

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

Service is an essential part of any legal proceeding, but one that can be costly and time-consuming in cross-border cases. The Service Convention seeks to simplify this process, establishing a uniform framework designed to facilitate and streamline the channels of transmission for judicial or extrajudicial documents to be served abroad.

The Convention provides for one main channel of transmission between Contracting Parties, while preserving flexibility to use alternative channels. The Convention deals primarily with the transmission of documents; it does not address or comprise substantive rules relating to the actual service of process.

There are, however, two channels of transmission provided for by the Convention where the transmission process includes service of process upon the ultimate addressee: the direct diplomatic or consular channels and the postal channel. For all other channels of transmission under the Convention an additional step, not governed by the Convention, is required to complete service on the ultimate addressee.

### **Principal features of the Convention**

#### ***Scope of the Convention***

The Convention applies where: (i) a judicial or extrajudicial document is (ii) to be transmitted for service from one Contracting Party to another, (iii) the address of the person to be served is known, and (iv) the document to be served relates to a civil or commercial matter (Art. 1). The Convention is exclusive, which means, if these requirements are met, the transmission channels provided for under the Convention must be applied. In relation to the requirement of transmission to another Contracting Party, it is important to note that it remains for the law of the forum to determine whether transmission abroad is necessary.

#### ***Main channel of transmission***

The main channel of transmission under the Convention is where an authority or judicial officer competent in one Contracting Party transmits a request for service to the Central Authority of the Contracting Party in which service is to be effected (Art. 5). The request must conform to the Model Form annexed to the Convention.

The Central Authority of the requested Contracting Party shall, under its own law, serve the document or arrange for its service by a competent authority (Art. 5). However, the applicant (*i.e.* the forwarding authority in the requesting Contracting Party) may request that a particular method or procedure be used, to the extent that it is not incompatible with the law of the requested Contracting Party.

Finally, the authority executing the request must complete the certificate as annexed to the Convention, stating that service was effected, or if not, the reasons that prevented service (Art. 6).

### ***Alternative channels of transmission***

The Convention preserves the freedom of Contracting Parties to use alternative channels of transmission, including through:

- diplomatic or consular channels (Arts 8 and 9);
- postal channels (Art. 10(a));
- direct communication between judicial officers, officials or other competent persons (Art. 10(b)); and
- direct communication between an interested party and judicial officers, officials or other competent persons (Art. 10(c)).

There is no hierarchy of the channels of transmission, and transmission through one of the alternative channels does not lead to service of lesser quality. A Contracting Party may object to the use of these alternative channels (Art. 10). This information is available on the status table on the [Service Section](#) of the HCCH website.

### ***Protection of the defendant***

Regardless of the channel of transmission used, the Convention protects defendants from a default judgment. A default judgment shall not be given unless it is established that service was effective under the Convention (Art. 15). If judgment has already been given, a defendant may apply for relief (Art. 16).

### ***Role of authorities***

The Convention provides for a system of Central Authorities in all Contracting Parties. A Central Authority's main role is to receive requests for service of documents, either serving the documents or arranging for them to be served. The Convention also provides for the designation of additional authorities and leaves Contracting Parties free to determine the extent of their competence.

### ***The use of technology***

The technology-neutral language of the Convention allows Contracting Parties to use modern technology in the transmission and execution of requests. In practice, this is generally subject to the law of the requested Contracting Party.

### ***Additional resources***

The [Service Section](#) of the HCCH website contains the latest information about the Service Convention. This includes:

- Text of the Convention
- Status table of Contracting Parties
- List of Central Authorities and practical information by Contracting Party
- Explanatory Report on the Service Convention
- Practical Handbook on the Operation of the Service Convention
- Mandatory Model Form for Requests