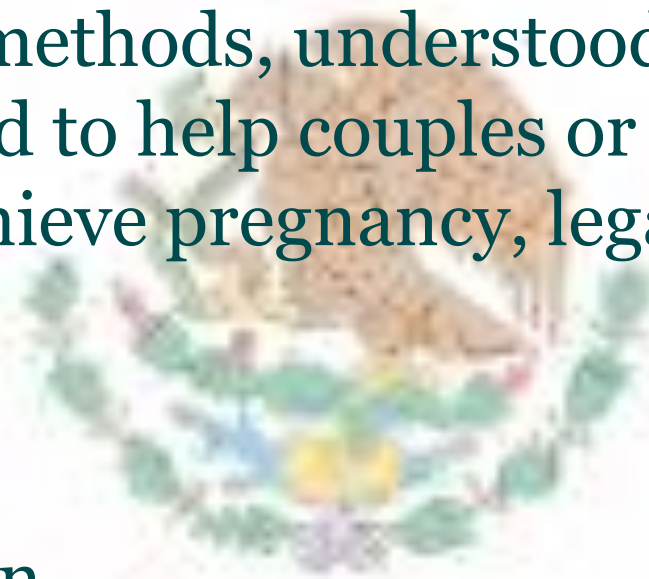


Best interest of the child?

Assisted Human Reproduction

Assisted reproduction methods, understood as the various medical techniques used to help couples or individuals with fertility problems to achieve pregnancy, legal in Mexico are the following:

1. In vitro fertilization
2. Artificial insemination
3. Gamete donation
4. Gestational surrogacy



Assisted reproductive methods and their challenges in relation to the best interests of children

Assisted reproductive methods pose several challenges in relation to the best interests of children, some of these challenges could be the following:

1. The right to know biological origins. Children born through assisted reproduction methods may have questions about their biological origins and genetic identity. Ensuring your right to know their origins and facilitating access to relevant information can be a legal and ethical challenge, especially in cases of gamete donation or surrogacy.
2. Protection against discrimination and stigmatization. Children conceived through assisted reproductive methods may face discrimination or stigmatization because of their origin or method of conception. It is essential to establish laws and policies that protect these children and promote their equal rights and opportunities.

Assisted reproductive methods and their challenges in relation to the best interests of children

3. Access to medical and genetic information. Medical and genetic information relevant to the health and well-being of children born through assisted reproduction methods may be required and ensuring access to such information is a major legal challenge, especially in cases of gamete donation or surrogacy.
4. Protection against exploitation and human trafficking. Surrogacy poses the challenge of protecting children and preventing situations of exploitation or human trafficking. It is essential to establish strict regulations and control mechanisms to avoid any form of abuse or violation of the rights of the children and, of course, of the surrogate mothers.
5. Establishing a solid legal framework that protects the rights of the conceived and unborn child and ensures their well-being. This implies establishing clear contracts and agreements between the commissioning parents and the gestational carrier, as well as defining the rights and responsibilities of all parties involved. We will call this challenge one of legal stability and security.

Surrogacy

In Mexico, surrogacy has been regulated in only two states: Tabasco and Sinaloa. Some states have begun to introduce the figure of surrogacy in their civil legislation. Thus, specific initiatives have been presented to recognize surrogacy in several states of the Mexican Republic, such as Coahuila, Guerrero, Sinaloa and Mexico City. Only the provisions of Sinaloa and Tabasco have been approved and are currently in force.

In 1997, the state of Tabasco introduced a regulation on surrogacy in its Civil Code, which simply contemplated the registration of minors born from these agreements. In other words, the legislation allowed the contracts to exist, but did not offer protections to the parties and favored the appearance of certain abuses and problems.

Subsequently, Tabasco amended its legislation in 2016.

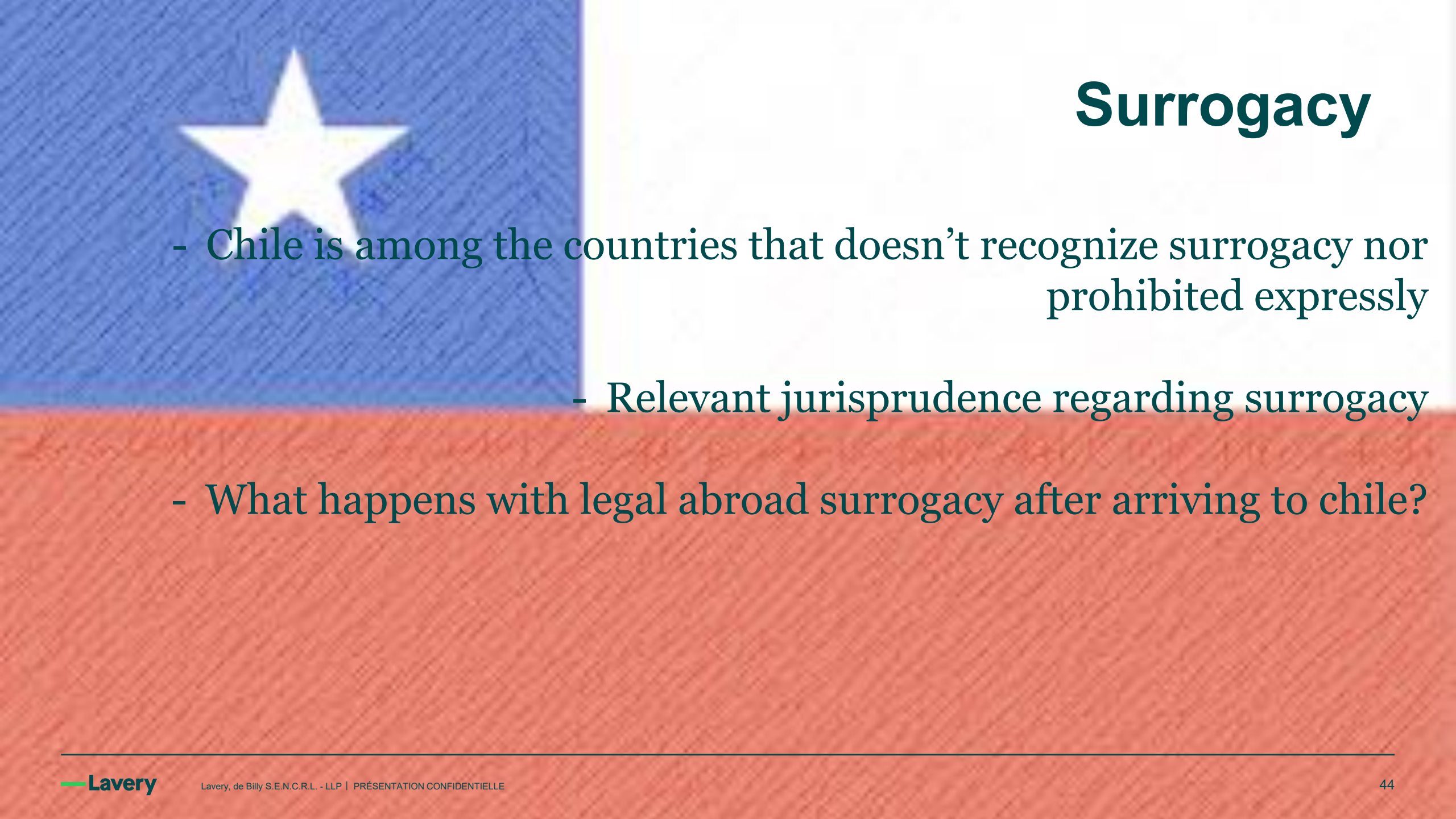
Surrogacy

Positive elements of the reform:

- The establishment of the obligation of the contracting parents to take care of the medical expenses derived from pregnancy, childbirth and puerperium.
- Contracting a major medical expenses insurance for the pregnant woman.
- Responsibility of notaries public and health institutions to notify the Civil Registry Office about the beginning, development and conclusion of surrogacy agreements.
- Approved by a Judge.

Negative elements of the reform:

- That the intended parents have to be Mexican.
- That the contracting woman must have an infertility report (which rules out same-sex couples or anyone who wants to access surrogacy without being infertile).
- In addition, it establishes prohibitions such as that intermediaries should not participate or that surrogacy should not be performed more than once, which are ambiguous and have resulted in the criminalization of pregnant women.

The background of the slide features the flag of Chile, which consists of a blue upper half with a white five-pointed star and a red lower half, separated by a white horizontal band.

Surrogacy

- Chile is among the countries that doesn't recognize surrogacy nor prohibited expressly
- Relevant jurisprudence regarding surrogacy
- What happens with legal abroad surrogacy after arriving to chile?

Surrogacy

We have 3 sources of filiation: natural, adoptive and filiation derived from assisted human reproduction techniques.

In AHRT the new Code limits itself to regulating the procurement of consent and the right to information of persons born by this means.

The draft code included an article regulating surrogacy with several requirements and another accepting post mortem fertilization. But both articles were withdrawn.

In Argentina surrogacy is a reality, jurisprudence has been very flexible. Today the civil registry of the city of Buenos Aires registers them without any inconvenience.

TOPIC 4

IS ADR MANDATORY IN YOUR JURISDICTION ?

IS ADR MANDATORY IN YOUR JURISDICTION?

- PREVIOUS MEDIATION IS MANDATORY IN CUSTODY, MAINTENANCE AND VISITATION RIGHT CASES
- MEDIATION SERVICES ARE AVAILABLE FOR EVERY FAMILY CASE
- COLLABORATIVE PRACTICE IS NOT REGULATED BUT WORKS IN FACT
- ARBITRATION IS MANDATORY TO DIVIDE MATRIMONIAL ASSETS
- FAMILY COURTS MUST PROMOTE COLLABORATIVE SOLUTIONS DURING THE PROCEDURE (BY LAW)

IS ADR MANDATORY IN YOUR JURISDICTION?

Courts have search different tools in order to find alternative dispute resolution methods

1. In Buenos Aires city we have mandatory pre-judicial mediation since 1996. It requires that each party be represented by a lawyer.
2. The Family Justice of the province of Buenos Aires has, since 1993, **the Family Counsellor**, who is part of the judicial system and mediate between the parties prior to the judicial proceeding.

They are both pre-judicial and mandatory.

IS ADR MANDATORY IN YOUR JURISDICTION?

In family law in Mexico, alternative dispute resolution methods, such as mediation, may be recommended or even required in some cases before going to court. Some Mexican states have implemented laws and programs that encourage the amicable resolution of family disputes through mediation, especially in matters such as divorce, child custody and property distribution. However, the enforceability may vary depending on the jurisdiction and the specific nature of the dispute.

Mexico City has the following regulations regarding ADR:

1. The Alternative Justice Law of the Superior Court of Justice for Mexico City.
2. Regulations of the Alternative Justice Center of the Superior Court of Justice for Mexico City.
3. Rules of the Private Mediator.
4. Guidelines for the implementation and use of the virtual mediation and facilitation service at the Alternative Justice center of the Mexico City Judiciary.

IS ADR MANDATORY IN YOUR JURISDICTION?



Alternative dispute resolution methods involve **conciliation** and **mediation**, which are carried out privately in this context. Experts in finance can assist parties if they wish, but in Brazil, there are no specific ADR methods for actions involving financial assets.

The use of ADRs **is not mandatory but** may be advised by the magistrate. The process can be suspended for the parties to submit to the mediation sessions. In the same way, when dealing with available rights, the parties can use an arbitral tribunal, although this use is still very rare in Brazil.



IS ADR MANDATORY IN YOUR JURISDICTION?

Legislation

Statutory provision for arbitration in Brazil

Due to objective arbitrability, **many family disputes are excluded** (e.g., custody and maintenance do not fit the equity requirement)

Law Act n° 9307, the so called Arbitration Act, enacted on 23 September, 1996.

In 2001 the Supreme Federal Court judged such Law **as a constitutional law**

In 2015, it was reformed - **Law Act n° 13129**, of 28 May, 2015.

Article 694 of the Civil Procedural Code – “*In family actions, **every effort will be made to resolve the dispute consensually**, and the judge must have the assistance of professionals from other areas of knowledge for mediation and conciliation.*”

IS ADR MANDATORY IN YOUR JURISDICTION?



Is arbitration strictly legally binding?

Arbitration is a Convention concluded by the parties. If there is a judicial proceeding and the other party does not claim the existence of an arbitration agreement in its defense, the proceeding will continue judicially (**article 337, §6º**, Civil Procedure Code).

Is arbitration much used in your jurisdiction?

Arbitration has been widely applied in Brazil, and specially **increased** in the past 10 years and mostly involves cases of high-value corporate disputes. Compared to judicial procedures, at the same year, there were 78.7 million cases in progress in the Brazilian Judicial System.



IS ADR MANDATORY IN YOUR JURISDICTION?

Jurisdiction of the Judicial Units in Brazil

- 376 of first-degree judicial units have **exclusive family** jurisdiction*
- In the common courts, the **top five issues** include **family law discussions** on sight and kinship relations (custody, adoption of a child, parental alienation, suspension of family power, investigation of maternity/paternity, among others), due to the fact that they are **non-available rights**.*

*CNJ – Conselho Nacional de Justiça, the Brazilian National Council of Justice

TOPIC 5

HOT FAMILY LAW TOPICS IN YOUR JURISDICTION



HOT FAMILY LAW TOPICS IN MEXICO

A hot topic in Mexico right now is the creation of the National Code of Civil and Family Procedures.

The new National Code of Civil and Family Procedures has generated great expectations and has set the legal profession to study all the novelties it contains.

The creation of the Code responds to the compliance with the constitutional reform of September 15, 2017 in matters of daily justice, as well as the need to homologate the procedures of the civil and family order at a national level.

HOT FAMILY LAW TOPICS IN MEXICO

In the family sphere there are several important changes in the areas of violence, alimony, divorce, custody, cohabitation regime, parental authority, interdiction, as well as digital justice and restorative justice.

Among the priorities that have been made clear in this code are judging with a gender perspective and accessibility to social groups in vulnerable situations, as well as privileging orality, equality, respect for human rights and the best interests of the child.

The jurisdictional authorities are obliged to act beyond and to prioritize the integral development of the family in a healthy and violence-free environment.

HOT FAMILY LAW TOPICS IN MEXICO

NATIONAL CODE OF CIVIL AND FAMILY PROCEDURES

In the case of alimony, the new Code intends to considerably shorten the time required to establish alimony in favor of minors and, if applicable, the spouse who requires it, since it establishes that the jurisdictional authority will issue the admissory order no later than the day after it has received the respective document and will promptly notify the individual or legal entity from whom the person who owes the alimony receives the income so that the amount may be discounted and delivered to the alimony creditor. In cases in which the economic capacity of the maintenance debtor cannot be accredited, the alimony will be fixed in minimum wages of the corresponding economic zone and may not be less than one. Likewise, measures are taken with respect to the maintenance debtors in which the jurisdictional authority may withhold the passports of such debtors and in the case of foreigners the National Immigration Institute will be notified so that they are not allowed to leave the National Territory, order the provisional freezing of their bank accounts and notify the Public Prosecutor's Office for the corresponding effects.

HOT FAMILY LAW TOPICS IN MEXICO

NATIONAL CODE OF CIVIL AND FAMILY PROCEDURES

In the case of violence, several provisional and protective measures are contemplated for the victims in order to protect and safeguard the life and integrity of the persons, obliging the authority to dictate measures that are necessary to prevent, interrupt or impede any conduct of violence.

For the defense of the victims of violence, the jurisdictional authority is obliged to adopt the protection measures contemplated in the General Law for a Life Free of Violence for Women, in the Protocol for Judging with a Childhood and Adolescence Perspective, and everything related to human rights indicated in the international treaties to which Mexico is a party.

On the other hand, restorative justice in family matters is incorporated, the purpose of which is aimed at having the parties recognize the existence of a conflict, assume their responsibility and participate both in the reparation of damages and in the restructuring of the family dynamics, except in cases of sexual violence against minors. This procedure is not obligatory and may be carried out without suspension of the corresponding judicial process.

HOT FAMILY LAW TOPICS IN MEXICO

NATIONAL CODE OF CIVIL AND FAMILY PROCEDURES

In the case of Mexico City, the National Restitution of Children and Adolescents is incorporated, the purpose of which is to protect the right of children and adolescents not to be illegally removed from their habitual domicile.

With the above, it is evident that the challenge that the Judicial Branch and the Federal Entities will face will be the implementation of an infrastructure as well as digital systems to be able to comply with the regulations established by the Code in terms of personnel training, compliance with the deadlines contained in the code, physical locations and information and communication technologies; All this represents a hope of speed in the administration of justice for the applicants and the parties they represent.

The background of the slide is a close-up, textured image of the flag of Chile, showing the blue upper section with a white star and the red lower section.

HOT FAMILY LAW TOPICS IN CHILE

- CHILD SUPPORT PAYMENT
- “SOCIEDAD CONYUGAL” MODIFICATION
- SYSTEMATIZATION OF FAMILY LAWS
- VULNERABLE CHILDREN

HOT FAMILY LAW TOPICS IN ARGENTINA

Paradigmatic changes in family law matters in Argentina

- Argentina has a very modern legislation in family law since 2015. The code incorporates the guidelines emerging from international treaties. There were not only changes in substance, but also in the terminology to be used. The new code includes all kinds of families.
- In parental responsibility matters, transition from sole parental responsibility to shared parental responsibility and custody.
- Incorporated a whole chapter with rules of private international law.

HOT FAMILY LAW TOPICS IN BRAZIL



Dating Agreement or Declaration/Relationship Agreement

Liquid love, Zygmunt Bauman

Sense of **immediatism** and **hedonism** – factual reality or eudemonistic conception of the family X Brazilian conservative doctrine gap between form and social reality



Minimum Family Law: minimum intervention of the state in the Family Law field • **principle of liberty & autonomy of the will**



HOT FAMILY LAW TOPICS IN BRAZIL



Relationship Agreement

-  Protection of the parties from the supplementary will of the state
-  Relationship agreement is fully in tune with the precepts of modern liquid society - that of “liquid love”
-  Pandemic of COVID 19 changed effectively the life standard panorama and brought significant impacts to life in society

HOT FAMILY LAW TOPICS IN BRAZIL

Relationship Agreement

It is public, continuous and lasting union, but it takes place without the objective of constituting a family

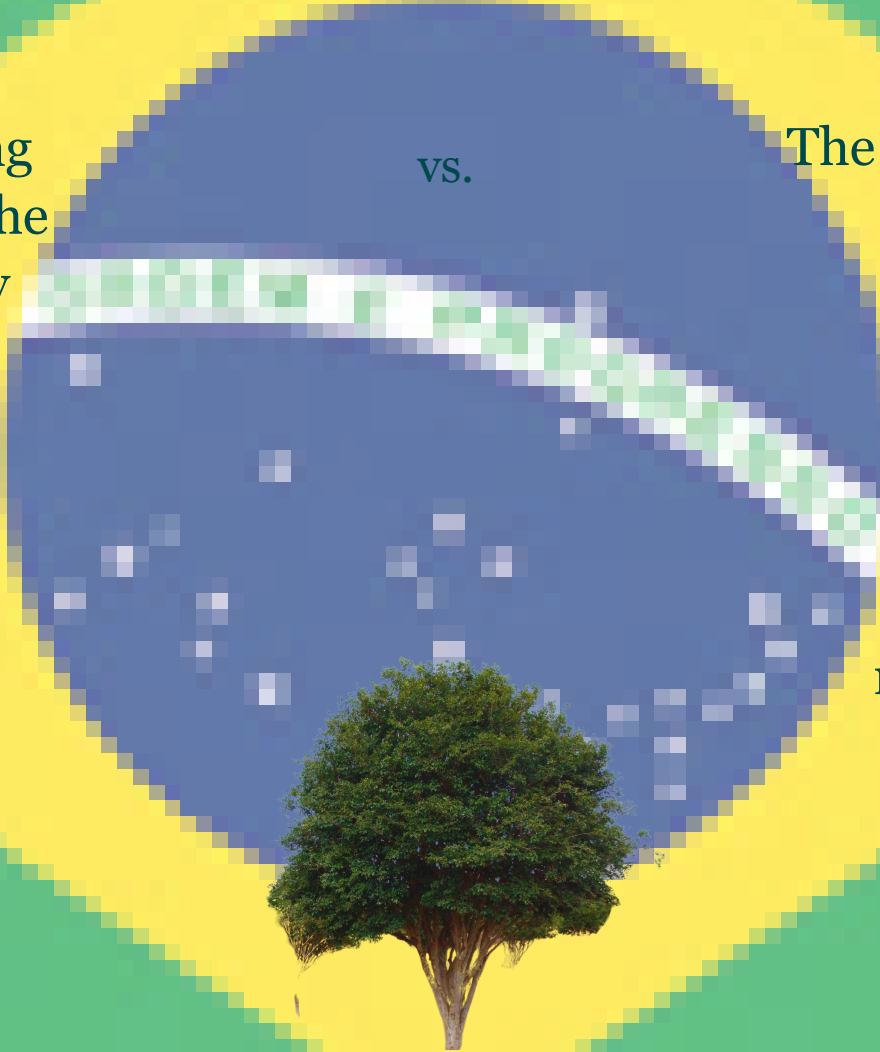
There is no mention of support or patrimonial regime

vs.

De facto Union

The intention to constitute a family is a minimum requirement

If you do not choose the property regime, the law will choose it for you



HOT FAMILY LAW TOPICS IN BRAZIL



When one should recommend a relationship agreement?

What are the essential clauses to a Relationship Agreement?*



Clause of object • the parties declare that **they have an affective relationship**; that they are only dating, since (mention the date); and that they **never had** and **do not have the intention to constitute a family**



Termination clause • each party can terminate the relationship **independently** of acceptance of the other party



Darwinian clause • in case there is the “evolution” of the relationship to a *de facto* union or de facto union the parties may foresee the property regime to be applied



Marília Pedroso Xavier – obra Contrato de namoro: amor líquido e direito de família mínimo/Marília Pedroso . 3ª ed. – Belo Horizonte : Fórum, 2022

HOT FAMILY LAW TOPICS IN BRAZIL



Polyaffective or polyamorous *de facto* unions

What is the current status of the so-called public deeds of polyamory?

More than two partners in a union in the **same family nucleus**. For example: two men and a woman, or two women and a man, **live** in the same home.

However...

June 26, 2018

Public notaries are **prohibited** from making public deeds of polyaffective relations





Thank you

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