

A world map with a grid overlay, showing continents and oceans. The map is light blue and white, with a darker blue header bar at the top.

# **UIFSA 2008 AND THE HAGUE CONVENTION COLORADO FAMILY SUPPORT COUNCIL CONFERENCE**

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# 3 Versions of UIFSA



- UIFSA 1996

- One order per NCP & child
- Determination of controlling order
- CEJ

- UIFSA 2001

- Requires telephonic testimony
- Some changes to CEJ
- Authorizes redirection of payment

- UIFSA 2008

- Implements Hague Convention

# Changes to Modification/CEJ

## UIFSA 2001

- State can modify its own order, even if no party lives there, with consent of both parties.
- State can modify a foreign country's order if that country cannot modify.

## UIFSA 2008

- State retains CEJ if one party lives in another U.S. state and the other party lives outside the U.S.



# What Changes with UIFSA 2008?

- Implements the Hague Convention
- Some new definitions
- Many small technical changes
- Telephonic testimony becomes a “shall” for all states
- Promotes electronic communication

**CHANGE  
IS GOOD.**

**You go  
first!**



# THE HAGUE



What Is It?

Where Is It?



Why Is It Important To Us?





# What Is The Hague? A City In The Netherlands



# Where Is The Hague?



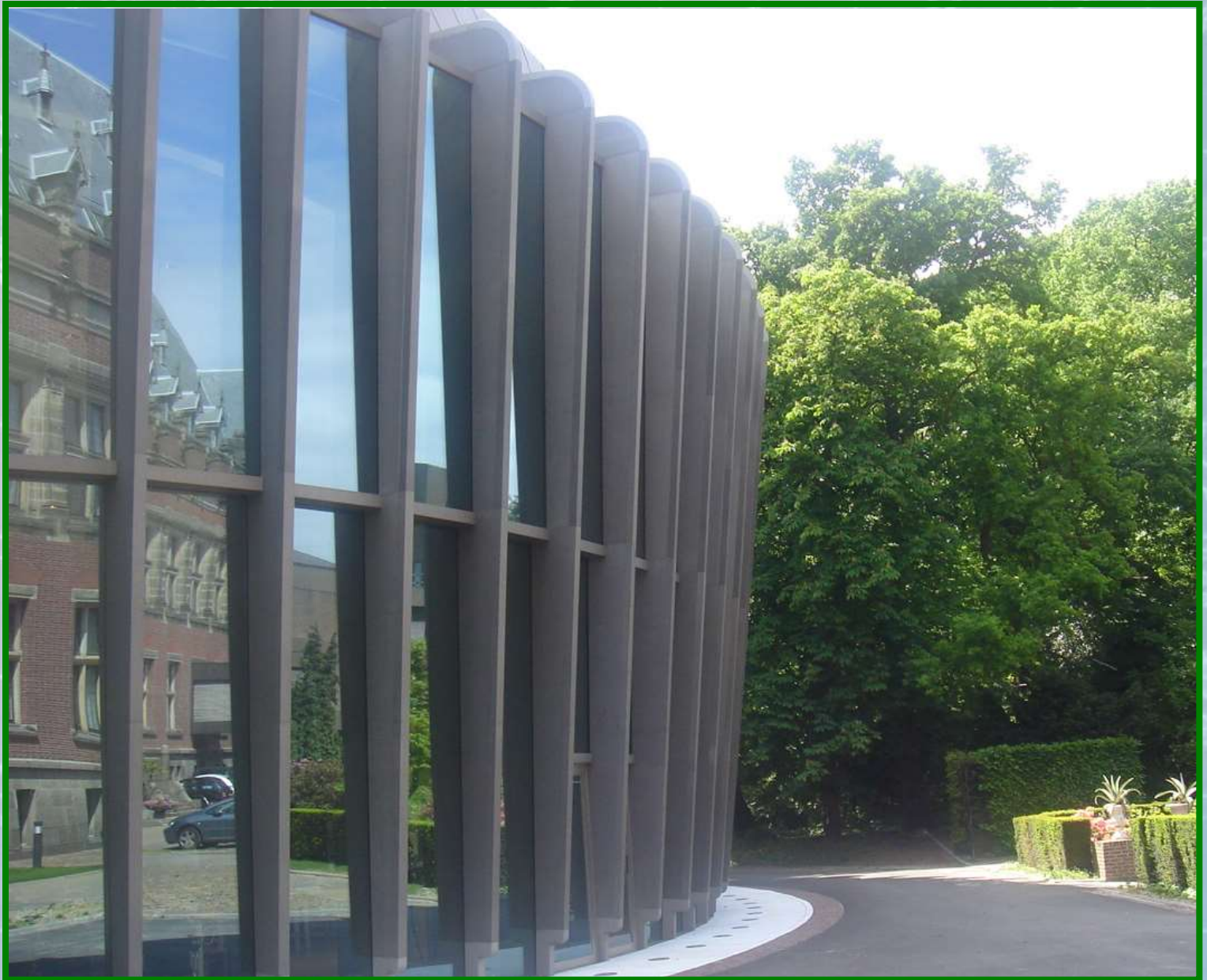


# The Peace Palace





# The Hague Child Support Convention



# CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE



November 23, 2007



# Overview

- The Convention does not solve all problems with international cases.
- It provides a mechanism for administrative cooperation in working cases.
- Using the new tools will save time and effort, and ensure the best possible results.



# Components Of The Convention

- System of administrative cooperation  
-- efficient, responsive, flexible,  
accessible



- Procedures available in States (countries) for establishment, recognition and enforcement, and modification of decisions (orders)



# Scope Of The Convention



- Applies on a mandatory basis to maintenance (child support) cases of persons under the age of 21
- Also covers spousal support in conjunction with child support

# Scope Of The Convention

- Countries can extend application of any part of the Convention to other maintenance obligations arising from a family relationship, parentage, marriage or affinity, such as parental support.
- Convention applies to children regardless of the marital status of the parents.





# New Concepts

- Central Authorities
- Country Profiles
- Applications (similar to Transmittal #1)
- International forms
- Process for recognition and enforcement



# Additional Issues

- Confidentiality
- Power of Attorney
- Translation of documents
- Cost free for the custodial party
- Coordination with other international agreements





# Some New Terms

- Contracting State - a country that has signed and ratified the convention
- Competent Authority - whatever agency in a State has the authority to take a certain action (i.e. a court or tribunal)
- State of Origin - the State that issued an order



# Some New Terms

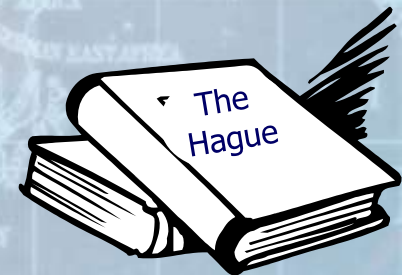
- Creditor - the obligee
- Debtor - the obligor
- Requesting State - the State that initiates the action
- Requested State - the State that is responding to the action





# Some New Terms

- Requests for Specific Measures - a request for a specific action (limited services)
- Legal Assistance
- Maintenance Arrangement - agreements in writing, formalized in some way and enforceable in the country of origin



# Central Authorities

- Each State must designate at least one Central Authority (CA).
- CAs must cooperate with each other to achieve the purposes of the Convention.
- Seek, as far as possible, solutions to difficulties which arise in the application of the convention.



Articles 4-5



# Central Authority Duties



Transmit and receive applications under the Convention.

Initiate or facilitate proceedings in respect of such applications.

# Central Authority Duties

Take all appropriate measures, including:

- Provide or facilitate the provision of legal assistance
- Help locate debtor or creditor
- Encourage amicable solutions
- Facilitate enforcement
- Facilitate transfer of payments





# Central Authority Duties

Appropriate measures, continued:

- Facilitate obtaining of evidence and service of documents
- Provide assistance in establishing parentage
- Initiate or facilitate actions to secure the outcome of a pending application



# Country Profile

- Available on the Hague website
- Focuses on information or services required by the Convention
- Provides an on-line, standardized way to access information
- Displays for each State in their own language
- Makes case processing simpler





# The Creditor (Obligee)

## May apply for:

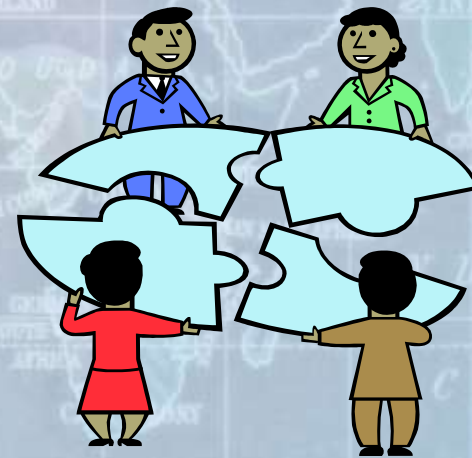
- Recognition and enforcement of an order
- Establishment of an order, including establishment of paternity
- Establishment of an order where recognition and enforcement of an order is not possible or is refused
- Modification



# The Debtor (Obligor)

## May apply for:

- Recognition of a decision or an equivalent procedure leading to the suspension or limiting the enforcement of a previous decision in the requested State
- Modification





# Recognition and Enforcement

## Basis for recognition (mandatory)

- Respondent was a resident of the order-issuing State
- Respondent submitted to the jurisdiction of the order-issuing State
- Child was a resident of the order-issuing State, provided that the respondent lived with the child in that State or provided support for the child there.

# Recognition and Enforcement

Recognition subject to reservation

- Creditor was a resident of the order-issuing State.
- Decision was made by authority exercising jurisdiction on a matter of personal status or parental responsibility (i.e. divorce without personal jurisdiction).





# Registration Process

Similar to current U.S. procedure, except:

- The order is sent to the court to register or deny.
- Enforcement begins.
- The parties cannot object at that point.
- Both parties are notified of registration or denial.
- Parties have 30 days (60 for non-U.S. resident) to challenge the registration (very limited reasons).



# Contest to Registration

Valid grounds for contest:

- Recognition and enforcement manifestly incompatible with public policy.
- Issuing tribunal lacked personal jurisdiction.
- Order is not enforceable in issuing country.
- Order was obtained by fraud.
- Order received lacks authenticity/integrity.
- Arrears have been partially/fully paid.





# Contest to Registration, continued

Valid grounds for contest:

- Proceeding already pending here; filed first.
- Order incompatible with another order entitled to recognition/enforcement.
- Respondent did not have proper notice and opportunity to be heard during the proceeding or upon appeal.
- Order was issued in violation of Convention modification procedure.



# Enforcement measures

States are required to make available effective enforcement measures.

- Options might include:
  - Income withholding
  - Garnishment
  - Deductions from Social Security payments
  - Lien on or forced sale of property
  - Tax refund intercept
  - License denial or suspension



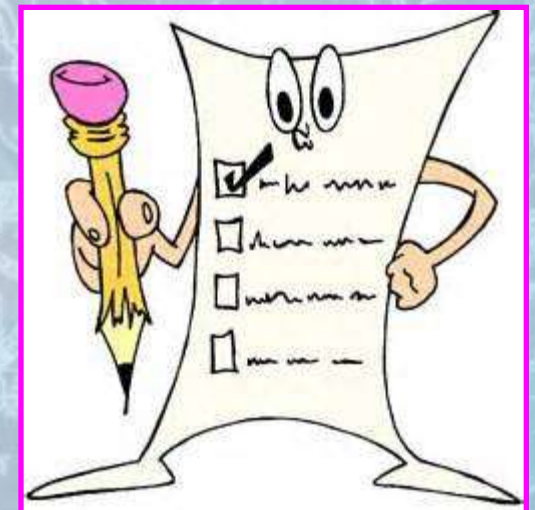


# Applications to Establish or Modify an Order

- Assistance must be provided to establish an order and paternity, if needed.
- All services to the creditor must be provided cost-free.
- Free required legal assistance must be provided to the creditor (all the way through appeal).
- Cost free services are **not** provided to the debtor.
- Modification rules similar to CEJ and UIFSA

# Forms

- Goal is to adopt electronic, multi-lingual forms.
- The use of the forms will significantly reduce translation costs.
- Mandatory forms:
  - Transmittal
  - Acknowledgment
  - Available on the Hague website



# Required Documents For Registration

- Complete text of the order
- Documents stating:
  - That the decision is enforceable in the State of origin
  - That the respondent had proper notice and opportunity to be heard or to challenge the decision
  - The amount of arrears and the date of the calculation





# Confidentiality and NDI

- Protection of personal data

Personal data gathered or transmitted shall be used only for the purposes for which it was gathered or transmitted.



- Non-disclosure of information

NDI must be honored/granted if a party's health, safety, or liberty could be jeopardized.

# Ratification

- States are required to adopt UIFSA 2008.
- U.S. will ratify the Convention once all states have implemented UIFSA 2008.
- President will then sign and deposit at the Hague.

All states will be under the same version of UIFSA!

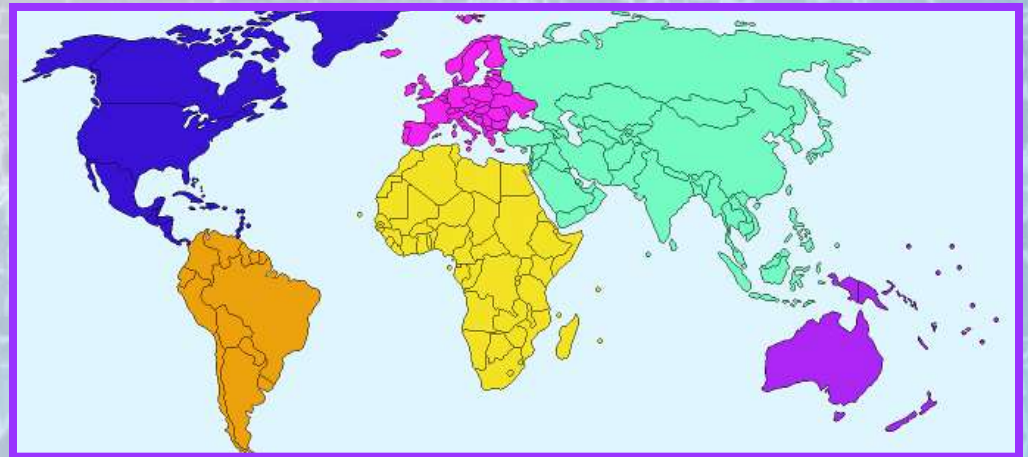


# Ratification

32 countries have ratified:

- All of the European Union Countries
- Norway
- Albania
- Bosnia and Herzegovina
- Ukraine

Reciprocity with  
non-Hague countries  
is still valid.





# Why The Convention Is Important To Us?

- Potential world-wide reciprocity
- Uniformity / efficiency
- Improved cooperation
- A voice in developing world-wide child support standards
- Higher standard of child support services world-wide



# Communication With Other Countries

- Communication is very formal.
- Request, don't demand.
- Be patient.
- Realize other countries may not have a program as developed as ours.
- Work carefully with these new partners to foster good will and cooperation.



# Where to Get More Information

The Hague Conference on Private International Law website:

<http://www.hcch.net>

- Convention text
- Explanatory report
- Caseworker's Guide
- Mandatory and recommended forms
- Country Profiles
- I-Support information (in development)





# Thanks for joining us!



## Watch for updates as we approach implementation!