

International Recovery of Child Maintenance

Administrative co-operation in incoming child maintenance cases

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1. Introduction

On 23 November 2007, the Hague Conference opened two new instruments for ratification: the Convention on the International Recovery of Child Support and other forms of Family Maintenance (hereinafter the '2007 Hague Maintenance Convention') and the Protocol on the Law Applicable to Maintenance Obligations (hereinafter the '2007 Hague Maintenance Protocol'). Almost exactly one year later, on 18 December 2008, the European Union finalised the long-awaited Maintenance Regulation.¹ Together these new instruments cover all private international law aspects of child maintenance claims, namely jurisdiction, applicable law, as well as recognition and enforcement of decisions. Furthermore, two of these instruments, the 2007 Hague Maintenance Convention and the European Maintenance Regulation, include provisions dealing with the administrative co-operation between Contracting or Member States. It is this particular aspect of these instruments that will form the focus of this contribution.

The system of administrative co-operation proposed involves the creation of a network of so-called Central Authorities. These will replace the current system of transmitting and receiving agencies, as established by the 1956 New York Convention. However, the question arises whether this network will be sufficient to tackle the inadequacies of the current recovery system. Nonetheless, before one can even begin to determine whether or not any future instrument will be successful at alleviating the problems of today, one must first have a sound understanding of the current recovery system and the problems faced by the current competent authorities. This contribution provides a glimpse into this world, by presenting a comparative overview of the current child maintenance recovery systems from three European jurisdictions.

This contribution is divided into three main sections. After a brief explanation of the current legislative basis for administrative co-operation, the first section will describe

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¹ Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

the administrative procedures currently operational in three European jurisdictions (Section II). The second section will compare this information, and thus bring forth the similarities and differences in terms of organisational structure, the methods utilised for locating the maintenance debtor, as well as the recognition and enforcement procedures exploited (Section III). The third and final section will be devoted to a critical analysis, especially in light of the new obligations that will be imposed upon them by virtue of the European Maintenance Regulation and the Hague Maintenance Convention (Section IV).

2. Current administrative co-operation

Currently administrative co-operation is regulated by the 1956 New York Convention (hereinafter the '1956 Convention'). 64 States are at present party to this global instrument.² Although work had originally been undertaken by UNIDROIT, the Convention was eventually drafted by the United Nations Economic and Social Council and signed on 20 June 1956. Unlike other instruments in the field of child maintenance,³ the 1956 Convention does not contain any substantive rules relating to the recognition and enforcement of maintenance determinations. Instead, the Convention establishes a global network of agencies aimed at regulating the administrative aspects of the recovery of transnational maintenance obligations.

The system established by the 1956 Convention is, at first glance, relatively straightforward. Each States Party must designate a body (or bodies) to act as a transmitting and/or receiving agency (in practice these are often referred to as the 'contacts'). A maintenance creditor in a contracting state is, therefore, able to contact the transmitting agency in the state of his or her residence.⁴ The transmitting agency must then

2 Algeria, Argentina, Australia, Austria, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Burkina Faso, Cape Verde Islands, Central African Republic, Chile, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Haiti, Holy See, Hungary, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Liberia, Luxembourg, Mexico, Moldova, Monaco, Montenegro, Morocco, The Netherlands, New Zealand, Niger, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, FYR Macedonia, Tunisia, Turkey, Ukraine, United Kingdom and Uruguay. Furthermore, the following States have signed the Convention, yet not subsequently ratified it: Bolivia, Cambodia, China, Cuba, Dominican Republic and El Salvador. For up-to-date information regarding ratifications visit: <http://untreaty.un.org/English/access.asp>. It is, therefore, worth noting that Bulgaria, Latvia, Lithuania and Malta are the only EU Member states currently not participating in the 1956 Convention.

3 For an overview of the relevant instruments in this field, see I. Curry-Sumner, 'International Recovery of Child Support: Are Central Authorities the way forward?', Conference Proceedings 13th ISFL Conference, Vienna, September 2008.

4 Article 2(1), 1956 New York Convention.

communicate this claim to the receiving agency in the contracting state who has jurisdiction over the maintenance debtor, normally the contact in the jurisdiction where the debtor is residing.⁵ The receiving agency is then obliged to 'take all appropriate steps for the recovery of maintenance, including the settlement of the claim, and, where necessary, the institution and prosecution of an action for maintenance and the execution of any order or other judicial act for the payment of maintenance'.⁶

On the surface, it would appear that this Convention bestows Contracting States with a smooth-running, well-oiled machine. Yet, upon closer inspection, it would appear that a large number of States Parties do not even fulfil their basic obligations under the Convention, leading to severe operational problems.⁷ However, due to the nature of the Convention (i.e. its rather technical and organisational structure), it is generally only referred to in passing in case law.⁸ The oft-heard complaint concerning the operational problems was the main reason for the Hague Conference to undertake steps to modernise the legislation in this field.⁹ The effective functioning of the administrative co-operation established by the 1956 New York Convention is reliant upon the efficient operation of the legal procedures according to Article 6 of the Convention. However, the various national acts implementing this convention display enormous differences, leading to a vast array of diverse procedures.¹⁰

Although these differences are less pronounced when one restricts one's investigation to Europe, the differences remain nonetheless evident. The following section examines how incoming cases are dealt with in three European jurisdictions, namely Denmark, England & Wales and The Netherlands. Incoming cases refers to those

- 5 Article 2(2), 1956 New York Convention. However, the 1956 Convention also applies, for example, if the debtor has property or assets in a jurisdiction in which the competent authorities are competent to hear the case due to the property being located in that jurisdiction (on the basis of a *forum sitae* principle).
- 6 Article 6(1), 1956 New York Convention.
- 7 W. Duncan, 'The Development of the New Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance', *Family Law Quarterly*, 38/2004, p. 663-687, at p. 666.
- 8 D. Katanou, 'Übereinkommen über die Geltendmachung von Unterhaltsansprüchen im Ausland – New Yorker-Unterhaltsübereinkommen', *Familie, Partnerschaft, Recht*, 6/2006, p. 255-258, at p. 256. For example, OLG Schleswig, 14th May 1975, *Die deutsche Rechtsprechung*, 1977, No. 140.
- 9 D. van Iterson, 'Het functioneren van de Alimentatieverdragen', *Tijdschrift voor Familie- en Jeugdrecht*, 6/1999, p. 127-130, at p. 127.
- 10 Further operational problems in relation to the 1956 New York Convention arise in relation to the substantive scope of the Convention. Different States Parties have interpreted the Convention differently with regards the applicability of the Convention to legal aid cases: D. van Iterson, *ibid*, at p. 128.

cases in which the creditor lives outside of the jurisdiction being requested. Imagine the following situation:

Hans and Gretel are married and have two children. Like an ever-increasing number of relationships, their marriage breaks down, Gretel files for divorce, which is granted and Hans is ordered to pay child maintenance. Hans subsequently emigrates to England and the children stop receiving their maintenance payments. Gretel (the maintenance creditor) seeks help on behalf of her children from a local lawyer to force Hans (maintenance debtor) to pay. The lawyer refers Gretel to the National Office for the Enforcement of Maintenance, or in Dutch the *Landelijk Bureau Inning Onderhoudsbijdragen*, or the LBIO. The LBIO would then contact the relevant authority abroad, namely the *Reciprocal Enforcement of Maintenance Orders Office* or REMO.

For the LBIO this case would be regarded as an 'outgoing case', because the application needs to be sent abroad, whereas for REMO in England this would be regarded as an 'incoming case', because the application is being received from abroad. This contribution will only focus on the perspective of a case entering the domestic, legal system from abroad.

These three countries have been selected for numerous reasons. As well as representing three different legal families,¹¹ these jurisdictions illustrate the current diversity across Europe with regards both national and international child maintenance systems (in relation to both determination, as well as recovery level). These three systems operate diverse national enforcement mechanisms and have all utilised different implementation techniques to fulfil their international obligations.

2.1 Denmark

2.1.1 Organisational Structure

Denmark signed the 1956 Convention on 28 December 1956 and it came into force on 22 June 1959. Until recently, the Ministry of Foreign Affairs had performed the convention obligations incumbent upon Denmark. However, as of 1 January 2005, the Department of Family Affairs (*Familiestyrelsen*),¹² which falls within the ambit of the Ministry of Justice (*Justitsministeriet*), is now performing these duties.¹³ Although the Department of Family Affairs currently operates as both transmitting and receiving agency under the 1956 Convention, this Department does not actually deal with cases themselves, and instead serves as an intermediary between the foreign authority

¹¹ K. Zweigert and H. Kötz, *An introduction to comparative law*, Oxford, 3rd Edition, p. 72.

¹² §3 *Bekendtgørelse om opkrævning af underholdsbidrag* (Regulation on the collection on maintenance).

¹³ See the website of the Department of Family Affairs, www.familiestyrelsen.dk/5.

and the case-management centre in Denmark. Nonetheless, according to the 1956 Convention all cases from outside of Denmark should be sent directly to the Danish receiving authority, i.e. the Department of Family Affairs. Once a case is received by the Department of Family Affairs, the case is subsequently transmitted, after a summary inspection of the documents, to the Regional State Administration for Southern Denmark in Åbenrå (*Statsforvaltninger Syddanmark*).¹⁴ Despite the fact that there are five regional state administration offices in Denmark,¹⁵ only the State Administration in Åbenrå is responsible for international maintenance claims.

Some foreign transmitting authorities have now become aware of the internal administrative transmission procedure and are instead conveying cases directly to *Statsforvaltninger Syddanmark*.¹⁶ As a result, two routes have been created: one operating along the lines of the 1956 Convention (i.e. incoming cases being transmitted to *Familiestyrelsen*, with subsequent transmittal to *Statsforvaltninger Syddanmark*), and one operating on the basis of day-to-day practice (i.e. incoming cases going directly to *Statsforvaltninger Syddanmark*). As a result, a certain degree of uncertainty has now arisen with respect to incoming cases. It would appear that some foreign transmitting authorities are unclear as to exact structure of the Danish system, and as a result cases have been sent to other Regional State Administration offices across the country. Of a random sample of 50 incoming cases currently being dealt with *Statsforvaltninger Syddanmark*,¹⁷ five had originally been sent to authorities other than the official transmitting authority (namely *Familiestyrelsen*) or the authority that actually deals with the recognition of international maintenance decision (namely *Statsforvaltninger Syddanmark*).¹⁸ Obviously, if a case is sent to an incorrect address it can take many months before the case eventually reaches the correct caseworker. As an example, in one particular case, a foreign transmitting authority had sent a case directly to a local enforcement agency. This agency sent the case to the regional enforcement agency, which sent the case to the Regional State Administration in its area, which finally sent the case to *Familiestyrelsen*. *Familiestyrelsen* acknowledged receipt of the case and sent the case on to the *Statsforvaltninger Syddanmark*. In total, more than eight months had passed since the case had been initially received.

14 §10 *Bekendtgørelse om opkrævning af underholdsbidrag* (Regulation on the collection on maintenance).

15 Alongside *Statsforvaltningen Syddanmark* (in Åbenrå), *Statsforvaltningen Nordjylland* (in Ålborg), *Statsforvaltningen Midtjylland* (in Ringkøbing), *Statsforvaltningen Hovedstaden* (in Copenhagen) and *Statsforvaltningen Sjælland* (in Nykøbing).

16 Information obtained during participatory observations, *Familiestyrelsen*, 2nd-6th February 2009.

17 These cases were selected at random from the three offices in which cases are currently being held.

18 Information obtained during participatory observations, *Statsforvaltninger Syddanmark*, 2nd-6th February 2009.

Once a case has reached the *Statsforvaltninger Syddanmark*, the administrative staff must determine whether the foreign decision is entitled to be recognised and enforced. According to figures from Åbenrå a total of 220 cases have been received by the *Statsforvaltninger Syddanmark* since 1 January 2007. These cases can be divided into the following categories:

Table 1: Caseload, *Statsforvaltninger Syddanmark, Denmark*¹⁹

Total	Recognised	Recognition Refused	Closed	Withdrawn	Open
220	58 (26%)	2 (1%)	12 (6%)	36 (16%)	112 (51%)

This table illustrates that although *Statsforvaltninger Syddanmark* is currently experiencing a backlog of cases, the majority of cases that have been dealt with are indeed recognised (58 of the 108 cases dealt with).²⁰ Nonetheless these figures also show that a not insignificant number of cases are 'closed'. A case will only be closed when certain information is missing from the case-file **and** despite numerous requests the information is not forthcoming from the foreign authority. Of the cases that have been dealt with, this accounts for nearly 11% of all cases (12 of the 108 cases dealt with). These figures illustrate that the administrative system *itself* is sometimes part of the problem surrounding the non-recovery of maintenance monies.

Three members of staff in Åbenrå are responsible for (i) the determination of the exact whereabouts of the debtor, (ii) the initial contact with the debtor, (iii) the recognition of the foreign maintenance decision and (iv) in the case of non-payment, the transmission of the case to the Central Tax Authority in Tønder (*Skattecenter Tønder*) for enforcement. Cases are divided upon arrival on a 40:40:20 basis between the three employees. These employees are, however, also responsible for a host of other tasks including divorce petitions, paternity claims, access arrangements and spousal maintenance. In all these areas, specific time limits are imposed on caseworkers for acknowledging receipt of the case, as well as holding a meeting with the relevant parties. In turn, government funding is dependent on attaining these targets. With respect to international child maintenance cases, no targets are set and no time limits

19 Information obtained during participatory observations, *Statsforvaltninger Syddanmark*, 2nd-6th February 2009.

20 Unfortunately, no statistics are unavailable on the number of cases that received directly from foreign authorities and the number of cases received via *Familiestyrelsen*.

are imposed. Furthermore, funding is dependent upon the number of incoming cases, which is obviously entirely outside the control of the staff in Åbenrå.²¹

Alongside this mechanism, Denmark also operates a separate system for incoming cases based on the 1962 Convention between Sweden, Denmark, Finland, Iceland and Norway on the recovery of maintenance (hereinafter 1962 Nordic Convention). This Convention ensures that 'final and non-appealable judgments, decisions of an administrative agency or undertaking' are automatically recognised²² and directly enforceable in all Contracting States without the need for a separate exequatur procedure.²³ As a result incoming maintenance cases from other Nordic countries are sent directly to the Central Tax Authority in Tønder (*Skattecenter Tønder*).²⁴ As of the beginning of February 2009, *Skattecenter Tønder* is currently processing 455 open enforcement cases from the four other Nordic States on the basis of the 1962 Nordic Convention.²⁵

2.1.2 Locating the Debtor

Once a case has been submitted to the *Statsforvaltninger Syddanmark*, the debtor's whereabouts must be verified. International child maintenance employees at *Statsforvaltninger Syddanmark* have direct access to the central Danish population register (*Det Central Person Register*), ensuring a fast, efficient and effective method for locating a debtor residing or working in Denmark.²⁶ Although the *Statsforvaltninger Syddanmark* is charged for each search, multiple searches can be performed, enabling typing errors and commonly misspelt surnames to be rectified. However, if the debtor does not appear in this database, the case will be returned to the foreign transmitting agency stating that the debtor is not legally resident in Denmark, and that therefore the maintenance claim cannot be processed.

If the debtor does appear in this database, he is sent a letter informing him that a foreign agency has requested assistance in enforcement proceedings concerning child maintenance. The debtor is informed of the legal basis for these enforcement proceedings and provided the opportunity to object with 20 calendar days. The letter is not

21 Information obtained during participatory observations, *Statsforvaltninger Syddanmark*, 2nd-6th February 2009.

22 Article 1(1) 1962 Nordic Convention.

23 Article 1(2) 1962 Nordic Convention.

24 §7 *Bekendtgørelse om opkrævning af underholdsbidrag* (Regulation on the collection on maintenance).

25 Information received from *Skattecenter Tønder* during participatory observation, *Familiestyrelsen*, 2nd-6th February 2009. In comparison, Regional Tax Authority Tønder currently has 712 open outgoing cases.

26 Information obtained during participatory observations, *Statsforvaltninger Syddanmark*, 2nd-6th February 2009.

sent by registered mail and there is no real mechanism for ensuring that the debtor has actually received the letter.²⁷ At present no use is made of the Central Authorities for the service of judicial and extrajudicial documents.²⁸ If no response is received within 20 calendar days, a subsequent letter is sent informing the debtor that the case has been forwarded to the Danish enforcement authorities, namely the Regional Tax Authority in Tønder (*Skattecenter Tønder*).

2.1.3 Recognition and Enforcement Mechanisms

Despite the fact that Denmark applies the rules of the Brussels I Regulation,²⁹ all recognition procedures are conducted on the basis of either the 1958 or 1973 Hague Conventions. The reason for this discrepancy lies in the fact that according to the Agreement between Denmark and the EC,³⁰ the *byret* (district court) is the authority competent to deal with an exequatur hearing according to Article 39 of the Brussels I Regulation.³¹ However, in Denmark district courts are not at all involved in the collection and enforcement of maintenance claims, since this is a purely administrative procedure. Accordingly, Danish authorities prefer to enforce foreign maintenance decisions on the basis of the two Hague Conventions, since these conventions permit administrative procedures and enforcement, as outlined above.

- 27 Obviously, the non-adherence to service requirements is problematic at the international level. By virtue of a declaration dated 20 November 2007, Denmark has informed the Commission that, in accordance with the Agreement confirmed by Council Decision 2006/326 of the 27 April 2006, Denmark will apply the rules of the new Service Regulation [Council Regulation (EC) No. 1393/2007 of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters]. As yet there have been no cases when a maintenance debtor has complained on the basis of having not received a letter of notification and subsequently been confronted with enforcement mechanisms.
- 28 It could be argued that this does not violate the provisions of the Service Regulation. Firstly, the service of these documents can be via means *other* than a Central Authority. Secondly, Article 16 states that for extrajudicial documents the provisions of the Regulation *may* be applied, but do not necessarily have to be applied. If, however, the letter sent to the maintenance debtor is to be regarded as non-extrajudicial (e.g. because it serves as a cover letter to sending a judicial decision), then Article 14 would oblige the Danish authorities to at least send the letter by registered mail, thus resulting in a possible violation of the Service Regulation.
- 29 Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. It must be noted, however, that Brussels I is not *applicable* in Denmark, it is merely *applied* in Denmark.
- 30 Council Decision (EC) No. 2005/790/EC of 20 September 2005 on the signing, on behalf of the Community, of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
- 31 As inserted by Article 2(2)(h), Council Decision 2005/790/EC.

If the debtor has (a) failed to respond to the first informative letter or (b) refused to pay the claim, the case file is sent to the *Skattecenter Tønder*.³² This authority subsequent repeats the steps undertaken in Åbenrå by informing the debtor that the case has been transferred and will now be enforced unless he pays the arrears and the regular maintenance claim. If the debtor still does not respond, the case is sent to the local tax authority for actual enforcement. There are currently 30 regional tax authorities spread across the entire country. These authorities have a wide range of enforcement techniques at their disposal, although wage withholding is the most preferred.

If the case is received from a jurisdiction that has signed the 1956 New York Convention, but with which no Enforcement Convention with Denmark exists, the Danish authorities will regard this as a request for legal assistance to determine the level of child maintenance. Accordingly, the amount of maintenance owed will be determined by the Regional State Administration (*Statsforvaltninger*) competent for the debtor's municipality.

With regards Danish decisions, all the relevant authorities agree that the case will simply be transferred to the municipality where the debtor currently resides and the case will be regarded as though the case had originated in Denmark.³³

³² §11 stk 2 *Bekendtgørelse om opkrævning af underholdsbidrag* (Regulation on the collection of maintenance) states that if the payment is not received the claim must be sent to the enforcement authorities (*restanceindrivelsesmyndigheden*).

³³ Information obtained during participatory observations, *Familiestyrelsen and Statsforvaltninger Syddanmark*, 2nd-6th February 2009

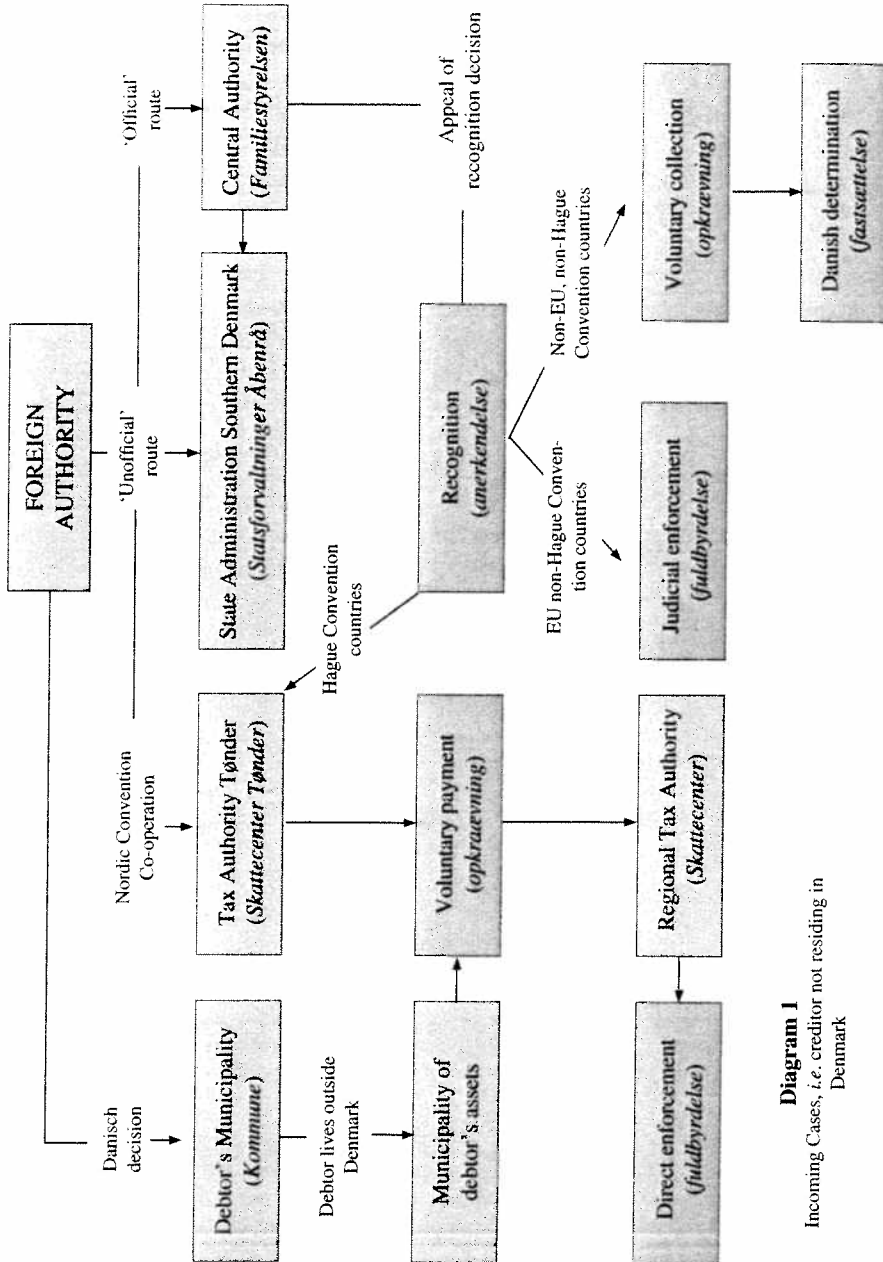


Diagram 1
Incoming Cases, i.e. creditor not residing in Denmark

2.2 England & Wales

2.2.1 Organisational Structure

The United Kingdom acceded to the New York Convention on 13 March 1975.³⁴ Although, according to the Maintenance Orders (Reciprocal Enforcement) Act 1972 (the implementational legislation for the 1956 New York Convention), the Secretary of State is designated as the receiving agency for claims originating outside of England,³⁵ the Reciprocal Enforcement of Maintenance Orders Office (REMO) is the actual receiving agency. REMO is a unit of the International Litigation Section within the Litigation Services Department of the Office of Court Funds, Official Solicitor and Public Trustee.³⁶ This Office is, in turn, an associated and independent office of the newly formed Ministry of Justice. As such and in this way, REMO operates under the delegated authority of the British Secretary of State for Justice.

The International Litigation Section of the Litigation Services Department is only one of five sections.³⁷ Furthermore, alongside the REMO unit, the International Litigation Department also functions as the Central Authority for child abduction cases according to the 1980 Hague Abduction Convention (namely ICACU, or the International Child Abduction and Contact Unit). At this juncture, it is important to note that Scotland and Northern Ireland have different agencies operating in international child maintenance cases. Cases falling within the Scottish jurisdiction are sent to the EU and International Law Branch of the Scottish Executive, whilst cases for Northern Ireland are sent to the Northern Irish Court Services Office. The employees in the REMO unit are not legally trained and are the paid at the lowest tier of the salary scale for all employees in the Litigation Services Department. Over the last three years, the REMO office has dealt with a steadily increasing number of cases, as can be seen from the table below.

34 The relevant structural implementational legislation was laid down beforehand in Part II, Maintenance Orders (Reciprocal Enforcement) Act 1972. This accession affected England & Wales, Scotland and Northern Ireland and none of the territories for which the United Kingdom is internationally responsible, including the Channel Islands and the Isle of Man.

35 Sec. 27(1), Maintenance Orders (Reciprocal Enforcement) Act 1972.

36 Information on the Official Solicitor's Office can be found at: <http://www.gls.gov.uk/about/departments/offsol.htm>.

37 The other sections are civil litigation, divorce litigation and two family litigation sections.

Table 2: Caseload, REMO, England & Wales³⁸

Month	2005	2006	2007	2008
January	44	50	47	45
February	50	41	59	68
March	46	61	50	69
April	39	64	66	79
May	47	60	65	54
June	50	54	48	53
July	54	60	64	88
August	39	64	47	52
September	45	55	44	77
October	50	49	75	85
November	42	49	78	98
December	42	38	61	131
Total	548	645	704	899

When a claim is received by the REMO office, one of the seven employees will first determine to which one of the 363 Magistrates Court spread across the entirety of England & Wales the case will be sent.³⁹ According to section 27(1), Maintenance Orders (Reciprocal Enforcement) Act 1972 the case must be sent to the clerk of the Magistrate's Court in the petty sessions area or district in which the maintenance debtor is residing.⁴⁰ Two steps must, therefore, be undertaken before a dossier can be transmitted to the competent Magistrate's Court. Firstly, the employee at REMO must determine whether the location of the maintenance debtor is already known. If this is known, the case will subsequently be sent to the competent Magistrate's Court based on the postal code of the maintenance debtor's residence. If the address is, however, not known, then this will be the primary task for the REMO employee.

2.2.2 Locating the debtor

There are two possible scenarios in which the whereabouts of the debtor may be unknown: (a) the situation in which no indication has been provided by the foreign authorities and (b) the situation in which the location provided by the foreign author-

38 Information obtained during participatory observations, REMO Unit, 8th-10th February 2009.

39 For an up-to-date list, see http://www.netlawman.co.uk/nlm/court_list_magistrates.php.

40 Petty sessions is an old term for the lowest tier of the judicial system. The petty sessions courts have now been replaced by the Magistrate's Courts, although the term petty sessions is often still used in legislation.

ities has proven to be incorrect.⁴¹ In the first scenario, REMO has the primary task to ascertain the debtor's whereabouts. REMO itself, however, has no direct access to the relatively widely dispersed databases in England & Wales as regards personal data. As a result, REMO must send a letter requesting that a search be conducted of various Government-maintained databases. Such letters are sent to the Department of Work and Pensions (commonly known as the DWP), the UK Border Agency (previously the Immigration Agency) and the UK Identity and Passport Service (previously the Passport Agency). The DWP maintains a database with records of all those with UK national insurance numbers, as well as all those who are claiming social security benefits or pensions in the UK.⁴² As a result, anyone living and working legally in the UK should be registered with this Department and thus would appear in such a search. The latter two authorities have access to details concerning persons entering and leaving the country. As a result, those who have moved to the UK without employment may return matches on the latter two databases prior to a match on the former. In practice, responses are, however, only received by the DWP. No access is available into the Municipal Electoral Registers, HM Revenue & Customs registers or police records.⁴³ Furthermore, although the Land Registry records are open and publicly accessible files, REMO employees do not undertake a search of this register.⁴⁴

In the second scenario, when an address provided by a foreign authority proves to be incorrect, the situation is somewhat less clear-cut. The Magistrate's Court is under no obligation to undertake a search of the maintenance debtor's address. This is the primary responsibility of REMO. However, in practice, if the case involves a country with which an enforcement Convention is operational, the Magistrate's Court will normally undertake steps to try to ascertain the whereabouts of the debtor. For example, the Central Accounting Office in London, which operates as the competent

⁴¹ This normally occurs once the Magistrate's Court has attempted to serve the respondent and ultimately been unable due to the fact that (a) the respondent does not live at the address provided, (b) the address does not exist or (c) the respondent cannot be found at the address provided, despite the fact that there is a strong possibility that he does in fact live at that address.

⁴² The DWP collects data with regards all working age benefits (incapacity benefit, jobseeker's allowance, income support, housing benefit, council tax benefit, widow's benefit and bereavement benefit) pension benefits (state pension and pension credit) as well as disabled and carer's benefits (disability living allowance, attendance allowance, carer's allowance and industrial injuries disablement benefit). The Department furthermore issues all National Insurance Numbers to both British and foreign citizen.

⁴³ Especially with regard to the HM Revenue & Customs is it interesting to note that no use is made of the database, which contains details with respect to all those paying direct (capital gains tax, corporation tax, income tax, inheritance tax and national insurance contributions) and indirect taxes (excise duties, insurance premium tax, petroleum revenue tax, stamp duty, stamp duty land tax, stamp duty revenue tax and VAT) in the UK. This information may also be collected by the DWP, although this is not entirely clear whether the data sets are duplicated entirely.

⁴⁴ Information obtained during participatory observations, REMO Unit, 8th-10th February 2009.

enforcing agency for the Greater London area, will attempt to locate the whereabouts of a debtor for whom the address provided was incorrect. The steps undertaken, however, are essentially no different than those undertaken by REMO.

2.2.3 Recognition and Enforcement Procedure

The first question that must be asked by the recipient Magistrate's Court is whether the foreign decision can be recognised and enforced. If no enforcement agreement exists between the United Kingdom and the country of origin, the English courts will regard the case as a request for determination of child maintenance.⁴⁵ In this case the Family Proceedings Court will hear the case,⁴⁶ and determine the amount of child maintenance owed, as if the application had been made under Schedule 1, Children Act 1989 (i.e. the case will be heard as though it had been an English application). This procedure is, however, limited to those cases in which the request has been received from a country that is party to the 1956 New York Convention **and** with which no recognition or enforcement Convention exists with the UK.⁴⁷

If, however, an enforcement agreement does exist between the United Kingdom and the jurisdiction from which the case emanates, the case will be transferred to the ordinary jurisdiction of the Magistrate's Court (i.e. a Magistrate's Court not sitting as a family proceedings court).⁴⁸ Depending upon the instrument or agreement that is used for recognition and enforcement the exact mechanism and procedure will be different. In London, all these cases are dealt with by the Central Accounting Office (which although housed in a separate building, is regarded as an integral part of the Magistrates Court for London).

Three main categories of countries can, therefore, be distinguished based on the agreements that have been made between the United Kingdom and foreign jurisdictions.

⁴⁵ Section 27A, Maintenance Orders (Reciprocal Enforcement) Act 1972.

⁴⁶ This is obviously different than a national case in which the Child Support Agency (or now the Child Maintenance Enforcement Commission) or the court has jurisdiction to determine the amount of maintenance due. The Child Support is competent according to the Child Support Act 1991, as amended by the Child Support Act 1995, Social Security Act 1998 and the Child Support, Other Payments Act 2008. The courts have jurisdiction in limited circumstances as regulated by the Children Act 1989, the Matrimonial Causes Act 1973 and the Domestic Proceedings and Matrimonial Causes Act 1978.

⁴⁷ If the sending authority is from a country neither party to the 1956 New York Convention nor with which an enforcement agreement has been made, the case cannot be dealt with at all.

⁴⁸ This section assumes that the order made is not provisional, otherwise section 7, Maintenance Orders (Reciprocal Enforcement) Act 1972 is applicable and the case will be sent first to the Family Proceedings Court prior to being sent to the equivalent of the Central Accounting Office. This is also necessary to note with regards the distinction between the procedure according to Part I, Maintenance Orders (Reciprocal Enforcement) Act 1972, and the modified procedure according to the 1993 Order (*supra*).

- a. **Reciprocating countries:** These countries are Commonwealth countries and maintenance orders will be recognised on the basis of section 6, Part I, Maintenance Orders (Reciprocal Enforcement) Act 1972⁴⁹ or section 1(2), Maintenance Orders (Facilities for Enforcement) Act 1920.⁵⁰
- b. **Hague Convention countries:** These countries have all signed and ratified either the 1958 and/or the 1973 Hague Convention and maintenance orders will be recognised on the basis of Part I, Maintenance Order (Reciprocal Enforcement) Act 1972, as modified by the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993.⁵¹
- c. **United States of America:** Although a bilateral agreement exists between the USA and the UK, the procedure for the recognition and enforcement of decision operates along the same lines as cases listed under (a), falling within the section 6, Part I Maintenance Orders (Reciprocal Enforcement) Act 1972.

It must, however, be noted that all communication continues to pass through the REMO office. Consequently, the foreign transmitting authority will often have absolutely no contact with the competent Magistrate's Court, but only with REMO. In some cases this can create a long paper trail.⁵²

A most intriguing situation occurs when REMO receives an English decision from abroad. REMO operates under the condition that it can handle 'foreign decisions'. Despite the fact that the maintenance creditor lives abroad, the case will not be dealt with by REMO. Instead the foreign authority will themselves have to determine to which Magistrate's Court the case-file should be sent.

⁴⁹ Anguilla, Bahamas, Bermuda, Brunei, Canada (all except Prince Edward Island and Yukon Territory), Falkland Islands, Fiji, Ghana, Gibraltar, Hong Kong, India, Ireland, Isle of Man, Kenya, Nauru, New Zealand, Norfolk Island, Papua New Guinea, South Africa, St. Helena, Singapore, Turks & Caicos Islands, Tanzania (except Zanzibar) and Zimbabwe.

⁵⁰ Antigua, Bahamas, Belize, Botswana, British Solomon Islands, Canada (Prince Edward Island and the Yukon Territory), Cayman Islands, Christmas Island, Cocos Islands, Dominica, Gambia, Gilbert & Ellis Islands, Grenada, Guernsey, Guyana, Jamaica, Jersey, Lesotho, Malawi, Malaysia, Mauritius, Montserrat, Nigeria, Seychelles, Sierra Leone, St. Christopher and Nevis, St. Lucia, St. Vincent, Swaziland, Trinidad and Tobago, Uganda, Virgin Islands, Zambia and Zanzibar.

⁵¹ Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993, S.I. 1993/1593. This applies to Australia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland and Turkey.

⁵² Information obtained during participatory observations, REMO Unit, 8th-10th February 2009. In one such case a letter sent from a Magistrate's Court to REMO, was subsequently sent on to the relevant competent authority abroad. This authority then confirmed receipt of the letter and acknowledged that they would send on the letter to the maintenance creditor. Therefore as a result of one communicative act, four letters are generated.

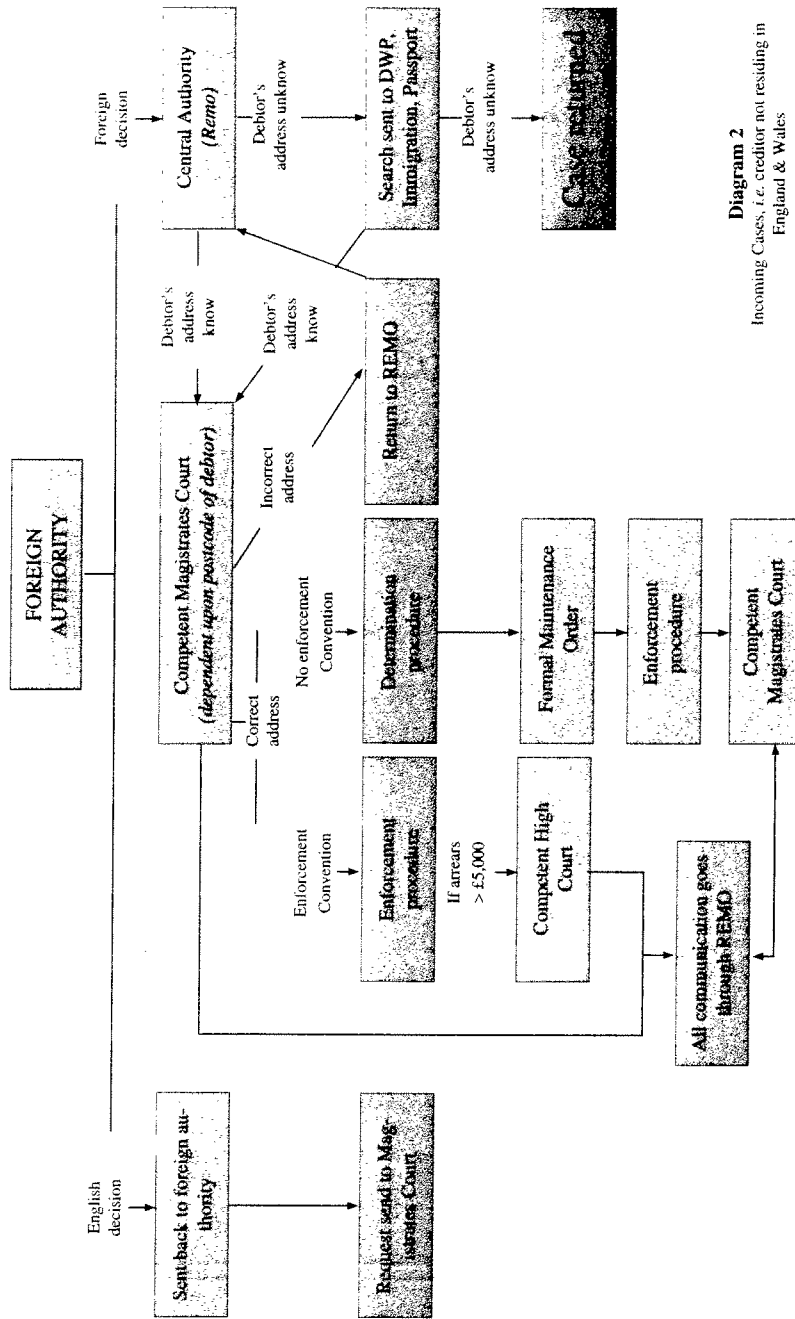


Diagram 2
Incoming Cases, i.e. creditor not residing in England & Wales

2.3 The Netherlands

2.3.1 Organisational Structure

The Netherlands signed the 1956 New York Convention on 20 June 1956 and ratified the Convention on 31 July 1962. The National Office for the Recovery of Maintenance (*Landelijk Bureau Inning Onderhoudsgelden*, abbreviated to LBIO) has been responsible for both incoming and outgoing maintenance cases since 1995.⁵³ The LBIO itself is an independent, public organ operating under the supervision of the Minister of Justice and the Minister of Health, Welfare and Sport. As regards child maintenance cases, the agency itself is a one-stop shop; a maintenance creditor can contact the agency directly and the LBIO will undertake all steps from checking the documents received to the receipt, handling and payment of child maintenance monies to the creditor. The same is also true with respect to incoming cases.

The LBIO consists of three main sections: child maintenance (*kinderalimentatie* or KA), the parental contributions to youth care (*ouderbijdragen jeugdzorg* or OB) and international recovery of maintenance (*internationale inning alimentatie* or IIA). The IIA section is by far the smallest of the three sections with only six employees. The total number of cases dealt with by the IIA section is indicated below. These figures do not, however, provide any indication of a convincing upward or downward trend with respect to the number of incoming cases. However, these statistics conceal a certain anomaly since cases that cannot be dealt with by the LBIO due to lack of information with regards the debtor's address are not included in these statistics. With respect to these numbers, it would appear that the trend is generally downwards. It is, however, interesting to note that the financing of the LBIO is determined according to targets set by the Ministry of Justice in relation to the number of set factors that need to be met each per year, including, for example, the number of cases per year in which wage garnishment is utilised.⁵⁴ The financing calculations, however, excludes the number of cases that are returned to foreign authorities due to insufficient details with regards to the debtor's address, despite the work and time conducted on these cases. This is due to the fact that the incoming cases are recorded at the moment the acknowledgement letter is sent to the maintenance debtor, therefore requiring an address.

53 *Wet van 23 maart 1995, houdende regeling van de organisatie belast met de inning van onderhoudsbijdragen voor kinderen en met de vaststelling en inning van ouderbijdragen voor jeugdhulpverlening* (Act of 23 March 1995 regarding the regulation of the organisation charged with the recovery of child maintenance and the determination and collection of parental contributions for youth care services).

54 Information obtained during participatory observations, LBIO, 10th-14th November 2008. Obviously, the number of cases in which wage garnishment is used is dependent upon the number of cases that are received by the LBIO from abroad.

Table 3: Caseload, LBIO, The Netherlands⁵⁵

Year	Total incoming cases	Address not known
2005	106	-
2006	121	37
2007	107	29
2008 (until August)	87	23

2.3.2 Locating the Debtor

If a case arrives in the Netherlands, three possible scenarios must be distinguished: (a) the address of the debtor is provided, (b) no address is provided, but the maintenance creditor knows that the debtor is residing in The Netherlands and (c) it is not known whether the debtor is residing in The Netherlands.

In the first scenario, the case is reviewed and a letter sent to the debtor informing him of the proceedings and that if payment is not received the LBIO will be forced to enforce the decision. In the second scenario, the LBIO employee will request information from a number of sources. The most important source, *de vestigingsregister*,⁵⁶ contains information with respect to all Dutch citizens, all those who by virtue of a statutory provision are to be treated as though they were Dutch and all foreign citizens legally resident in The Netherlands in accordance with Article 8, Aliens Act 2000 (*Vreemdelingenwet 2000*).⁵⁷ Unfortunately, this register has not been operational for more than one and a half years.⁵⁸ Instead, multiple requests need to be issued. If a last known address has been supplied, contact will first be made with this municipality (*gemeente*). In some cases, a forwarding address is known and so a search will be possible. In other cases, a letter will be sent to the foreign department of the Tax Office in Heerlen, requesting that a search be made for the national insurance number (*sofnummer*, recently changed to *BSN* or *burger service nummer*) of the maintenance debtor. The lack of access to the *vestigingsregister* is perhaps the single most important obstacle at this moment to locating a maintenance debtor in The Netherlands.

55 Information obtained during participatory observations, LBIO, 10th-14th November 2008.

56 Article 113, *Wet Gemeentelijke Basisadministratie Persoonsgegevens* (Municipal Personal Records Database Act).

57 Article 26, *Wet Gemeentelijke Basisadministratie Persoonsgegevens* (Municipal Personal Records Database Act).

58 Previously, the LBIO employee could simply request details to be accessed from this register, since this one register contained all personal details with regards Dutch and foreign citizens legally resident (working or unemployed) living in the country.

It is at this moment that the LBIO also assesses whether the documentation is sufficient to proceed with the recognition and enforcement of the decision. This process often involves multiple requests being sent to the foreign contact requesting extra or missing documents, such as a statement of arrears, the relevant indexation rate, the original decision instead of a copy or explanation with regards the grounds for the decision.⁵⁹ Much of the communication at this stage is conducted via e-mail and telephone. All telephone conversations are, however, logged in the central registration system, to ensure that full records are maintained.

In the third and final situation sketched above, the case must be returned to the foreign transmitting authority, since the LBIO requires at least a last known address or some other connecting factor before a search can be conducted.

2.3.3 Recognition and Enforcement Procedure

After the maintenance debtor has received a letter from the LBIO, he is granted four to six weeks to reply.⁶⁰ Along with this first letter, the debtor is sent an extensive explanation of the case, as well as a translation of the 1956 Convention. If he fails to respond within the allocated time period, a second reminder letter is sent. This letter is sent by registered mail and the debtor is provided three weeks to respond. He is furthermore informed that if the debt is not satisfied, judicial steps will be taken to ensure fulfilment of the debt.

It is at this moment that the LBIO employee will determine according to which enforcement instrument enforcement will be sought. Five different instruments are relevant: the 1958 Hague Convention, 1973 Hague Convention, Brussels I Regulation, 1988 Lugano Convention and the European Enforcement Order Regulation. It is interesting to note that sometimes an employee may opt for the 1973 Hague Convention over and above the Brussels I Regulation. By virtue of a peculiarity of Dutch law, the LBIO is permitted to appear before the court in Hague Convention cases since these cases are petition procedures (*verzoekschrift*). Although an application under Brussels I takes place in writing, if the maintenance debtor appeals, the procedure is commenced by means of a summons (*dagvaarding*), in which case the LBIO does not possess standing to appear before the court. This, therefore, increases the costs of the case because a lawyer must be instructed.

At this moment, the LBIO employees will collect information with regards the maintenance debtor's assets and income. Information is collected from a number of dif-

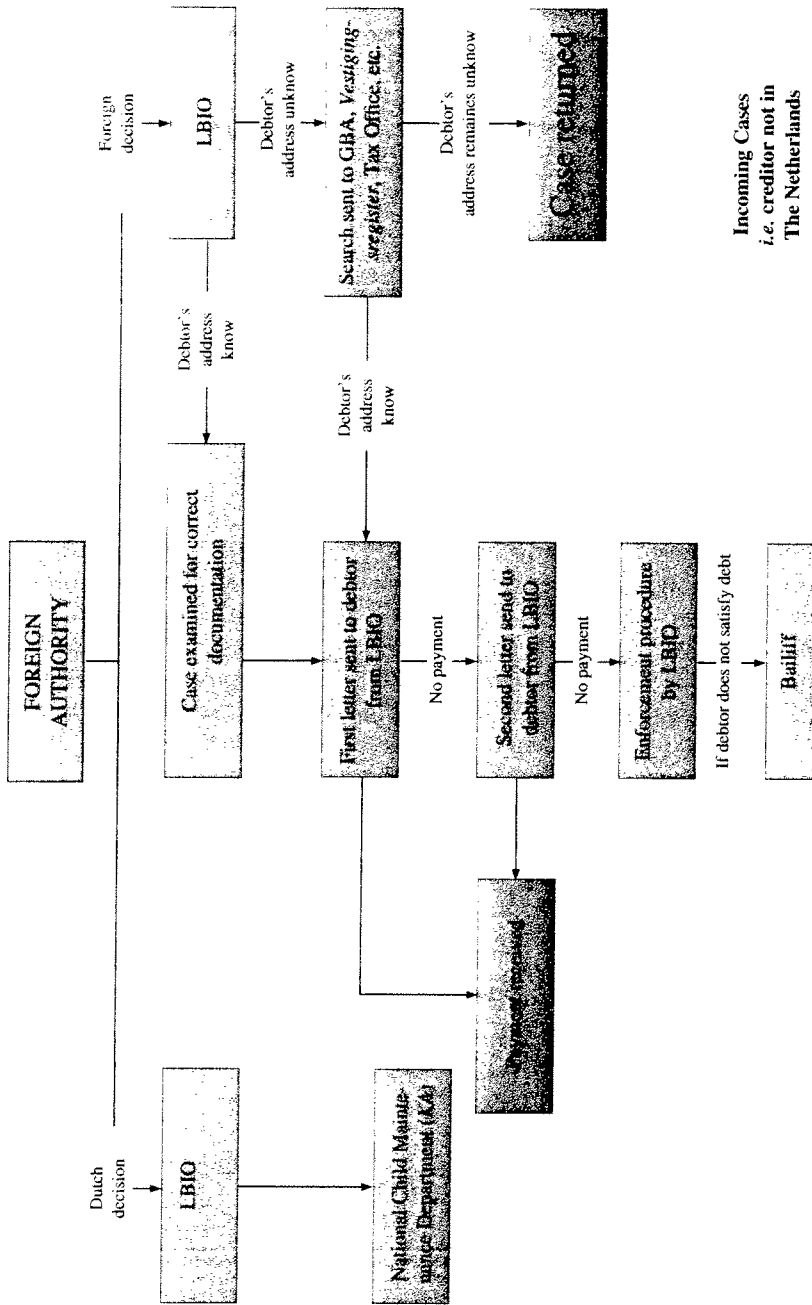
⁵⁹ Information obtained during participatory observations, LBIO, 10th-14th November 2008.

⁶⁰ Information obtained during participatory observations, LBIO, 10th-14th November 2008.

ferent sources depending upon the employment situation of the debtor. If the debtor is salaried a request for information will be sent to the Enforcement Institute for Employee Insurance (*Uitvoeringsinstituut Werknemers Verzekeringen*, or UWV) and if he is receiving benefit to the Municipal Social Service (*Gemeentelijke Sociale Dienst*, or GSD). If the debtor is non-salaried, the LBIO firstly contacts the Chamber of Commerce (*Kamer van Koophandel*) to determine whether property seizure is a possibility. If this is not possible, the LBIO strives to provide the judicial officer (bailiff) with as much information as possible, so as to ensure that the maintenance due is collected in the most efficient and effective manner possible. This is done by contacting various national databases, including the National Service for Road Traffic (*Rijksdienst voor Wegverkeer*), the Tax Authority (*Belastingdienst*), Central Register of Last Wills and Testaments (*Centraal Testamentenregister*), Matrimonial Property Register (*Huwelijks-goederenregister*) and the cadastre (*Kadaster*).

The most common methods for enforcement being wage garnishment (approximately 14% of cases at any given time) and seizure of property (approximately 10% of cases at any given time).⁶¹ Only in approximately 10% of cases at any given time is collection of maintenance regarded as impossible due to the financial situation of the debtor. In 40% of cases at any given time, payment is received without the need to resort to compulsory enforcement techniques. It is, however, unclear whether these cases involve the full payment of all maintenance owed, or include partial payment of the debt.

61 Information obtained during participatory observations, LBIO, 10th-14th November 2008.



Incoming Cases
i.e. creditor not in
The Netherlands

3. Comparative Remarks

3.1 Organisational Structure

Obviously the diversity of the structural systems described above does not permit, in this short space, an in-depth comparison of the organisational entities involved in the collection of maintenance monies. However, a number of individual aspects can be directly compared and hence a number of comparative remarks are possible on the basis of the information provided.

3.1.1 General structural comparison

The three systems compared are illustrative of the spectrum of solutions currently operational in Europe: England, at the one end of the spectrum, The Netherlands, at the other and Denmark somewhere in between. In England, the functions of the transmitting agency have been limited to the absolute bare necessity imposed by the 1956 New York Convention. All letters in and out of the jurisdiction are transmitted through REMO, which acknowledges receipt and subsequently sends on the letter to an entirely decentralised judicial network. This system could be argued to represent the ultimate in the model of a 'postal-box agency'. In The Netherlands, on the other hand, the LBIO not only acknowledges receipt of communication between agencies, creditor and debtor, but also has power to represent the creditor in court. The employees are directly involved in the case management process, and the case is not referred to a separate agency. Furthermore, all payments are handled by and through the LBIO. This system could be argued to represent the ultimate model of a 'case-management agency'. In Denmark, although the Central transmitting agency resembles that of the English model, the subsequent enforcement system has been centralised to a certain degree, unlike England, which operates on the basis of a decentralised enforcement system. Therefore, although there are multiple agencies and institutions involved in the process, there is only ever one agency at a given particular level or stage involved in the process, e.g. only the regional state administration in Åbenrå deals with the recognition of foreign decisions. As such one could argue that this system has created a 'postal-box agency with centralised enforcement'

The three countries studied also illustrate the differences in relation to the placement of child maintenance recovery in the larger national context. In England, the current transmitting authority operates within a unit that also serves as the Central Authority for child abduction cases. The expertise in two quite different areas of law has thus been bundled together owing to the legal basis upon which the obligation has been imposed upon the English Government, i.e. by virtue of international obligations. This is not the case, however, in The Netherlands, where the connection between the recovery of international child maintenance and the collection of child maintenance in purely domestic cases is regarded as the common denominator. In Denmark, the system is characterised by two over-arching themes, firstly decentralisation and sec-

only the similarity with the domestic child maintenance cases. In this latter sense, the Danish situation best resembles that of The Netherlands, with the domestic and international child maintenance cases being dealt with together. In summary, these three different models of current practice illustrate the diversity in interpreting the concept of 'transmitting and receiving agency' according to the 1956 New York Convention. A pertinent question that remains is whether these differences have any impact on the effectiveness of recovery.

3.1.2 Form of communication

In England, all communication with REMO occurs via the post, with every letter received further being confirmed by standard post. In The Netherlands and Denmark, on the other hand, use is already being made of more modern electronic forms of communication. E-mail is often employed to communicate with the creditor and debtor, as well as the foreign transmitting agency. In Denmark, use has even been made of Facebook to trace and contact a debtor.⁶²

3.1.3 Caseload

The statistics available are not only difficult to obtain, but are also notoriously difficult to compare. Although the absolute number of cases has been provided in this contribution, it is obviously not beneficial to simply compare these raw absolute values. The population size of a jurisdiction, the emigration/immigration rate of any given jurisdiction at any given time, the relative wealth of a jurisdiction (perhaps in terms of GDP), the number of child maintenance cases, the presence or not of a system of advance payment and a host of other factors can, and ultimately will, influence the number of incoming child maintenance cases. Furthermore, it is also impossible to conclude on the basis of the figures provided that the same trends are discernible in each of the jurisdictions discussed. In Denmark, the figures have been provided over the course of a two-year period, making it impossible to determine a longitudinal trend. In England, the trend would appear to be upwards, whilst in The Netherlands the trend would appear to be somewhat erratic. It would be helpful for the purposes of comparative studies across authorities if statistics were maintained by the agencies involved that enabled direct comparisons to take place.

⁶² This is perhaps also a sign of the future. The first-ever court decision has already been handed down in the Supreme Court of the Australian Capital Territory that one is able to officially serve court documents via Facebook: http://www.theage.com.au/news/technology/web/australian-court-serves-documents-via-facebook/2008/12/12/1228585107_578.html.

3.1.4 Staff v. workload ratio

Although the total caseload is not directly comparable, it would be possible to determine the staff *v.* case ratio. However, this would in turn provide no real directly comparable information due to the differences in organisational structure of the receiving authorities. A number of other factors would need to be weighed in the balance when comparing these figures. For example, in Denmark, unlike England and The Netherlands the staff working on international child maintenance cases is also responsible for other fields of law. Furthermore, the extent of the responsibility for the case differs enormously, as already indicated above with England functioning more as a postal-box agency and The Netherlands as a case-management agency. As a result, direct comparison is at this stage virtually impossible.

3.2 Locating the debtor

All jurisdictions examined have problems in relations to locating the whereabouts of a debtor for whom no address has been provided. In all three jurisdictions, if the database available turns up empty, the case will be regarded as closed and returned to the foreign sending authority. In Denmark and England a search is also possible without a valid residency, whilst in The Netherlands this has been impossible for the last year and a half. With regards the authority competent to conduct the search, The Netherlands and England are not themselves competent to conduct the search, whereas the Danish authorities have direct access into the population register. Furthermore, differences are obvious with respect to the databases that are used by an individual authority. Denmark would appear to be the only jurisdiction studied which utilises only one source to locate the whereabouts of a debtor. England and The Netherlands on the other hand use a number of different government databases to access the same information. Nonetheless, the approach is somewhat different, with The Netherlands opting for a rather more layered approach to the sending the requests, whereas all requests in England are sent simultaneously.

3.3 Recognition and Enforcement Procedure

It is here where the most similarities are evident. All countries regard a case under the 1956 Convention whereby no enforcement instrument exists between the two jurisdictions as a request for legal assistance, in which case the case is treated as though it were a case for determination of child maintenance.

It is, furthermore, also interesting to note that unlike a pure theoretical approach to the hierarchy between Brussels I and the 1973 Hague Convention, in which there would approach to be mutual derogation thus allowing for the most creditor friendly

instrument to be chosen, the authority in many cases will choose the 1973 Convention over and above the Brussels I Regulation for a variety of reasons.⁶³

Nonetheless, stark differences are also apparent. In The Netherlands all stages of the process are dealt with by the LBIO, ensuring a complete and comprehensive case-management system. In Denmark, the case is transferred to the Regional Tax Authority, which subsequently goes through many of the same steps already undertaken by the Regional State Administration in Åbenrå. In England, the Magistrate's Court will enforce the decision themselves, although all communication will still proceed via the REMO office.

Finally, and perhaps most obviously, differences are also apparent with respect to individual agreements made between jurisdictions which affect the method of recognition and enforcement with respect to certain countries: the 1962 Nordic Convention and reciprocating countries in England under Part I, Matrimonial Orders (Reciprocal Enforcement) Act 1972 and the Maintenance Orders (Facilities for Enforcement) Act 1920.

4. Conclusion

This brief overview of the organisational structure of the current transmitting and receiving agencies under the 1956 New York Convention illustrates the stark differences and limited similarities between the jurisdictions researched. Not only with respect to the organisational structure of the authorities, but also with respect to the internal functioning, the methods used to locate a maintenance debtor and the procedures employed to recognise and enforce a decision are differences evident. Even though similarities are also prevalent, the effect of the differences has caused a number of problems at international level.

In fact, it was from presence of such problems that the new international negotiations in The Hague and Brussels were conceived, ultimately culminating in the birth of three new instruments as already explained in the introduction.

This contribution has shown, however, that if the structures currently employed are simply 'transposed' in the new instruments many of the differences between the operational functionality of these authorities may well remain. Since this was indeed

⁶³ In The Netherlands this is due to the legal standing of the LBIO, in England due to the knowledge of the Brussels I Regulation and in Denmark due to the administrative complications of applying Brussels I.

one of the problems highlighted by the Hague Conference in special commissions, it would seem short-sighted to overlook the practical application of instruments. Obviously, before one can draw proper conclusions with respect to the causal link between the problems encountered and the organisational structures involved, more research will need to be conducted into the effectiveness of these various authorities. However, the differences outlined in this contribution also indicate that one may well have to consider a possible rethinking of the way in which these authorities and systems operate, are organised and are managed. Although many aspects of these systems will change upon implementation (e.g. the introduction of standardised forms should quicken the procedure, as should the abolition of an exequatur procedure in certain cases under the European Maintenance Regulation), if the authorities remain in their present form, the likelihood of achieving the lofty goals of these new instruments may remain small.