



## Summary of the Child Support Forum

ONLINE MEETING ON 28<sup>TH</sup> JUNE 2023

### I. Introduction

On June, 28<sup>th</sup> 2023, the Child Support Forum met for the third time. The participants included representatives of public bodies from six countries (Belgium, Germany, Latvia, Norway, Sweden and the Czech Republic) as well as the HCCH, the German and Norwegian Central Authorities, the Norwegian Collection Agency of the Labour and Welfare Administration/International Collection, NCSEA, the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and academics. The meeting was divided in two parts: after the presentation of the Norwegian maintenance support<sup>1</sup> system by Siri Risnes (Senior Advisor, Family Section, Directorate of Labour and Welfare), the meeting was mainly dedicated to deepening three issues that had emerged as central in the previous meetings:

- the cross-border locating of debtors and obtaining of information on the debtor's financial circumstances,
- Public bodies' cooperation with central authorities in the process of maintenance recovery and
- Issues concerning currency conversion and international money transfers.

An overview of these topics was given by Julia Schelcher, Head of the cross-border Maintenance Unit of the German Central Authority (Federal Office of Justice), Floor de Jongh Bekkali, Head of the cross-border Maintenance Unit of the Norwegian Central Authority (NAV Family Benefits and Pensions Support) and Maren Stranger of the Norwegian Enforcement Agency (The Collection Agency of the Labour and Welfare Administration). This was followed by a lively discussion, the main contents of which are summarized in this report.

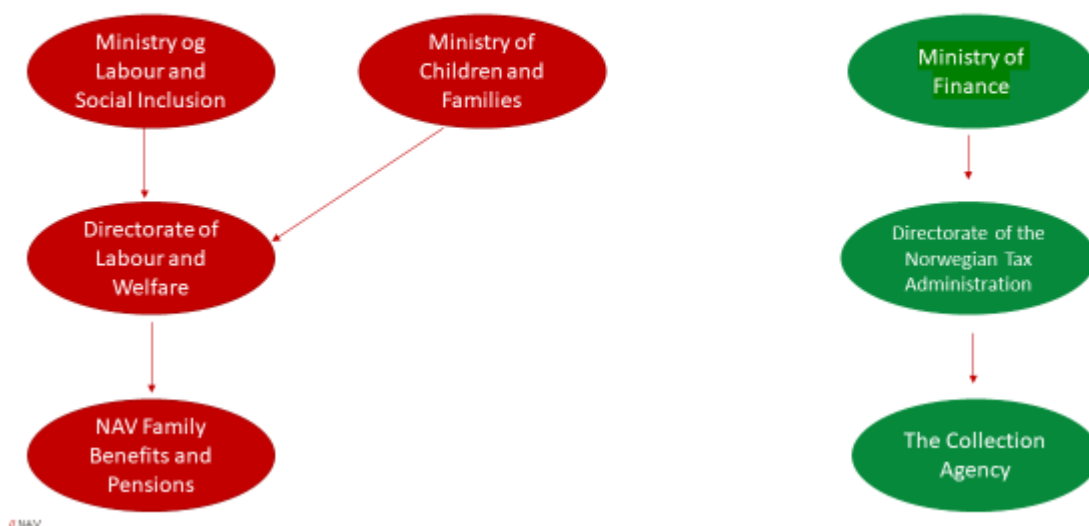
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<sup>1</sup> For purposes of clarity and uniformity of language use, it was decided during the 1<sup>st</sup> Child Support Forum meeting in June 2022 that the term **child support** means the child's right to receive money from the non-custodial parent and that the term **maintenance support** means the benefits paid by states in lieu of child support when the non-custodial parent fails to pay it  
[www.childsupport-worldwide.org](http://www.childsupport-worldwide.org)

## II. National report: the Norwegian maintenance support system, facts and challenges

NAV, the Norwegian Labour and Welfare Administration ([www.nav.no](http://www.nav.no)) was established in 2006 by merging three separate public agencies (Labour Administration, National Insurance Service, Social Welfare Administration). NAV's supervisory authority is the Ministry of Labour and Social Inclusion. NAV employs around 19,000 people: 14,000 at the central government (State) and 5,000 at the local government level (Municipalities). NAV administers a third of the national budget and is in charge of unemployment benefits, work assessment allowances, sickness benefits, pensions, child benefits and cash-for-care benefits. Both child support and maintenance support have been centralized in Norway since 1992. Before 2006, they were part of the National Insurance Service. The accounts for all cases are also kept in one joint system.

### Organizational Structure – Child/Maintenance Support



Regarding child and maintenance support, NAV is responsible for:

- **The establishment of paternity**

NAV is responsible for establishing paternity for all children born in Norway or children of fathers living in Norway via an acknowledgment of paternity. Contentious cases are referred to the court.

- **The establishment of child support decisions**

NAV issues administrative child support decisions for children living in Norway or abroad. NAV's decisions can be appealed. Child support is rarely established in court. The right for and the obligation to pay child support is governed by the Children Act of April 8<sup>th</sup>, 1981, no. 72, but the specific maintenance amounts are based on guidelines which can be downloaded only in Norwegian here: <https://lovdata.no/dokument/SF/forskrift/2003-01-15-123>.

- **The registration and enforcement of valid maintenance decisions, agreements or judicial orders**

Child maintenance is enforced on the basis of the Maintenance Payments Recovery Act of April 29<sup>th</sup>, 2005, no. 20.

- **The recognition and enforcement of foreign child support orders in Norway**

Enforcement measures are then initiated by the Collection Agency/the Tax Administration.

- **The granting of maintenance support and the recourse against the debtor**

The right to advance child support payments (maintenance support) is ruled in the Advance Payment of Maintenance Act of February 17<sup>th</sup>, 1989, no. 2.

The criteria for obtaining payments of maintenance support are the following:

- ✓ The child must live in Norway
- ✓ The child is not living with both parents
- ✓ The child support agreed upon or ordered is collected by NAV
- ✓ Paternity does not need to be established and a child support agreement or order does not need to exist.
- ✓ The granting of maintenance support is subject to means testing
- ✓ The maintenance support amount depends on the custodial parent's gross income, on whether she/he lives with another adult, whether she/he lives with any other children of her/his own as well as on the age of the child (only for the highest rate). The amounts and the income limits are regulated from July, 1<sup>st</sup> each year. If the custodial parent's annual income is over NOK 346,200 (EUR 29,320), she/he can receive the elevated rate, if the annual income is over NOK 620,400 (EUR 52,540) he/she is no longer entitled to receive maintenance support from NAV.

Means testing: (income limits in NOK valid from July 1<sup>st</sup> 2023)

Number of children	Single parent household		Number of children	Married/cohabiting	
	Ordinary rate	Reduced rate		Ordinary rate	Reduced rate
1	346 201 – 532 400	532 401 – 620 400	1	346 201 – 420 600	420 601 – 620 400
2	346 201 – 607 000	557 201 – 620 400	2	346 201 – 495 200	495 201 – 620 400
3	346 201 – 620 400		3	346 201 – 569 800	569 801 – 620 400
4 and more	346 201 – 620 400		4 and more	346 201 – 620 400	

Current maintenance support rates:

	From July 1st 2022	From July 1st 2023
Reduced rate	NOK 880,- (EUR 75)	NOK 940,- (EUR 80)
Ordinary rate	NOK 1 320,- (EUR 112)	NOK 1 410,- (EUR 119)
Elevated rate	NOK 1 760,- (EUR 149)	NOK 1 880,- (EUR 159)
Elevated rate (children over 11)	NOK 2 200,- (EUR 186)	NOK 2 350,- (EUR 199)

## Statistics

### Children with child support and/or maintenance support through NAV

Age	In total	Only child support	Reduced rate	Ordinary rate	Elevated rate	Elevated rate (over 11)
In total	71 291	24 178	7 634	24 665	7 077	7 729
0-5 years	7 179	1 451	527	2 641	2 559	-
6-10 years	18 427	4 950	1 855	7 106	4 516	-
11-14 years	23 074	7 655	2 670	8 337	-	4 409
15-17 years	19 878	7 735	2 505	6 403	-	3 230
18 years ++	1 717	1 379	-	-	-	-
Age not reg	1 016	1 008	-	-	-	-

Pr. March 2023

# NAV

As to the recovery of maintenance support by NAV as a public body, the accounts for all national and international child support cases are kept in the same centralized IT system. Both child support and maintenance support are recovered through the same account with the same measures. The granting of maintenance support is subject to the recovery of child support by NAV and the collection agency. In cross-border cases, the child applies for the establishment of a maintenance decision or for enforcement of an existing maintenance decision, except in cases where enforcement of the private arrears no longer takes place. In order to receive maintenance support from the state, the custodial parent accepts that the money paid is an advance payment of child support and that he/she is not entitled to receive the same amount twice. The money is paid out under that condition and can be reclaimed if the custodial parent also receives money directly from the non-custodial parent.

As it is not required that paternity or a child support order is established to receive maintenance support, NAV supports the child in establishing paternity, either by acknowledgement or by opening a court case on behalf of the child. The custodial parent has the duty to provide NAV with the information necessary for processing both the paternity case and the child support case. NAV also has the possibility to change a previously established paternity relationship if another man acknowledges paternity and the previous father agrees. Concerning the establishment of maintenance orders done by NAV, the difficulty of obtaining information on the debtor's financial circumstances was pointed out. Information is easily obtained from Sweden. In most other countries, data protection rules prevent the disclosure of information to foreign authorities.

In 2022, maintenance support payments equalling NOK 858 million (about EUR 73 million) were granted. Maintenance support payments equalling NOK 665 million (about EUR 57 million) were paid out. Approximately NOK 465 million of the paid amount is not to be recovered by the non-custodial parent because the child support amount was either lower or an order was not established. Approximately NOK 190 million (EUR about 16 million) was reimbursed by the non-custodial parent as child support. The recovery rate of paid maintenance support varies from year to year and in the period from 2014 -2022 it varied between 28 and 36 %.

### III. Selected challenges of maintenance recovery by public bodies

During the second part of the meeting, the participants concentrated on three issues that had been identified as central in the last two sessions.

- Information gathering, especially concerning the debtor's place of residence as well as his/her financial circumstances.
- Cooperation between public bodies and central authorities.
- Currency conversion issues and international transfer of funds.

#### 1. Gathering information about the maintenance debtor

Both representatives of the Central Authorities highlighted the possibility of applying for specific measures according to Art. 53 EU Maintenance Regulation / Article 7 Hague Child Support Convention. They also pointed out that the national framework of the requested State and data protection provisions of this state determine the implementation of the international provisions.

In Germany, due to the federal system, debtors can be located via the residents' registration offices which are based in the cities and districts. Nevertheless, in order to find a debtor in those registers, the creditor needs a starting point to go up the information chain until the current city/district of residence is found. The Central Authority has no electronic access to a countrywide data base of the registration offices, but information can be requested from the statutory pension fund, the central vehicle register, the criminal requests register.

As to gathering information on the debtor's financial circumstances, the possibilities of investigation are very limited. The Central Authority can contact the debtor and require that he/her provide the requested information, but has no right to contact the employer. The Central Authority can also contact the statutory pension fund or the public assistance offices called "Jobcenters" in order to clarify whether the debtor receives a pension or social benefits, but not how much. With respect to bank accounts, the situation is similar. The Central Authority can inform the creditor whether the debtor is the owner of a bank account and provide him/her with the account number, but not with the current balance.

The Norwegian Central Authority has access to the countrywide population register and can consequently easily provide information about the debtor's current address. Information concerning the debtor's financial circumstances is not requested from them because they usually do not answer, but access to the income registry is simple. When a debtor is living abroad, enquiries are much more difficult. Detailed information is basically only provided by Sweden.

During the discussion, the question was raised as to what the authors of the 2007 Hague Convention intended with respect to the scope of specific measures and particularly to the possibility of requesting inquiries in order to determine the debtor's financial circumstances. Practice shows that these provisions are hardly ever applied because national data protection rules often prevent the disclosure of information. There seems to be a gap between the objectives of the Convention's authors and the implementation by the states participating in the Convention.

Furthermore, the question was raised whether Central Authorities could inform applicants either generally of the data bases they have access to and use to process requests for specific measures or in each case of the data bases used in the present case, in order to enable applicants

to check whether further channels of investigation exist and could be attempted additionally. It was mentioned that some of the states participating in the Hague Convention have provided information on this question in the country profiles. An extension of the information provided could be discussed in the country profiles working group. Some states mention it in their answers, but a unified practice would be useful.

## 2. Cooperation with Central Authorities

**Art. 36 of the 2007 Hague Convention/Art. 64 of the EU-Maintenance Regulation** determine under which conditions public bodies can make use of the assistance of the Central Authorities.

It has been noted that some central authorities (such as the German one) require applicants to explain exactly which part of the maintenance debt is owed to the child and which one is owed to the public bodies. The reason for this is that it can be crucial in relation to formal requirements of the enforcement law or the costs law of the enforcing state.

The conditions under which a power of attorney may be requested by the central authority of the requested State are determined by Art. 52 of the Convention.

Norway pointed out that in the IT system of NAV there is no possibility of having two authorised recipients for one case. It is therefore strongly recommended to submit only one application, even if a public institution has its own claims. Otherwise, the funds have to be distributed manually, which is very time-consuming.

In terms of **communication channels**, electronic communication is playing an increasing role but is not yet always possible. From the end of 2023, communication between Germany and Sweden will be attempted with the help of I-Support. Nevertheless, in **urgent cases**, the central authorities cannot make an exception to the usual communication channels and proceedings. Therefore, the only way to save time is to file a direct application, if necessary with the help of local legal counsels and within the framework of national legal aid.

It was noted that problems occur when some central Authorities or national enforcement authorities dictate **special requirements** not required by the wording of the Hague Convention or the EU Maintenance Regulation (like for instance the extract of decisions to be signed by the judge). The central authorities pointed out that applicants or the requesting Central Authority can of course try to convince the foreign authority that the requirements imposed are not in conformity with international law. Sometimes, however, it is worthwhile to deal pragmatically with such queries and to comply with them in order to move the matter forward. Regarding the special question of the use of the mandatory and recommended forms, the Central Authorities referred to the advice published by the European Union and the Permanent Bureau of the Hague Conference on Private International Law.

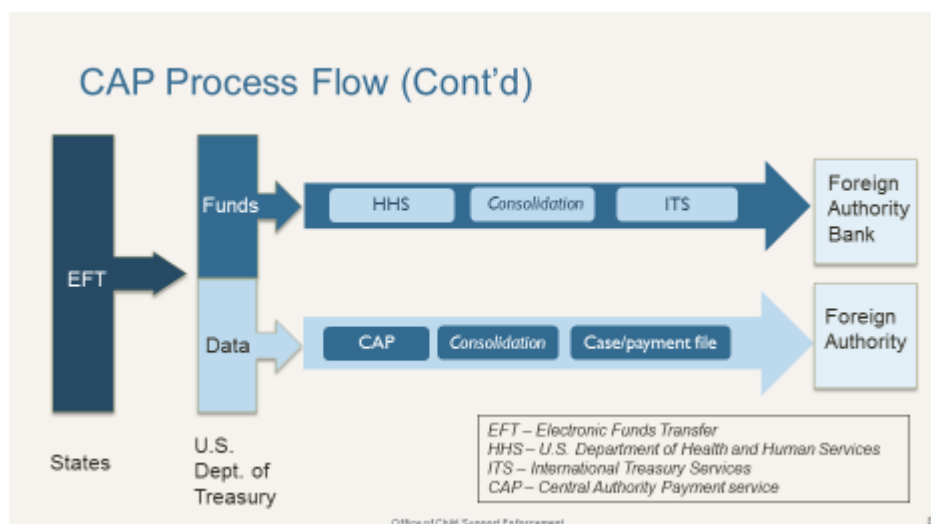
- [Guidance on the use of the Annexes under Regulation \(EC\) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations](#) [Guidance on the use of the Annexes under Regulation \(EC\) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations - Publications Office of the EU \(europa.eu\)](#)

- [Draft Guidance to complete the Mandatory and Recommended Forms under the 2007 Child Support Convention 33ac3a37-b713-4e6e-8727-8942182076ea.pdf \(hcch.net\)](#)

In the meeting of November 2022, it was criticised that the Central Authorities do not always work to achieve an **amicable settlement of disputes**. The Central Authorities pointed out that they make efforts and encourage the parties involved to settle amicably. However, sometimes the means and the legal possibilities are lacking. NAV, for example, is not allowed to offer mediation, but can only refer to mediators.

### 3. Currency conversion issues and international transfer of funds.

First, Julia Schelcher presented the new electronic payment system elaborated by the US and the German Central Authority in order to stop the use of cheques.



Then, Maren Stranger from the Norwegian Collection Agency gave an overview of the issues accruing from the Norwegian point of view with respect to international transfers of maintenance.

The Norwegian Collection Agency uses the Swift GPI Tracker, which makes it possible to see the status of electronic transfers from the payment to the reception and, for example, to track Swift-payments if the creditor is missing certain payments. The Agency has also started using ISO20022 files when receiving payments. For outgoing payments, this will be implemented on November 1<sup>st</sup>, 2023. Concerning the use of checks, there are no new developments. Norway still has a US bank account where payments can be received. Only a few checks are sent directly to Norway.

The Collection Agency covers all the costs of bank transfers in Norway but has no control over costs that may occur in the receiving country. The principle is that the debtor bears the bank charges for transfers from abroad to Norway. The Agency accepts that the debtor pays several months in one payment to reduce costs. The exchange rate is updated every month for the current child support. A case is considered paid in full when the creditor has received the full amount in the currency of the decision.

When it comes to differences in the calculations of arrears, the state of origin is responsible for the accounts. If a Norwegian decision is being enforced abroad, Norway provides the requested state with an updated payment history and asks them to increase/decrease the claim in accordance with the Norwegian accounts. If a foreign decision is enforced in Norway, the requesting state is considered to have the correct accounts. Norway will increase/decrease the claim in Norway in accordance with the requesting state's accounts. If Norway requests enforcement of a foreign decision in the country of origin, the requested state is considered to have the correct accounts. Norway can increase/decrease the claim in Norway in accordance with the requested state's accounts.

If the requested state refuses to update the case in accordance with the Norwegian accounts, Norway tries to look for other ways to enforce the remaining debt. If no solution is found and if Norway is not able to find other sources for enforcement, the remaining debt will be written off after eight years or when it is obsolete.

During the discussion, it was mentioned that issues related to the applicable status of limitation still occur when it comes to determining whether a rule concerns the status of limitation or whether it is a procedural rule.

Furthermore, it was pointed out that it is very difficult to have a case continued to be processed or reopened after it has been closed due to the fact that the enforcement authorities of the requested state consider the arrears were paid in full. The discrepancy between the calculations can be due to bank transfer fees or to currency conversion differences. In those cases, the creditor or his/her representatives should try to state that the decision in the currency of the state of origin is the decisive one. It was mentioned that, if the foreign authority does not agree, it could be the responsibility of the Central Authorities to ensure compliance with the principle that the maintenance decision as given in the State of origin must be complied with. It was even suggested that the transfer costs should be borne by the central authorities. There were no concrete proposals for the implementation of this concept, but participants agreed that it is generally difficult to claim the recovery of bank fees when the foreign authorities consider the debt to be fully paid. Regarding this issue, it would be helpful to develop a common legal reasoning or a common working basis.

## Outlook

The third meeting of the Child Support Forum has shown once again that the recovery of maintenance by public bodies is characterised by many differing realities and that there is a great need for more exchange, mutual understanding and awareness of its particularities. In order to meet this challenge, the Child Support Forum intends to organise an online conference on May 15<sup>th</sup>, 2024, which will be open to all stakeholders in cross-border maintenance recovery. Further information will be posted on the website of the Network [www.childsupport-worldwide.org](http://www.childsupport-worldwide.org) and in the CSW Newsletter.

Heidelberg, 18.07.2023