



REGERINGSKANSLIET

Memorandum

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**Ministry of Justice
Sweden**

The Permanent Bureau at the Hague
conference on private international law

Division for Procedural Law and Court

Issues

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**The Hague convention of 15 November 1965 on service -
questionnaire**

Please find enclosed our comments and answers to the questionnaire in Preliminary Document No 2 of July 2003.

3 Central authority

3.1 Contact information correct, except for the postal code which is 'SE-103 33 Stockholm'. E-mail: birs@justice.ministry.se

3.2 English

3.3 No. Requests made under the Hague Convention cannot be separated in the statistics from other requests.

4 Case-law and reference works

We have no significant court rulings or bibliographical references to report.

5 Handbook

5. Sweden is in favour of the proposal that all information appearing in the second and third parts of the former Handbook is made available at the Hague Conference's website. It is important that the addresses of the Central Authorities are correct and updated.

5.2 Satisfactory. No suggestions.

5.3 For countries where service gives rise to payment or reimbursement of costs, information on the amount and methods of payment should appear in the Handbook.

5.4 All member states should give information about changes to the Hague Conference in order for immediate updating. A reminder to do so could be sent from the Hague Conference to the Member States once a year.

5.5 The Internet site of the Swedish Central Authority has the address:
www.justitie.regeringen.se/inenglish/issues/centralauthority/index.htm

6 Scope of the Convention

6.1 No

6.2 Some states do not assist with serving in cases which they define as administrative and not included in “civil and commercial matters”.

6.3 No.

6.4 Requests from other Member States of the European Union are made with reference to the European Union Regulation on the service in the Member States of Judicial and Extrajudicial Documents in civil and Commercial Matters.

6.5 No.

7 Forwarding authority

7.1 Courts, Enforcement Agencies and other authorities that serve documents in civil and commercial matters.

7.2 The competence of the requesting authorities should of course be determined by the domestic rules of the Requesting State. But cooperation and discussions between the Central Authorities could always serve as a fruitful way forward instead of refusal of service. We therefore welcome the possibility for the Central Authority of the State addressed ask the Central Authority of the requesting State for explanations regarding the competence of the forwarding authority, not only in exceptional cases, but whenever this might solve a problem.

8 Methods for service used by the Central Authority

8.1 The Central Authority may forward the documents through postal channels or engage the police authorities.

8.2 Any document to be served under the first paragraph of Article 5 must be written in or translated into Swedish. However, documents in Danish or Norwegian are also accepted.

8.3 No.

8.4 No costs.

9 Translation requirement

We agree that it could be a good idea to look at the language capacity of the addressee rather than official languages in a State. If the addressee understands a language other than the official language in the State addressed it should be enough if the document is drafted in the language that the addressee understands. We should avoid situations where a document that the addressee understands must be translated into a language that the addressee doesn't understand. The issue needs to be discussed in depth, especially regarding voluntary acceptance and the right to refuse.

Perhaps it is not necessary to require full translation of the document. Sometimes a translation of a summary could be enough. We are in favour of a flexible rule. Also in this respect should the addressee have the possibility to refuse.

In case of translation, there should be no additional requirement of legalisation.

10 Timing

10.1 Normally service in Sweden is carried out by police authorities within two months. Service by post is effected within less than a month.

10.2 The Ministry of Justice does not have this information.

10.3 The procedure could always be improved. The time for international service could be made shorter. We therefore believe that the introduction of time limits could further speed up the procedure.

11 Alternative transmission channels

11.1 Consular and diplomatic channels are rarely used, but it happens that we receive requests through these channels.

11.2 No

11.3 a) No information

b) No

c) No

d) –

e) No

11.4 No

12 Judicial and extrajudicial documents

The Swedish legislation doesn't make a distinction between judicial documents producing procedural effect and those that do not.

13 Date of service – double date

We would not be in favour of introducing a system with double dates for determining the date of service. The convention should not try to harmonise the domestic rules on service but only facilitate cooperation between courts. The Swedish system has no special provisions to determine, in the event of transmission abroad, the date of service for the applicant. According to the system the date of service is normally the date when the addressee actually receives the documents. And it doesn't matter if service took place in Sweden or abroad.

14 Exequatur

The basic principle is that a foreign judgment is not recognised and cannot be enforced in Sweden. But foreign judgments can be enforced if there is a special provision that prescribes enforceability. We have several such provisions based on international instruments. Most important are the Brussels and Lugano conventions and the Brussels I Regulation. For default judgments incorrect service could under certain circumstances be ground for denial of enforcement according to these provisions.

15 Exclusion of application of the Convention between the parties

There have not been any rulings issued in Sweden about the permissibility for parties to exclude application of the Convention between themselves.

16 Fax and electronic mail

It is very important that we encourage the usage of modern technologies for transmission of requests and documents. We share the views as expressed in the provisional version of the new handbook that a transmission of documents by electronic means would improve the usefulness and effectiveness of the Convention.

Our domestic law has no special provisions that accept service by fax or e-mail, but we are currently looking into this matter. When talking about electronic service one needs to look into the issue of safe methods of determining that a document has been received. Should we accept return receipts by e-mail?

The Swedish Central Authority does not today use e-mail or fax for the sending of the certificate of due performance of service.

17 Model forms

17.1 No

17.2 No

17.3 No

17.4 In the case of amendments of the forms we welcome a practical solution that doesn't require a formal revision of the Convention.

17.5 Yes

18 Reservations and reciprocity

We do not oppose direct service through postal or consular channels and we do not assert reciprocity against states that have so. In other words, we accept direct service from opposing states too.

19 Article 25: Bilateral and multilateral agreements

19.1

Convention between Sweden and the United Kingdom regarding Legal Proceedings in Civil and Commercial Matters, London 28 August 1930

Hague Convention of 1 March 1954 relating to Civil Procedure

Vienna Convention of 24 April 1963 on Consular Relations

Agreement 1974 between Sweden, Denmark, Finland, Iceland and Norway on Mutual Assistance in Matters concerning Service of Documents and Taking of Evidence

Agreement between the Kingdom of Sweden and the Republic of Austria on the Simplified Procedure concerning International Legal Assistance according to the Hague convention of 1 March 1954

Council regulation (EC) No 1348/2000 of 29 May 2000 on the Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters

19.3 The relationship between the two instruments is managed well with a few exceptions.