

Building Strong Families Through Innovation

UIFSA 2008





About Us



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Background



- URESA/RURESAs
 - Registration
 - Multi-state/Multi-order system
 - Result: Confusion
 - Why does this matter?

Background



- UIFSA
- Response to the multi-order system URESA created
- Several versions
- Basic tenets include:
 - Continuing Exclusive Jurisdiction (CEJ)
 - Long-arm jurisdiction
 - Registration process
 - Choice of law
 - Process for Determination of Controlling Order

Continuing Exclusive Jurisdiction



- Continuing exclusive jurisdiction is a concept that applies to the jurisdiction to modify a child support order
- A tribunal of this state that has issued a child support order has and shall continue to exercise exclusive jurisdiction to modify its child support order if:
 - One of the parties still resides in the state
 - All parties have left the state but consent to the state maintaining CEJ
 - Parties consent to another tribunal in another state assume CEJ

Continuing Exclusive Jurisdiction



Confusion

- UCCJEA
- Substantial compliance: *In re Schneider*, 173 Wn.2d 353, 268 P.3d 215 (2011)
- Lack of communication

Other Case Scenarios



What the other presentations never tell you...

What is this?

DCO?

Order of Invalidity?

Modification?

Pretend it didn't happen?

Who knows!?





Modification Under UIFSA

- When modifying an order in another state there are three specific criteria that must be met:
 - Issuing state has lost CEJ
 - Registration
 - Personal jurisdiction

Choice of Law



- Section 604
- The law of the issuing state governs most situations:
 - The nature, extent, amount, and duration of current payments;
 - Computation and payment of arrearages and accrual of interest on the arrearages; and
 - Existence and satisfaction of other obligations under the registered order
- The law of the responding state will govern procedures and remedies for the enforcement of current support and arrears

Choice of Law: Statute of Limitations



“In a proceeding for arrears under a registered support order, the statute of limitations of this state or of the issuing state, whichever is longer applies.”



International Cases

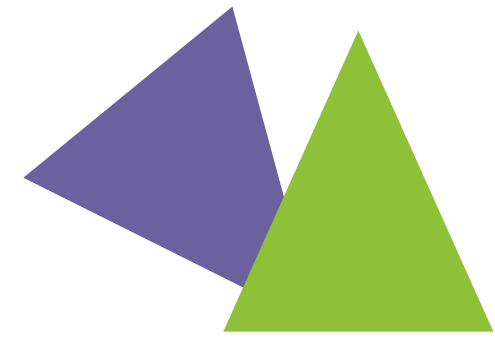
- History
 - URESA through UIFSA '96
 - UIFSA 2001
- Era of bilateral agreements: 1998-2008

The (new) Hague Convention



- “New” because there were previous conventions covering enforcement of child support (U.S. not a part of these)
- Drafting took place between 2003 and 2007
- More than 70 countries met in The Hague for 5 separate negotiating sessions

The Hague Convention



- Several new terms added
- Several terms redefined
 - state
- Many terms continue to be left to state law
 - age of majority



The Hague Convention

- Convention and Treaty Process
 - Signing the Convention/Treaty
 - Advice and consent of the Senate-Constitution
 - Ratification
 - Entry into Force
- Self-executing or requires legislation?
 - Law that implemented UIFSA 08

The Hague Convention and UIFSA '08



- Article 7:
 - Applies only to support proceedings under the Convention
 - Controls if a provision of Article 7 is inconsistent with a provision of Articles 1 through 6
 - *Don't forget-must be a proceeding involving a convention country order!
 - If a non-convention country requests recognition and enforcement of its order, apply Articles 1 through 6 if appropriate
 - Comity is still recognized as a remedy allowable under UIFSA



The Hague Convention

Practical Application

Scenario:

Initiating paternity establishment

Custodial Parent states alleged father in Italy



The Hague Convention

- Is Italy a Hague Convention Country?
- <https://www.hcch.net/en/instruments/conventions/full-text/?cid=131>

The Hague Convention



Français Other languages Secure Portal Search ...

MEMBERS & PARTIES INSTRUMENTS PROJECTS GOVERNANCE PUBLICATIONS & STUDIES


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FULL TEXT

38: Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

Entry into force: 1-1-2013

 Text of the Convention in PDF

 Outline of the Convention

Final Act of the Twenty-First Session (English | Español)

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CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE (Concluded 23 November 2007)

The States signatory to the present Convention,

Desiring to improve co-operation among States for the international recovery of child support and other forms of family maintenance,

Aware of the need for procedures which produce results and are accessible, prompt, efficient, cost-effective, responsive and fair,

Wishing to build upon the best features of existing Hague Conventions and other international instruments, in particular the United Nations *Convention on the Recovery Abroad of Maintenance* of 20 June 1956,

Seeking to take advantage of advances in technologies and to create a flexible system which can continue to evolve as needs change and further advances in technology create new opportunities,

Recalling that, in accordance with Articles 3 and 27 of the United Nations *Convention on the Rights of the Child* of 20 November 1989,

- in all actions concerning children the best interests of the child shall be a primary consideration,
- every child has a right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development,
- the parents or other persons responsible for the child have the primary responsibility to secure, within their abilities and financial



The Hague Convention



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The Hague Convention



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MEMBERS & PARTIES INSTRUMENTS PROJECTS GOVERNANCE PUBLICATIONS & STUDIES

38: Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

Entry into force: 1-I-2013

Last update: 18-IV-2019

Number of Contracting Parties, incl. REIOs and States bound as a result of approval by an REIO: 41

[View and/or print full status report](#)

The expression "Contracting Party" covers both, cases in which the Convention has, and cases in which the Convention has not yet, entered into force for that Party, incl. an REIO, following the deposit of its instrument of ratification, accession, acceptance or approval (see column EIF in the chart).

Contracting Parties (incl. REIOs and States bound by its approval) to this Convention [Protocol] that are also Members of the HCCH (i.e., the Organisation) are in **bold**; Contracting Parties that are not Members of the HCCH are in *italics*.

Contracting Party*	S ¹	R/A/Ap/Su ²	Type ³	EIF ⁴	EXT ⁵	Auth ⁶	Res/D/N/DC ⁷
Albania	21-X-2011	13-IX-2012	R	1-I-2013		1	D,Res
Austria			Ap*	1-VIII-2014		1	D
Belarus	15-III-2017	16-II-2018	R	1-VI-2018		1	D,Res
Belgium			Ap*	1-VIII-2014		1	D
Bosnia and Herzegovina	5-VII-2011	25-X-2012	R	1-II-2013		1	
Brazil	17-VII-2017	17-VII-2017	R	1-XI-2017		1	D,Res
Bulgaria			Ap*	1-VIII-2014		1	D
Burkina Faso	7-I-2009						
Canada	23-V-2017						
Croatia			Ap*	1-VIII-2014		1	D
Cyprus			Ap*	1-VIII-2014		1	D
Czech Republic			Ap*	1-VIII-2014		1	D
Estonia			Ap*	1-VIII-2014		1	D
European Union	6-IV-2011	9-IV-2014	Ap	1-VIII-2014			D,Res
Finland			Ap*	1-VIII-2014		1	D

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Bulgaria			Ap*	1-VIII-2014		1	D
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Estonia			Ap*	1-VIII-2014		1	D
European Union	6-IV-2011	9-IV-2014	Ap	1-VIII-2014			D,Res
Finland			Ap*	1-VIII-2014		1	D
France			Ap*	1-VIII-2014		1	D
Germany			Ap*	1-VIII-2014		1	D
Greece			Ap*	1-VIII-2014		1	D
Guyana		5-II-2019	A	7-III-2020		1	
Honduras		16-X-2017	A	19-X-2018		1	
Hungary			Ap*	1-VIII-2014		1	D
Ireland			Ap*	1-VIII-2014			D
Italy			Ap*	1-VIII-2014		1	D



2019

The Hague Convention



AUTHORITY

Italy - Central Authority (Art. 4)

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2019

The Hague Convention



Status Table:

- Reservations, Declarations, Notifications, or Depository Communications
- Reservation: limiting
- Declaration: expanding

The Hague Convention



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INSTRUMENTS ▼

PROJECTS ▼

GOVERNANCE ▼

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DECLARATION/RESERVATION/NOTIFICATION

Declarations

Articles:

Italy is bound by the Convention as a result of the approval by the European Union (please click [here](#) to read the European Union declarations).

The Hague Convention



Next Steps:

Mandatory Forms and Country Profile

The Hague Convention



- There are mandatory forms for use under the Convention
- Mandatory Transmittal form under Article 12(2)-required on all applications
- Application for Establishment of a Decision
- Any other forms required-look at the Country Profile

The Hague Convention



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Country Profiles:

- Layouts are the same
- What I look for:
 - What language do the forms need to be translated
 - Will the country automatically enforce the decision it enters, or must I submit a separate application
 - Must I provide a support amount in my application



The Hague Convention

Registering a Convention Order

- Longer time period for objections
- Defenses
- Partial enforcement
- Registration denied

The Hague Convention



Modification of a Convention Support Order

- Cannot modify if the obligee is still a resident of the foreign country where the support order was issued; unless:
 - Obligee submits to jurisdiction either expressly or by defending on the merits without objecting to jurisdiction at the first available opportunity; or
 - The foreign tribunal lacks or refuses to exercise jurisdiction to modify or issue a new support order

The Hague Convention



- The Hague Convention website:
<https://www.hcch.net/en/instruments/conventions/full-text/?cid=131>
- Practical Handbook for Caseworkers under the 2007 Child Support Convention:
<https://assets.hcch.net/docs/5f160c92-b560-4b7f-b64c-8423f56c6292.pdf>
- Explanatory Report:
<https://assets.hcch.net/upload/expl38.pdf>
- OCSE: <https://www.acf.hhs.gov/css>

The Hague Convention



Questions?