



European project

**European platform for the access to
personal and family rights**

EPAPFR

Questionnaire

Project Presentation:

Since November 2017, the German Institute for Youth Human Service and Family Law (DIJuF) has participated in the EU-funded project EPAPFR (European Platform for the Access to Personal and Family Rights).

The aim of this project is to analyse the obstacles to implementation of the European instruments regulating private international family law and to present the results on a website (the above-mentioned platform) in order to assist practitioners and individuals with their search for specialised information and relevant agents in the field of cross-border family law disputes.

As a first step, a close look will be taken at the implementation of the European instruments regulating private international family law. For this purpose, the project partners from five member states have prepared the following questionnaire which should be completed by as many practitioners as possible in order to enable elaboration of a representative overview of the problems of implementation.

Within the framework of this project, the German Institute has been entrusted with the task of analysing the implementation of the European Maintenance Regulation (Council Regulation (EC) No. 4/2009). This corresponds to Part I (General Part) and Part II-D of the questionnaire.

Please return your responses regarding Part I and Part II-D to:

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Poststrasse 17
69115 Heidelberg**

or by e-mail to Isabelle Jäger-Maillet: maillet@dijuf.de

Should you be interested in making a comment regarding other parts of the project, please send your comment to the project coordinator (preferably in English or French):

FIJ
64 rue Paul Verlaine
F- 69100 Villeurbanne
France

or by e-mail to Cécile Corso: cecile.corso@fiji-ra.fr

Upon receipt of the completed questionnaires, one or two expert meetings will be held in Heidelberg. During these meetings, the results of the survey will be analyzed and a report will be drawn up. If you are generally interested in participating in the meetings, please send us the attached pre-registration form.

Thank you very much in advance for your interest and kind assistance!

Privacy Policy:

If you submit your personal data to us during your participation in the above-referenced EU-funded research project, those data will be stored by us and, where applicable, used to provide you with project-related information. Besides, they will be forwarded to the project partners, in particular for the purpose of evaluating the following questionnaire. The project partners include the following institutions:

- Femmes Informations Juridiques Internationales (FIJI), France, as project coordinator,
- Université Lyon III (Centre de recherche de droit international privé), France,
- Association pour le droit des étrangers (ADDE), Belgium,
- International Social Service (ISS), Bulgaria
- University of Liege, Belgium
- University of Verona, Italy

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- Your personal data will only be utilized for the above-mentioned purposes.
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- You may revoke your consent to the collection, processing or use of your personal data at any time with effect for the future. Then your data will be deleted. This only excludes data we may not yet delete, e.g. due to statutory retention periods in tax law or legal retention obligations.
- In order to ensure the protection of your personal data, the German Institute has appointed Mr. Peter Rodenstein

as external data protection agent.

If you have any questions or suggestions regarding data protection in general or regarding the processing of your personal data by the German Institute, you may contact us, where appropriate, via our data protection agent at any time.

Please also feel free to contact us if you have any complaints. The contact details of our data protection agent are as follows:

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I- General part

A- Participant background

1. Function

2. Education and qualifications

3. Organization: which structure do you have?

Government Agency / Court / NGO / Lawyer / Notary / Bailiff / Others

4. Country where the structure is implemented

5. Geographic scope of your action: national/European Union/International

6. Name (optional)

7. Name of the organization (optional)

See general instructions and protection of personal data in the annex attached to the present document

8. Do you agree for your contact details to be published on the platform later: yes / not ?

9. Position and background (requested)

10. Field of activity

11. Financing of the organization:

- By national or local public authorities? (Provide their names if possible and amount as a percentage in view of the overall budget)
- By private foundations (Provide their names if possible and amount as a percentage)
- By private donations (amount as a percentage)
- Other funders

12. Are your actions related to access to private international law of the family funded? If yes, by who? If no, why?

13. Accessibility to the service by the beneficiaries: free / charged (could you please detail the cost of an intervention?) / for which type of public (individuals, professionals)?

14. Would you say that the funding of this issue is sufficient for the needs at a national level? Please give a percentage.

15. Public

a) Individuals:

Total number of individuals who call your service per year:

- Men
- Women
- Children
- Age group
- Social service's beneficiary in %
- Nationality: EU citizen / non EU citizen

b) Professionals

Total number of professionals who call your service per year

16. Number of individual cases / individuals regarding international family law / international child abduction per year

17. Detailed description of the services that the organization provides (legal counseling, social services, etc.)

B- Experience, information and training needs

1) General question about the knowledge in private international law of the family

a. Questions concerning professional's knowledge and information

18. Which questions about private international family law do you most come across in your practice?

19. Have you ever had to get access to a foreign family law? How did you proceed? How did you get access to foreign law? What kind of obstacles did you face? (e.g. cost of subscription, updating of the data?)

20. Which sources of information do you use to answer a question in the field of international private law? (Free access web-sites, subscription to online or paper law journals). Do you know any sites or data basis offering access to foreign laws?

21. Are you using international private law in your practice to assist beneficiaries in their legal steps?

Yes, explain with examples / No, explain why / Rarely, explain

22. Have you encountered difficulties in the application of the EU regulation and international instruments in the field of international private law? What difficulties have been opposed in practice (qualification of the « habitual residence », non access to legal aid, civil status problem, etc.).

23. What other difficulties have you faced?

24. Have you ever identified errors in the application of Brussels II Regulation (non application, incorrect application towards European and internal jurisprudence) resulting in inefficiency on access to laws in this field?

Give examples.

25. Do you feel that you know well enough the legal tools at the disposal of professionals in the field of private international family law? (European regulations, international conventions, etc.)?

26. In your opinion, which information concerning private international family law could be helpful to you, in order to better help your public?

27. In which form should the information be provided? (legal advice, awareness sessions, prevention working groups, etc.)

28. Would trainings / meetings / exchange between professionals' interest you? Why? In what form?

29. Would the creation, in Europe, of a network of relevant actors help you in your practice? What information would you like to find on this network's website?

b. Questions concerning beneficiaries' knowledge and information

30. Which questions about private international family law do your clients most come across in your practice?

31. In your opinion, which information concerning private international family law could be helpful to your public?

32. What tools have you put in place, if need be, to improve information of direct beneficiaries?

33. In which form should the information be provided? How could the information be improved (legal advice, prevention working groups, etc.)

34. Who provides information/counselling to individuals in the field of private international family law in your state?

35. Does your State also offer opportunities for obtaining information to individuals residing in another Member State?

2) Initial and continuing training

36. What initial training is provided in private international family law to the future legal experts/lawyers/judges in your state? Is this training mandatory?

37. Does this training seem sufficient to you? Why?

38. Does bringing basics in international family law as part of an initial training (tools, mechanism, actors) to the social sector seem relevant to you?

39. Have you ever benefited from training in private international family law? If yes, on which field? From which institution?

40. What continuing training is provided in private international family law to the legal experts/lawyers/judges in your state? Is this training mandatory?

41. Does your State offer multidisciplinary training to practitioners? If yes, which aspects are covered (i.e. mediation, psychosocial support, legal)?

42. Does your State provide training to practitioners from abroad? If so, what kind of training, in what language and with what content (national or international law)?

43. Have you been able to implement the contents of the training course(s) in practice?

44. Are you in need of additional advanced training courses? If so, what kind of courses? What did you miss in the past?

3) Access to law and justice

a. Identification of professionals

45. Do you identify a lot of professionals specialized in the field of private international family law in your state?

46. Did you ever have to look for a lawyer abroad, in another European country or elsewhere? How did you proceed? What kind of obstacles did you face?

47. Which tools are at the disposal of the individuals and professionals in access to competent professionals in the field of international family law in your state? How could they be improved?

48. Have you ever had to consult a foreign public or social service (eg : association) ? How did you manage to get the service's contact details? What kind of obstacles did you face (eg : communication, availability/accessibility,...) ? Do you know any websites listing foreign social services?

b. Cross border legal aid

49. Have you ever had to seek international or European legal assistance? How did you proceed (If so, did you apply for it in the State of origin or in the State of destination?)? Were you able to get it and what kind of obstacles did you face?

50. Is there the possibility in your state to use cost-free counselling or to apply for exemption from counselling costs in international family matters (e.g. lawyer permanence's, legal aid certificates)?

51. Is there the possibility in your state to use cost-free legal representation or to apply for exemption from the costs of legal representation in international family matters?

52. Do the lawyers requested and specialized in these matters accept legal aid?

53. (Question for the lawyers, anonymous answer): Do you accept legal aid for the files related to private international law of the family, no matter the complexity? How many files per year?

54. Does the poor level of legal aid granted constitute an obstacle, in your opinion, to access to private international law of the family for disadvantaged people?

55. Can the migrants, who did not yet receive a residence permit, get legal aid in your State, for matters related to their personal status or family life?

56. Are there special provisions regarding legal aid in your State in case of minors applying for legal aid? If so, which ones?

57. In case of minors applying for legal aid, is the income of persons other than the minor child considered according to your national law (in particular, income of the parent living with the child or household income)?

58. In your State, are there special rules of jurisdiction for processing cross-border applications for legal aid that are not applicable to domestic cases?

59. In your State, are all translation costs that occur during a proceeding covered by legal aid?
60. Do you think applying for legal aid is an impediment to cross-border enforcement of decisions in the EU claims? If so, why?
61. From your experience, does applying for legal aid result in a substantial delay of the enforcement of decisions in the EU?
62. Are there public organizations dedicated or specialized in access to international family law? If yes, which ones?
- If yes, which ones?
63. Is the access to private international family law planned and funded by your State's public policies?
- At which level (national, regional, local)

 - Which area of public policies

 - If no, please indicate why (absence or unidentified need, etc.)
64. Do you work with non-lucrative organizations, specialized in private international law? If yes, which ones?

c. Application of private international family law by the national authorities

65. Do you identify obstacles in access to justice in the field of private international family law? (Slow procedures, bad knowledge of the relevant legal instruments, incorrect application of the instruments)? If possible give examples.
66. Does the international nature of the procedure slow down the judgment of court decision on the foundation?

67. How many months do you estimate the average length of procedures related to the implementation of EU regulations and The Hague Convention?

- International divorce :
- Marriage annulment :
- Recognition and declaration of enforceability:
- Enforcement application:
- Request for child repatriation:
- Transfer of parental responsibility:

68. In your country, in case of conflict of nationalities (a person having dual citizenship), is the priority given to the European citizenship?

69. In your state, is the judge obliged to instantly apply the rules of laws conflicts (even in absence of claim of the parties)?

II- Specific part

A - Matrimonial matters

1) Polygamy

70. Are you frequently approached for issues related to polygamous marriage?

71. How many situations per year are you handling?

72. Do you identify organizations / professionals that are able to help with the issue concerning polygamous marriage? If yes, is the help brought with a fee/ is it free? Of what nature? (First degree information, individual support, etc.).

73. Is polygamous marriage, celebrated abroad, recognized in your State?

Yes/no/under what condition?

74. According to your national law or jurisprudence, could polygamous marriage fall into the scope of Brussels II bis Regulation and Rome III Regulation (demand for nullification of marriage or demand of divorce)?

75. Have you ever used Brussels II bis Regulation to seek the annulment of a polygamous marriage? Yes/no, explain why.

2) Forced marriage

76. Are forced marriages subject to public policies in your State, aiming to fight this phenomenon? What are the dedicated resources given to fight this issue?

77. Are the international aspects of the fight against forced marriage in civil and criminal terms subject to specific measures in your national law? And in jurisprudence?

78. Is your organization dealing with these situations? What type of solution do you provide (sheltering, request for return, request for marriage annulment, etc.)?

79. Can a request for annulment of forced marriage (marriage celebrated abroad) be submitted to your State courts?

80. If so, do you use the rules of Brussels II Regulation to request an annulment of forced marriage, celebrated abroad?

81. If so, do you direct these issues to other organizations? If yes, which ones?

82. What are the obstacles to the protection of the forced marriage's victims in your State (lack of emergency shelter, prevention difficulties, etc.)?

3) International divorce, repudiation, principle of equality between women and men

83. Are you facing cases of issues of international divorce (divorce with foreignness element). If so, how many issues per year are you dealing with?
84. How can you help a woman who is a victim of repudiation abroad?
85. If you cannot help, do you identify structures that can deal with her issue?
86. Is divorce by repudiation recognized in your State? Does it fall into the scope of application of Brussels II bis Regulation and Rome III Regulation? Yes, no, why?
87. Are, in your opinion, European regulations Brussels II bis and Rome III efficient tools to protect the principle of equality between women and men in access to divorce? What could be improved?

B- Parental responsibility

1) Point of contacts for cross-border PR disputes:

88. Is there a Contact point in your State for cross-border PR disputes? If yes, what is this Contact point and what are the functions of this Contact point?
89. Does the Contact point, if there is, provide free of charge services / legal aid? If yes, wholly or partially – please, specify at which stage of the proceedings?

2) Services and actors involved in PR cross-border disputes in your State:

90. Who provides information to parents on their rights and obligations in PR cross-border disputes?
91. Who provides information to parents on PR cross-border legal proceedings?
92. Who provides counselling to parents in individual PR cross-border cases?

93. Who can legally represent the parents in individual PR cross-border cases?

94. What costs are associated in cross-border PR disputes (provision of information, counselling, legal representation)?

95. Is there a possibility to use cost-free services (provision of information, counseling, legal representation) or to apply for exemption from costs? If so, who covers these costs?

96. Is legal aid available in your State in the field of cross-border PR disputes?

97. Please, indicate among the following authorities / professionals, those who may be involved and at what extent:

- a. Embassies/Consulates
- b. Immigration authorities
- c. Courts
- d. Social services
- e. Police officers
- f. Prosecutors
- g. Notaries
- h. Psychologists
- i. Others (please, specify)

98. What kind of cross-border cooperation or communication mechanisms exist in your State in PR cross-border disputes?

99. Are you satisfied about PR cross-border cooperation or communication?

100. Is there a need of additional opportunities for obtaining information / counseling / legal representation? If yes, what kind? What would you wish for?

101. Are you satisfied by the authorities and services provided in your State that regulate and solve cross-border PR disputes?

102. Do you need additional opportunities and/or services in your State for cross-border PR disputes? If yes, what kind? What would you wish for?

103. Are there delays in cross-border PR disputes in your State? Are these delays reasonable? Could you clarify them also through examples?

3) Rights of children in cross-border PR disputes in your State:

104. Does the child have access to justice? If yes, under which conditions (i.e. Custodial/Curator consent, at what age)?

105. Is the child's right to be heard guaranteed? If yes, under which conditions, who are the actors entitled to hear the child and at which stage of the cross-border PR disputes?

106. Who provides information to children in cross-border PR disputes?

107. Who provides counselling to children in cross-border PR disputes?

108. Does the child have the right to legal representation in cross-border PR disputes?

a. Is legal representation in cross-border PR disputes obligatory for the child?

b. What costs are associated with the legal representation of the child in cross-border PR disputes?

4) Difficulties in the implementation of the EU instruments that regulate cross-border PR disputes:

109. What difficulties do you encounter in implementing Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (for instance differences in legal definitions, holders of PR, competence of Courts, provision of legal aid, enforcement of judgments and etc.)?

110. What difficulties do you encounter in implementing Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation?

111. What difficulties do you encounter in implementing Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

112. Does your State plan amendments to the law that regulates cross-border PR disputes between parents? If yes, what amendments are planned?

5) National legislation in your State that refers to the EU instruments that regulate cross-border PR disputes:

113. Does your national legislation provide legal definition of the term 'Parental responsibility'? If yes, how the definition refers to the definition provided for in the Council Regulation No 2201/2003?

114. Does your national legislation provide legal definition of the term 'custody'? If yes, how the definition refers to the definition provided for in the Council Regulation No 2201/2003?

115. Does your national legislation provide legal definition of the term 'rights of access' or analogous (i.e. visiting rights / right of contacts / regime of personal relations)? If yes, how the definition refers to the definition provided for in the Council Regulation No 2201/2003?

116. Does your national legislation provide legal definition of the term 'child protective measure'? If yes, what is the legal definition and which measures are included?

117. Is cross-border PR disputes regulated by Private International Law Act, civil code, family code, or analogous instrument? Does the instrument refer to a term other than PR (i.e. Parental Authority, Parental Rights and etc.)?

118. Who can be the holders of PR in your State?

119. Does your national legislation provide for sole and/or joint custody for the child after separation / divorce? If yes, in what cases – please, specify under which conditions distinction between sole or joint custody applies?
120. Does your national legislation provide for shared residence for the child after separation / divorce? If yes, in what cases?
121. Does your national legislation regulate the mediation and/or other ADR (e.g. conciliation, arbitration, or analogous) in cross-border PR disputes?
122. Does your national legislation require mediation and/or other ADR before going to Court in cross-border PR disputes?
123. Does your national legislation regulate international family mediation?
124. Do you have specialized Family Courts and/or analogous authority in your State that handle PR disputes between parents and/or cross-border PR disputes?

6) Good practices

125. Can you provide information / describe a certain good practice regarding cross-border PR disputes between parents?

7) Kafala

126. Did you take over cases of family situation or of child protection of an international nature (foreign minors, or living abroad, minors taken by kafala, for example)?

If so, indicate a percentage.

127. Does your organization help minors taken by kafala or adoptive parents ?

If yes, indicate a number per year.

If no, do you identify organizations that can help?

128. Do tools, database of legal information on this issue exist ? If yes, which ones ? Is it in open access ? With a fee ? On which support ?
129. Would new tools seem relevant to you ? (access tools to foreign law, legal information site, etc.)
130. Is kafala recognized in your State ?
131. Is kafala considered as: a measure of delegation of parental authority? A guardianship? An adoption?
132. Are you aware of conflicts' rules and the cooperation measure provided by The Hague convention of 1996 ?
133. Regarding the kafala, has your general council ever had to establish social relationships on the foundation of the article 33 of The Hague Convention of 1996?
134. Do you work with your State's central authority on those issues?
135. What are, in your opinion, the obstacles to the minor protection taken by kafala in your State? (Lack of social survey, difficulty for entry into the territory, non assimilation of the kafala to an adoption, lack of social assistance, etc.) How could we rectify that ?
136. Is the position of your State regarding the kafala consistent with the European convention on human rights and/or The Hague Convention of 1996 ? If no, develop by referring to European jurisprudence.

137. Could progress be considered in your State, regarding minors taken by kafala ? Which ones?

C- International parental child abduction (IPCA)

1) Point of contacts for IPCA disputes:

138. Is there a Contact point in your State for IPCA disputes? If yes, what is this Contact point and what are the functions of this Contact point?

139. Does the Contact point, if there is, provide free of charge services / legal aid? If yes, wholly or partially – please, specify at which stage of the proceedings?

2) Services and actors involved in IPCA disputes in your State

140. Who provides information to parents on their rights and obligations in IPCA disputes including the application for child return?

141. Who provides information to parents on the legal proceedings regarding IPCA disputes?

142. Who provides counselling to parents in individual IPCA disputes?

143. Who can legally represent the parents in individual IPCA disputes?

144. What costs are associated in IPCA disputes?

145. Is there a possibility to use cost-free services (provision of information, counseling, legal representation) or to apply for exemption from costs? If so, who covers these costs?

146. Is legal aid available in your State in the field of IPCA disputes?

147. Please, indicate among the following authorities / professionals, those who may be involved and at what extent:

- a. Embassies/Consulates
- b. Immigration authorities
- c. Courts
- d. Social services
- e. Police officers
- f. Prosecutors
- g. Notaries
- h. Psychologists
- i. Others (please, specify)

148. What kind of cross-border cooperation or communication mechanisms exist in your State in IPCA disputes? Are you satisfied about cross-border cooperation or communication?

149. Is there a need of additional opportunities for obtaining information / counseling / legal representation? If yes, what kind? What would you wish for? Are you satisfied by the authorities and services provided in your State that regulate and solve IPCA disputes?

150. Do you need additional opportunities and / or services in your State for IPCA disputes? If yes, what kind? What would you wish for?

151. Are there delays in IPCA disputes in your State? Are these delays reasonable? Could you clarify them also through examples?

3) Rights of children in IPCA disputes between parents in your State:

152. Does the child have access to justice? If yes, under which conditions (i.e. Custodial/Curator consent, at what age)?

153. Is the child's right to be heard guaranteed? If yes, under which conditions, who are the actors, entitled to hear the child and at which stage of the IPCA proceedings?
154. Who provides information to children in IPCA disputes?
155. Who provides counselling to children in IPCA disputes?
156. Does the child have the right to legal representation in IPCA disputes?
157. Is legal representation in IPCA disputes obligatory for the child?
158. What costs are associated with the legal representation of the child in IPCA disputes?
159. Did you deal with any non-return applications under the 1980 Hague Convention on the Civil Aspects of International Child Abduction, article 20? If yes, could you please explain further through examples?

4) Difficulties in the implementation of the EU instruments that regulate IPCA disputes:

160. What difficulties do you encounter in implementing Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 regarding IPCA disputes?
161. What difficulties do you encounter in costs and delays between proceedings arising among EU Member States implementing Council Regulation (EC) No 2201/2003; and among Contracting States implementing the 1980 Hague Convention on the Civil Aspects of International Child Abduction? Could you please explain further through examples?
162. Have you ever been subject to a Court of Justice of the European Union ruling? If yes, could you please indicate costs and delays? Who was supporting the costs?

163. Does your State plan amendments to the law that regulates the judicial and/or administrative proceedings in the field of IPCA disputes? If yes, what amendments are planned?

5) National legislation in your State that refers to the EU instruments that regulates IPCA disputes

164. Does your national legislation envisage 'provisional, including 'protective measures' to prevent harmful effects against the child and damages for the left-behind parent during the Court proceedings? If yes, what is the legal definition and which measures are included?

165. Does your national legislation provide legal definition of the term 'grave risk of harm' within the context of IPCA? If yes, what is the legal definition?

166. Does your national legislation provide legal definition of the term 'parental acquiescence' within the context of IPCA? If yes, what is the legal definition?

167. Does your national legislation provide legal definition of the term 'habitual residence' prior to the wrongful removal? If yes, what is the legal or jurisprudential common definition?

168. Does your national legislation provide a specific agreement for relocation? If yes, could you please further explain the procedures?

169. In cases involving relocation flowing into abduction, does your national legislation identify the starting moment generating the one-year period (Article 12.1 of the 1980 Hague Convention) to submit an application for return?

170. Is IPCA regulated by Private International Law Act, civil code, family code, or analogous instrument? Does the instrument refer to a term other than IPCA (i.e. International Parental Kidnapping)?

171. Does your national legislation regulate the mediation and/or other ADR (e.g. conciliation, arbitration, or analogous) in IPCA disputes?

172. Does your national legislation require mediation and/or other ADR before going to Court in IPCA disputes?

173. Does your national legislation regulate international family mediation?

174. Do you have specialized Family Courts and/or analogous authority in your State that handle IPCA disputes between parents?

6) Good practices

175. Can you provide information / describe a certain good practice regarding IPCA disputes between parents?

D- Maintenance

1. Obtaining debtor's related information

a) Obtaining information concerning income and other financial circumstances of the debtor

176. What opportunities are there in your State for obtaining information concerning the financial circumstances of the debtor prior to establishing a maintenance decision?

- Extrajudicial (e.g. right to disclosure)?
- Judicial (e.g. procedural disclosure obligation of the parties concerned and of third parties, ex officio assessment through the court)

177. Who may use those possibilities of obtaining information concerning the financial circumstances of the debtor (parties to the maintenance matter, only courts, only government agencies)?

178. Who is granted access to the obtained information (in particular, are there any restrictive data protection provisions)?

179. What information is obtained when enquiring the financial circumstances of the debtor? (extent, quality, usability of the information)

180. Does the information provided above also apply to cross-border maintenance cases? (if not, what restrictions or impediments are there?)

181. From your perspective, how could the obtaining information concerning the financial circumstances of the debtor be improved, especially in cross-border maintenance cases?

b) Verification of the Debtor's serviceable Address

182. What opportunities are there in your State for verifying a serviceable address of the debtor?

- Extrajudicial?
- Judicial?

183. Who may use those possibilities of verification?

184. Who is granted access to the obtained information (in particular, are there any restrictive data protection provisions?)?

185. What information is obtained when successfully locating the debtor's whereabouts? (extent, quality, usability of the information)

186. Does the information provided above also apply to cross-border maintenance cases? (if not, what restrictions or impediments are there?)

187. From your perspective, how could the location process be improved, especially in cross-border maintenance cases?

2. Specific Problems regarding the Maintenance recovery by Public Bodies

a) Jurisdiction at the Seat of the Public Body

According to previous rulings of the European Court of Justice, it is to be assumed that public bodies cannot initiate proceedings for establishment of a maintenance decision pursuant to Art. 3b of Council Regulation (EC) No. 4/2009 because the privileged place of jurisdiction at the creditor's place of residence or official seat does not apply to them.

188. From your perspective, would it be desirable to clarify Art. 3b of Council Regulation (EC) No. 4/2009 so that it applies to public bodies?

189. For what reason?

b) Grant of Public Benefits in Case of Non-Payment of Maintenance

190. Does your State grant public benefits if the debtor fails to pay maintenance?
191. If yes, please describe shortly the prerequisites under which benefits are granted in your State:
192. If benefits are granted, does the State have recourse against the debtor?
193. If so, in what legal form?
- Recovery of maintenance on behalf of the person entitled to maintenance upon application or by mandate
 - Creditor assigns his claim to the State by legal transaction
 - Assignment of the claim to the State by operation of law
 - Through a recourse claim under public law
 - Others:
194. What legal or factual obstacles do occur in the recovery of recourse claims in cross-border cases?

3. Cross-border recognition, enforceability and enforcement of decisions regarding maintenance decisions according to Chapter IV of Council Regulation (EC) No. 4/2009

a) Cross-border declaration of enforceability and enforcement proceedings

195. Have you already applied for the recognition, declaration of enforceability and/or enforcement of maintenance decisions with the foreign competent body (court, public authority, bailiff) without asking the central authority for assistance?
196. In doing so, have you experienced any difficulties? If so, which difficulties? (e.g. obligation to file the application through the central authorities, inadmissible request of translations, requirements that are not foreseen by Council Regulation (EC) No. 4/2009)
197. Do you think enforcement bodies in other Member States treat directly enforceable maintenance decisions within the meaning of Art. 17 Council Regulation (EC) No. 4/2009 in the same way as domestic maintenance decisions?
198. If not, what obstacles are there in your eyes?
199. From your point of view, are there difficulties in the implementation of Articles 21, 24 of Council Regulation (EC) No. 4/2009 (grounds of non-recognition or non-enforcement), which impose limitations to dependants regarding their maintenance claim? If so, which difficulties are there?
200. Do debtors confound modification grounds and grounds for non enforcement?

201. What procedure do debtors usually choose to achieve a reduction in their maintenance obligation? (e.g. modification proceedings, enforcement appeals)?
202. In your State, does the declaration of enforceability proceedings need to be implemented through a lawyer (mandatory representation by a lawyer)?
203. In your State, do enforcement measures need to be implemented through a lawyer (mandatory representation by a lawyer)?
204. In your State, are there possibilities at the level of enforcement proceedings for obtaining information concerning the financial circumstances of the debtor than the ones mentioned in section 1.1 of the questionnaire? If so, which possibilities are there?
205. In your State, are there possibilities at the level of enforcement proceedings for finding out about the current residence of the debtor other than the ones mentioned in section 1.2 of the questionnaire? If so, which possibilities are there?

b) Annexes (Extracts from decisions)

206. In your opinion, are the forms set out in Annexes I-IV easy to find? If not, can you name the difficulties that you have experienced?
207. Are the forms set out in Annexes I-IV easy to fill in? If not, what difficulties did you experience?
208. How could filling in these forms be simplified?
209. Are the made out Annexes I-IV easy to understand for the enforcement bodies? If not, what difficulties do they face? What are typical follow-up questions?
210. How can the forms set out in Annexes I-IV be made more comprehensible for the enforcement bodies?
211. In your opinion, have the forms set out in Annexes I-IV helped to improve the free movement of maintenance decisions in the EU?
212. Would it be desirable to include further information in the forms set out in Annexes I-IV?
213. If so, what information and why?
214. Did you experience difficulties in obtaining the extracts from decisions according to Annex I-IV from the competent body in the State of origin? If so, which difficulties?
215. Are the competent bodies usually willing to issue the forms set out in Annexes I-IV in the language of the State of enforcement as well (i.e. in two languages)?

216. Do courts and competent bodies in your State make use of the possibility to not ask an extract from a decision to be handed in according to Art. 29 No. 1 of Council Regulation (EC) No. 4/2009, if e.g. the maintenance decision is written in the official language of the State of enforcement, or if there is an official translation available? If they don't, what is the reason?

4. Cooperation of central authorities (Chapter 7 of Council Regulation (EC) No. 4/2009)

a) Support from central authorities

217. Have you already made use of the cooperation of central authorities?

If so,

- what was the type of application?
- what was the requesting authority?
- what was the requested authority?

218. Have you faced particular difficulties regarding the implementation of Chapter VII? (Application processing by central authorities, sharing of information...)

219. Does chapter VII meet its objective of allowing defendants effective access to justice? If any, are there difficulties in the implementation that prevent this, e.g. bureaucratic hurdles, processing times, long communication channels)?

220. From your point of view, do central authorities fulfil their role in trying to reach an amicable settlement in maintenance disputes (e.g. transmission of extrajudicial documents after having found the current residence of a debtor)?

If not, why?

221. In case you have applied for official legal aid before: Did you receive the necessary support and counselling before and during the application period? If not, what did you miss?

222. How was the availability of central authorities?

223. Did the support of central authorities lead to the initiation or to the success of maintenance enforcement proceedings? If not, why?

224. Did the central authorities process your application within the time frame established by law?

In case of substantial delays, please state possible reasons:

225. Did the central authorities take measures to accelerate/support the proceedings throughout the process? If so, which measures were taken?

226. From your point of view, do central authorities follow up on proceedings autonomously, e.g. do central authorities answer requests from abroad or does the applicant answer those requests?
227. What are the languages spoken in the central authority of your State? Are all notes/statements sent abroad be translated? How does this increase the financial burden and the length of proceedings?
228. In your State, do you hand in applications directly with the central authority or are there one, or more than one, decentralised bodies serving this purpose?
If yes: Was it easy to find the body that is competent to deal with your case?
Did this body grant you the support you needed?
229. Did you as a public body ever experience being denied the support of a central authority? If so, why?
230. During the course of official legal aid proceedings, has support been offered to defendants from bodies/parties other than central authorities?
If so, did the cost money?
What forms of support do these offers entail? (legal counselling, support in having to deal with emotional consequences of maintenance disputes? Others?)
231. Do you think it is known to defendants and to pertinent counselling agencies that they can apply for official legal aid for the enforcement of maintenance claims within the EU?
232. If not, which measures could help to improve the spreading of information?

b) Working with the forms (Annexes VI and VII)

233. Are the application forms for international administrative assistance easy to find? If not, why are they not easy to find?
234. Are the application forms for international administrative assistance easy to fill in? If not, what could be the difficulties?
235. How could filling in the application forms for international administrative assistance be simplified?
236. Do central authorities or decentralised agencies that fulfil the role of central authorities give practical support to applicants when filling in the application forms for international administrative assistance? If yes, how and to what extent?
237. If not, is it possible in your State to get support elsewhere? If available, does this support cost money?

238. Would it be desirable to include further information in said forms?
If so, what information and why?

E- Unaccompanied children

239. Does your State fulfill its obligations towards The Hague convention of 1996, the CIDE and the CEDH ? If no, indicate why and identify the solutions that could be applied.
240. Could the tools of private international law of the family (Brussels II bis Regulation, The Hague Convention of 1996) constitute, in your opinion, efficient tools to improve unaccompanied minors protection ? Develop.
241. Do you know whether your State has provided a legislation implementing the relevant EU Directives concerning the international protection and the right to family reunification, which also addresses cases involving unaccompanied minors?
242. In your State are there any offices, agencies, organisations or other similar entities (e.g. guardians) specifically tasked with taking care of unaccompanied minors? Please, provide information.
243. In your national legal order are there specific private international law rules concerning unaccompanied minors?

F- International protection (asylum seekers, refugees, stateless persons)

244. Are the access services to laws regarding asylum able to respond to the international civilian aspect raised by these issues? Yes, no ? If so, what is the response given?
245. Are other services identified in case of a reorientation ? Or is only the asylum application subject to a support?
246. Do the migrants have access to an interpreter during all their actions related to their private and family life?

247. To you, do the tools of private international law sufficiently take into account the situations of refugees, stateless person or asylum seekers?

- Regarding jurisdictional competence
- Conflict rules
- Civil status

248. How is the notion of habitual residence of displaced persons perceived in your State ?

249. What response do you give regarding the international displacements of children in context of asylum ? What improvement could be suggested ?

G- Amicable Dispute Resolution (ADR): Family Mediation, Arbitration & Conciliation

1) Cross-border family mediation:

250. Do you have cross-border family mediation in your State? Or, do you have a list of certified cross-border family mediators?

251. Where will you send / refer families facing cross-border situations (for instance domestic mediation services, International Social Service, Embassies / Consulates, Specialized structures, Ministry of Justice)?

252. Do you know if mediators involve children in cross-border family mediations?

253. Does cross-border family mediation in your State is free of charge or covered by legal aid?

254. Do you know any regional or global networks of professionals dealing with cross-border family conflict (*e.g. networks of judges, specialized lawyers and mediators, experts*) (If yes, please provide names)

255. How do you access information, evidence and data related to cross-border family mediation, ADR, and to cross-border family conflict in general?

256. Do you know the following websites dedicated to INTERNATIONAL FAMILY MEDIATION?

- www.ifm-mfi.org
- www.crossbordermediator.eu
- www.mikk-ev.de
- www.reunite.org
- www.kinderontvoering.org
- <http://sustraccioninternacionaldemenores.blogspot.ch/>

2) Scope of cross-border family mediation:

257. Do you know any pilot/experience in your State or abroad, of using cross-border family mediation (or ADR) in cases of (when yes, please provide names):

- Search of origin (domestic or intercountry adoption):
- Search of origin for donor conceived children:
- Family conflicts for young migrants:
- Voluntary return of migrants:
- Family reunion:
- International successions:
- Minors under protection measures (juvenile justice, experimenting domestic violence at home, etc.):

3) Legal aspects of cross-border family mediation:

258. Does your jurisdiction provide for arbitration in cases of parental separation/divorce and disputes over custody and access, and under which circumstances?

- If yes, is it applied in legal proceedings over domestic family disputes?
- If yes, is it applied in legal proceedings over cross-border family disputes?

259. Does your jurisdiction provide for conciliation in cases of parental separation/divorce and disputes over custody and access, and under which circumstances?

- If yes, is it applied in legal proceedings over domestic family disputes?
- If yes, is it applied in legal proceedings over cross-border family disputes?

260. Does your jurisdiction provide for family mediation for cases of cross-border family disputes?

- If yes, for separation/divorce across borders?
- If yes, for cases of international child abduction?

261. Do Central Authorities in your State refer to cross-border family mediation?

- If yes, to which kind of services (*e.g. independent mediators, specialised structures, structures linked to the operation of authorities*)? (Please provide names also.)
- If yes, at what stage of the procedure (*e.g. any stage, before filing for the procedure, at the execution of a return order, after the return of a child*)?

262. Have you heard of any problems regarding the homologation or recognition of mediation agreements (*e.g. from administrative authorities, judges, public desks*) – or, in other words, is cooperation between mediation professionals and authorities fluid?
263. How do legal and administrative authorities deal with non-EU and non-Hague countries in cases of child abduction or access disputes (*e.g. have they installed a central contact point for mediation, do they address specialised structures or specialised lawyers, do they work with International Social Service*)?
264. Do you have a list of lawyers specialised in cross-border family disputes? If no, would you know where to find a list of specialised lawyers?
265. In your jurisdiction, do judges refer families to mediation in cross-border disputes? If yes, at what stage(s) of the procedure (*e.g., when filing a procedure, when the case proves to be lengthy, at the enforcement stage, as a means of abduction prevention, as an accompaniment after the return of the child*)?
266. What are the main challenges you face when dealing with cross-border family mediation?

4) Child's Rights and Child Participation in cross-border family mediation:

267. Do you consider that cross-border family mediation is an appropriate, if not efficient mean to hear children's views?
268. Do you know of any pilot or successful experience in your country, where cross-border family mediation involving children strengthened children's participation rights?
269. Does Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 strengthens children's participation rights in cases of cross-border separation/divorce, child abduction, access and cases of child protection across borders?

270. Do you consider that the “Brussels IIa recast” might increase referrals to mediation in cases of cross-border separation/divorce, child abduction, access and cases of child protection across borders?

271. What difficulties do you encounter in implementing Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters?

272. Can you provide information / describe a certain good practice regarding cross-border family mediation?

H - Circulation of public documents in the European Union

(Issues regarding the regulation (EU) 2016/1161)

1) Exemption from legalization

273. Do you anticipate any practical problems regarding the material scope of the regulation?

274. Do you see any practical difficulty arising from the covered facts (birth, name, marriage, nationality, etc.) ?

275. Do you see any practical difficulty arising from the covered types of public documents (administrative, notarial, judicial acts, etc.)?

2) Certified copies

276. What authorities are empowered by your national law to establish certified copies?

277. Does your country issues certified copies of foreign acts?

278. If so, under which conditions?

279. What use can be made of the certified copies?

3) Translations and multilingual standard forms

280. What are the official languages in your country?

281. What are the languages expressly accepted as not requiring translation (pursuant to article 24, 1, a) of the regulation)?

282. In your country, from whom an official translation can be obtained?
283. Is there a list of persons qualified to carry out certified translations?

4) On multilingual standards forms:

284. Do you anticipate any practical problems regarding the scope of the forms?
285. Do the forms appear easy to fill in?
286. Do the forms seem sufficiently accurate to ensure the receipt of the translated document?

5) Administrative cooperation

287. What are the central authorities chosen by your country for the regulation's implementation?
288. Do you think the IMI (internal market's information system) is an appropriate tool for administrative cooperation in case of doubt on the authenticity of a document?
289. Is it easy to access and register to IMI?
290. Do IMI functionalities, such multilingual system for communication and pre-translated and standard questions and answers, simplify the communications between Member States?
291. Does IMI provide a quick and easy access to the models of documents available in his repository?

6) Information on the content of the regulation

292. Do you think you are fairly informed about the content of the regulation?
293. Would you like to have more information available on the e-justice portal or on the websites of our national authorities?
294. What should this information be about?

7) Other comments

295. Do you have any other comment on the application of the regulation?

8) Questions about domestic law

296. Does your country issue electronic documents?
297. What procedure is applied for issuing and transmitting electronic documents?
298. Does your national law provide an investigation system on the authenticity of legalized or non-legalized documents?
299. Who can ask for an investigation?
300. Who can lead the investigation?
301. What could the investigation be focused on (authenticity, internal probative force, document validity)?
302. In case where legalization is required but is impossible to provide, do the proof of the authenticity of a document can be produced by another way in your country?