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- **Courthouse Branch Locations:**
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Overview

- The LA Law Library was established in 1891
- The current building was opened in 1953
- Largest print collection in a public law library west of the Mississippi River
- Seven floors
- 35 miles of shelving
- 1,000,000 equivalent volumes including print and digital



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Print Collection

- Primary and secondary legal materials for all 50 states, federal and multi-state
Foreign and International materials
- Extensive historical collection including early California and state colonial materials
- California and Ninth Circuit Appellate and Supreme Court briefs



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Electronic Databases

- California State Briefs
- CEB OnLAW
- EBSCO Legal Information Center
- Fastcase
- Foreign Law Guide
- HeinOnline
- Index to Foreign Legal Periodicals
- LLMC - Digital
- LegalTrac
- Lexis
- SmartRules
- Thomson Reuters Westlaw
- Wolters Kluwer – Cheetah
- Xspouse
- LA Law Library Catalog



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What We Do

- Suggest research avenues and sources for research, identify and locate citations
- Explain how to use legal materials
- Explain the law-making process
- Assist in finding forms
- Aid in the use of electronic resources including Westlaw and Lexis (online databases that contain cases, codes, and statutes for all 50 states and secondary materials), CEB OnLAW and HeinOnline
- Teach public classes



Library Services

- Reference Service
 - in library, by phone, email, mail and live chat through 24/7 Reference Cooperative
- Document Delivery Service
- Members Program
 - Open to members of the State Bar of California
- Computer Services
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 - Borrower registration program
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Serving Parties Abroad

Hague Service Convention Procedures

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Disclaimer

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Instructor: Sarah Martin

- Master in Library & Information Science (M.L.I.S.), San Jose State University
- Bachelor of Arts in Applied Linguistics



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Class Overview

- Overview of due process and jurisdiction
- Discussion of Hague Service Convention
- Service in countries not party to Hague Convention
- Procedures for service under Hague Convention



Terms to know

The Hague

- City in the Netherlands
- Fourth UN administrative center
- Home of many international organizations:
 - International Criminal Court
 - International Court of Justice
 - Peace Palace Library
 - Hague Conference on Private International Law; aka, HCCH “**H**ague **C**onference/**C**onférence de La **H**aye”

Convention

- An agreement or compact, esp. one among countries; a multilateral treaty (Black's Law Dictionary (11th ed. 2019))

Letters Rogatory

- Letter of request from a Court to a foreign court (Black's Law Dictionary (11th ed. 2019))
 - Request can be to:
 - Take and return evidence from specific person within foreign jurisdiction
 - Serve process and return proof of service



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CAUTION



Letters of Rogatory

Per U.S. Department of State website:

- “Letters rogatory are a time consuming, cumbersome process and need not be utilized unless there are no other options available. If the laws of the foreign country permit other methods of service, the use of letters rogatory is not recommended given the routine time delays of up to a year or more in execution of the requests.”
 - Link (retrieved 8-17-21):
<https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-assistance/Service-of-Process.html>

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Terms to know

Judicial

- Of, relating to, or by the court or a judge
 - (Black's Law Dictionary (11th ed. 2019))

Judicial document

- “...any document relating to litigation at any level of the Court system...”
 - Practical handbook on the operation of the Service Convention. Netherlands: Hague Conference on Private International Law, Permanent Bureau, (2016). Pg. XXXVII

Extrajudicial

- Outside court; outside the functioning of the court system
 - (Black's Law Dictionary (11th ed. 2019))

Extrajudicial Document

- A document that is not directly related to a trial but that requires the involvement of an authority or judicial officer
 - Practical handbook on the operation of the Service Convention. Netherlands: Hague Conference on Private International Law, Permanent Bureau, (2016). Pg. XXXVI



Terms to know

Service

- The formal delivery of legal process, pleading, or notice
 - (Black's Law Dictionary (11th ed. 2019))

Process

- A summons or writ, esp. to appear or respond in court
 - (Black's Law Dictionary (11th ed. 2019))

Summons

- A notice requiring a person to appear in court
 - (Black's Law Dictionary (11th ed. 2019))

Jurisdiction

- A court's power to decide a case or issue a decree
 - (Black's Law Dictionary (11th ed. 2019))



Introduction



US Constitution guarantees that no one can be “deprived of life, liberty, or property, without due process of law” (US Const, 5th & 14th amendments)

What that means:

- Parties must be notified of a case and the notification must conform to statutory requirements to confer jurisdiction, or all that follows is void ([Honda Motor Co. v. Superior Court \(1992\), 10 Cal. App. 4th 1043](#))



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Service of Process or Papers

Without proper notification, Courts lack jurisdiction

- Without jurisdiction, Courts cannot lawfully act



In California, four situations where Court can exercise jurisdiction (Muckle v. Superior Court (2002) 102 Cal. App. 4th 218):

- Party's domicile is State of California
- Party is physically present in State of California
- Parties consent to jurisdiction (eg; TOS agreements, etc)
- Party meets minimum contacts within State of California

For more information and instructions on proper service, see LALL's class "*Civil Lawsuit Basics: How to File and Respond to a Complaint*"

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What if someone is NOT in Cali?

Service of summons outside of CA but in US may be made by the following methods:

- any method authorized by CA CCP governing service within California (CCP 413.10(a))
- any method allowed in State where the person is served (CCP 413.10(b))
- first-class mail, postage prepaid, requiring a return receipt (CCP 415.40)



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What if someone is NOT in Cali?

If grounds for jurisdiction are met, parties still must be notified of the action, regardless of where they are located.



California law says that “a person” must be served (CCP 413.10):

- (a) Within this state, as provided in this chapter.
- (b) Outside this state but within the United States, as provided in this chapter or as prescribed by the law of the place where the person is served.”

OR...

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What if someone is NOT in Cali?

“(c) Outside the United States, as provided in this chapter or as directed by the court in which the action is pending, or, if the court before or after service finds that the service is reasonably calculated to give actual notice, as prescribed by the law of the place where the person is served or as directed by the foreign authority in response to a letter rogatory. These rules are subject to the provisions of the Convention on the “Service Abroad of Judicial and Extrajudicial Documents” in Civil or Commercial Matters (Hague Service Convention).” (CCP 413.10(c))



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What if someone is NOT in Cali?

For anyone outside of the US...

CCP 413.10(c)

- **Outside the United States,**
 - as provided in **this chapter** (eg, CCP PART 2. TITLE 5. CHAPTER 4)
 - or as **directed by the court** in which the action is pending,
 - or, if the court... finds that the **service is reasonably calculated** to give actual notice,
 - as prescribed by **the law of the place where the person is served**
 - or as **directed by the foreign authority** in response to a letter rogatory.
- These rules are **subject to the provisions of the Convention** on the “Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (**Hague Service Convention**).”

What does this MEAN?!?



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Background

Official Name:

Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (HCCH 1965 Service Convention)

Convention Text:

The text of the Hague Service Convention can be found here:

<https://assets.hcch.net/docs/f4520725-8cbd-4c71-b402-5aae1994d14c.pdf>

Initial Signatories to Convention in 1965

- Finland
- Germany
- Netherlands
- United States of America
- Israel
- United Kingdom of Great Britain and Northern Ireland

Overseen by Hague Conference on Private International Law

Enacting documents, objections, and reservations are maintained by the Hague Conference

- While the Hague Conference facilitates the signing and ratification of the Convention, application of the Convention ultimately determined ***by the Courts of the forum country***



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Background

Current Number of Member Parties

Currently 82 member nations to the Hague Convention on the Service Abroad

- For a current list of parties, visit the following link:
<https://www.hcch.net/en/instruments/conventions/status-table/?cid=17>

Requires Approval


Member nations must assent to the Convention according to their own Constitutional/legal procedures, which then becomes part of the law of that nation.

- Ex.: U.S. executive (President) can agree to treaties, but requires United States Senate concurrence. (U.S. Const., Article II, Section 2, Clause 2).
 - Concurrence to Hague Service Convention by Senate Treaty Document 90-3 (1967).



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Background

<p></p> <p>14. CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS (Concluded 15 November 1978)</p> <p>The States signatory to the present Convention, Desiring to create appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time, Desiring to improve the expeditiousness of judicial and extrajudicial documents for the purpose of simplifying and expediting the procedure, Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:</p> <p>Article 1 The present Convention shall apply in all cases, civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad. The Convention shall not apply where the addressee of the process is to be served with the document is not known.</p> <p>CHAPTER I – JUDICIAL DOCUMENTS</p> <p>Article 2 Each Contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other Contracting States and to proceed in conformity with the provisions of Articles 3 to 6. Each State shall designate the Central Authority to conform with its law.</p> <p>Article 3 The authority or judicial officer competent under the law of the State in which the document originates shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalization or other equivalent formality. The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.</p> <p>Article 4 If the Central Authority of the State to which the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.</p> <p><small>“The Convention includes certain matters, as specified in the articles of the Hague Conference on Private International Law (see below), under ‘Convention’ or under the ‘Service Forum’.” For the full history of the Convention, see <i>Hague Conference on Private International Law, Actes et documents de la dixième session</i> (1984), Tome II, paragr. 201 (a).</small></p>	<p>Article 5 The Central Authority of the State addressed shall send the document or shall arrange to have it served by an appropriate agency, officer – a) by a method prescribed by its law for the service of documents in domestic matters upon persons who are within its territory, or b) by a method prescribed by the applicant, unless such a method is incompatible with the law of the State addressed. Subject to sub-paragraph (b) of the first paragraph of Article 4, the document may always be served by delivery to the addressee who accepts it voluntarily. If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State to which it is addressed. That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.</p> <p>Article 6 The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention. The certificate shall state that the document has been received and shall indicate the method, the date and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the reasons which have prevented service. The applicant may require that a certificate be completed by a Central Authority or by a qualified authority shall be countersigned by one of these authorities. The certificate shall be forwarded directly to the applicant.</p> <p>Article 7 The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate. The corresponding terms shall be completed either in the language of the State addressed or in French or in English.</p> <p>Article 8 Each Contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any convention, treaty or law to its jurisdiction, in conformity with its law. No State may demand that it is required to be a party to any treaty, where the document is to be served upon a national of the State in which the documents originate.</p> <p>Article 9 Each Contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of delivery, to those authorities of another Contracting State which are designated by the latter for that purpose. Each Contracting State may, if exceptional considerations so require, use diplomatic channels for the same purpose.</p> <p>Article 10 Provided the State of destination does not object, the present Convention shall not interfere with – a) the freedom to send judicial documents, by postal channels, directly to persons abroad;</p>	<p>a) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination; b) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.</p> <p>Article 11 The present Convention shall not prevent two or more Contracting States from agreeing, pending the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding Articles and, in particular, direct communication between their respective authorities.</p> <p>Article 12 The service of judicial documents coming from a Contracting State shall not give rise to any payment or reimbursement of costs or costs for the services rendered by the State addressed. The applicant shall pay or reimburse the costs indicated by – a) the employment of a judicial officer or of a person competent under the law of the State of destination; b) the cost of a particular method of service.</p> <p>Article 13 Where a request for service complies with the terms of the present Convention, the State addressed may, when it considers itself unable to effect service, request the applicant to reconsider or modify it. It may request to complete under the present law, under its internal law, or under its internal law, provided that the subject matter of the action or of the internal law would not permit the action upon which the application is based. The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.</p> <p>Article 14 Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.</p> <p>Article 15 Where a set of originals or an equivalent document had to be forwarded abroad for the purpose of the present Convention, the originals and the equivalent shall not be returned to the applicant until it is established that – a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic matters upon persons who are within its territory, or b) the document was actually presented to the addressee or to his residence by another method provided for in this Convention. Each Contracting State shall be free to declare that the judge, substantiating the provisions of the first paragraph of the Article, may give judgment even if no certificate of service or service has been received. In all the following conditions are fulfilled: a) the document was transmitted by one of the methods provided for in this Convention; b) a period of time of not less than six months, considered appropriate by the judge in the particular case, has elapsed since the date of transmission; c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.</p>
<p>Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.</p> <p>Article 16 When a set of originals or an equivalent document had to be forwarded abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to review the defendant to the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled – a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend or to knowledge of the judgment in sufficient time to appeal, and b) the defendant has demonstrated a prima facie case for relief in the court of the State in which an application for relief may be filed only after a reasonable time after the defendant has knowledge of the judgment. Each Contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment. This Article shall not apply to judgments concerning status or capacity of persons.</p> <p>CHAPTER II – EXTRAJUDICIAL DOCUMENTS</p> <p>Article 17 Extrajudicial documents emanating from authorities and judicial officers of a Contracting State may be transmitted for the purpose of service in another Contracting State by the methods and under the provisions of the present Convention.</p> <p>CHAPTER III – GENERAL CLAUSES</p> <p>Article 18 Each Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence. The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority. Foreign States shall be free to designate more than one Central Authority.</p> <p>Article 19 To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.</p> <p>Article 20 The present Convention shall not prevent or restrict in any way or more Contracting States to agree with – a) the necessity for application copies of transmitted documents as required by the second paragraph of Article 3; b) the language requirements of the first paragraph of Article 5 and Article 7; c) the provisions of the fourth paragraph of Article 10; d) the provisions of the second paragraph of Article 12.</p> <p>Article 21</p>	<p>Each Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the following – a) the designation of authorities, pursuant to Articles 2 and 10; b) the designation of the authority competent to complete the certificate pursuant to Article 6; c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9.</p> <p>Each Contracting State shall similarly inform the Ministry, where appropriate, of – a) opposition to the use of methods of transmission pursuant to Article 4 and 10; b) declarations pursuant to the second paragraph of Article 15 and the first paragraph of Article 16; c) modifications of the above designations, operations and declarations.</p> <p>Article 22 Where Parties to the present Convention are also Parties to one or both of the Conventions on civil procedure signed at The Hague on 17th July 1905, and on 1st March 1954, the Convention shall replace as between them Articles 1 to 7 of the earlier Conventions.</p> <p>Article 23 The present Convention shall not affect the application of Article 23 of the Convention on civil procedure signed at The Hague on 17th July 1905, or of Article 24 of the Convention on civil procedure signed at The Hague on 1st March 1954.</p> <p>Article 24 These Articles shall, however, apply only if methods of communication, identical to those provided for in these Conventions, are used.</p> <p>Article 25 Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, unless the Parties have otherwise agreed.</p> <p>Article 26 Without prejudice to the provisions of Articles 22 and 24, the present Convention shall not derogate from Conventions containing provisions on the matters governed by the Convention to which the Contracting States are, or shall become, Parties.</p> <p>Article 28 The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law. It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.</p> <p>Article 29 The present Convention shall enter into force on the seventh day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 28. The Convention shall enter into force for each signatory State which ratifies subsequently on the seventh day after the deposit of its instrument of ratification.</p>	<p>Article 28 Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the provisions of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands. The Convention shall enter into force for such a State in the absence of any objection from a State which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified of such accession. In the absence of such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.</p> <p>Article 29 Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all territories for the transmission of requests of which it is responsible, or to one or more of them. Such a declaration shall be notified to the Ministry of Foreign Affairs of the Netherlands. If, at any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands, the Convention shall enter into force for the territories mentioned in such an extension on the seventh day after the notification referred to in the preceding paragraph.</p> <p>Article 30 The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified or acceded to it subsequently. If there has been no denunciation, it shall be renewed tacitly every five years. Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period. If no State has notified the Ministry of Foreign Affairs of the Netherlands of its intention to denounce the Convention, the Convention shall remain in force for the Contracting States.</p> <p>Article 31 The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following – a) the signatures and ratifications referred to in Article 26; b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27; c) the accessions referred to in Article 28 and the dates on which they take effect; d) the extensions referred to in Article 29 and the dates on which they take effect; e) the denunciations referred to in Article 30; f) the denunciations referred to in the first paragraph of Article 30.</p> <p>In witness whereof the undersigned, being duly authorized thereto, have signed the present Convention. Done at The Hague, on the 18th day of November, 1978, in the English and French languages, both texts being authentic, in a single instrument, which shall be deposited with the Ministry of Foreign Affairs of the Netherlands, and of which a certified copy shall be sent through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.</p>



What do you do?!?

Step 1:

Make “reasonably diligent” effort to locate the party’s address (45 Cal.App.4th 1126):

- Required before Court will allow other service methods such as service by publication (CCP §415.50)
- Hague Convention on Service applies only when address is known
 - If the address of the person is unknown, other service methods should be used (FRCP 4(f)(2)(C)) (Served personally or mailed by clerk)
- When service does not result in “actual notice” defendant can move to vacate default (CCP 473.5)



What do you do?!?

Step 2:

- Determine whether defendant/party is in a member nation:

<https://www.hcch.net/en/instruments/conventions/status-table/?cid=17>

Per US Dept. of State, if nation is **NOT** a convention member, various options, **unless prohibited by the laws that nation:**

- International Registered Mail (FRCP 4(f)(2)(C))
- Personal Service by Agent (FRCP 4(f)(2)(C))
- Service by Publication

– Link:

<https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-assistance/Service-of-Process.html>



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What do you do?!?

Step 3:

Determine whether all Hague Convention requirements are met:

- Hague convention requirements:
 1. A document will be transmitted from one member nation to another member nation
 2. An address for the person to be served is known
 3. The document to be served/sent is a judicial or extrajudicial document
 4. The document to be served/sent relates to a civil and/or commercial matter
- If all requirements are met, Hague Convention is **exclusive** authority for service, e.g., mandatory
 - Practical handbook on the operation of the Service Convention. Netherlands: Hague Conference on Private International Law, Permanent Bureau, (2016). Pg. XLVI



What do you do?!?

Step 4:

- Determine whether the member nation objected to provisions of the convention
 - Each member nation enacting the Hague Service Convention can object to particular types of methods (Hague Service Convention Art. 5)
 - In many cases, the objections prohibits service methods which are **already prohibited** under the laws of that Country



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What do you do?!?

- Examples:
 - Japan: Japan objected to methods referred to in (b) and (c) of Article 10. (10 Cal.App.4th 1043)*
 - Germany: objected to methods of transmission of Articles 8 and 10 (123 Cal.App.3d 755)
 - Mexico: objected to all alternative methods of service under Article 10 ; service only through Mexican Central Authority(187 Cal.App.4th 128)
 - China: objected to alternative methods in article 10 (878 F.Supp.2d 1252)
 - Russia: “... has categorically refused...” to effect service between Russia and US (2008 WL 563470)



What do you do?!?

Step 5:

Determine what service method to use.

- Three options:
 - Service through main channel (Hague Service Convention Arts. 2 through 6)
 - Service through alternative channels (Hague Service Convention Arts. 8 through 10)
 - Service through derogatory channels, where available (Hague Service Convention Arts. 11, 19, 24, 25)



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Service through Main Channel

Each member nation is required to designate a Central Authority to which service requests are transmitted for that Country.

- While some methods within the Hague Service Convention are optional, designating a Central Authority is not (Hague Service Convention Art. 2)
 - The request should be made using the model form (Hague Convention Art. 3) [Model form can be found here: <https://assets.hcch.net/docs/1e4b0a96-9e87-4b10-99c8-8647c843b80e.pdf>]

ПРОХАННЯ про вручення за кордоном судових або позасудових документів REQUEST / DEMANDE for service abroad of judicial or extrajudicial documents / aux fins de signification ou de notification à l'étranger d'un acte judiciaire ou extrajudiciaire	
відповідно до Гаазької Конвенції про вручення за кордоном судових або позасудових документів у цивільних або комерційних справах 1965 року Hague Service Convention of 1965 / Convention Notification de La Haye de 1965	
Назва і адреса запитуючого органу: Identity and address of the applicant / Identité et adresse du requérant:	Адреса запитуваного органу: Address of receiving authority / Adresse de l'autorité destinataire:



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Service through Main Channel

Upon receipt, the Central Authority will serve the documents on the party within the member nation according to a "...method prescribed by its internal law for the service of documents in domestic actions..." (Hague Convention Art. 5)

- The serving party can, however, request a particular method of service that is:
 1. Acceptable under the laws of the forum (originating) nation (Hague Convention Art. 5(a)), and
 2. Compatible "...with the law of the State addressed." (Hague Convention Art. 5(b))
- The Central Authority "...may require the document to be... translated into... the official language..." of the destination country. (Hague Convention Art. 5)



Service through Main Channel

- Upon completion, the Central Authority will complete a certificate which will state:
 - the document has been served and shall include the method, the place
 - and the date of service and the person to whom the document was delivered.
 - If the document has not been served, the certificate shall set out the reasons which have prevented service. (Hague Service Convention Art. 6)
- EX: U.S. Department of Justice is the Central Authority of the U.S. BUT has designated ABC Legal as the provider for effecting service



Service through Alternative Channels

In addition to the Main Channel, the Hague Service Convention also allows for alternative methods of service, identified as “Alternative Channels” in the treaty (Hague Service Convention Art. 10)

- Member nations may **OBJECT** to the use of the methods in Articles 8 through 10
 - The US State Department has a tool for finding methods allowed by particular countries, which will identify any objections by member nations: <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information.html>



Photo by QuinceCreative

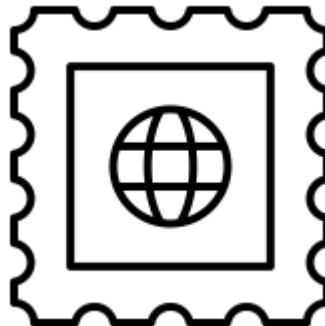


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Service through Alternative Channels

Some Alternative Channel methods of service:

- Service through consular (diplomatic) channels (Hague Convention Arts. 8 & 9)
- Service through postal channels; e.g., service by mail (Hague Convention Art. 10a)
- Service through “...judicial officers, officials or other competent persons of the State of destination” (Hague Convention Art. 10(b) and 10(c))
- You MUST verify that a country allows service through particular Alternative Channels
 - Usually, the objections are meant to conform to existing service/notice laws of the objecting country
 - Party served request order to quash service of summons



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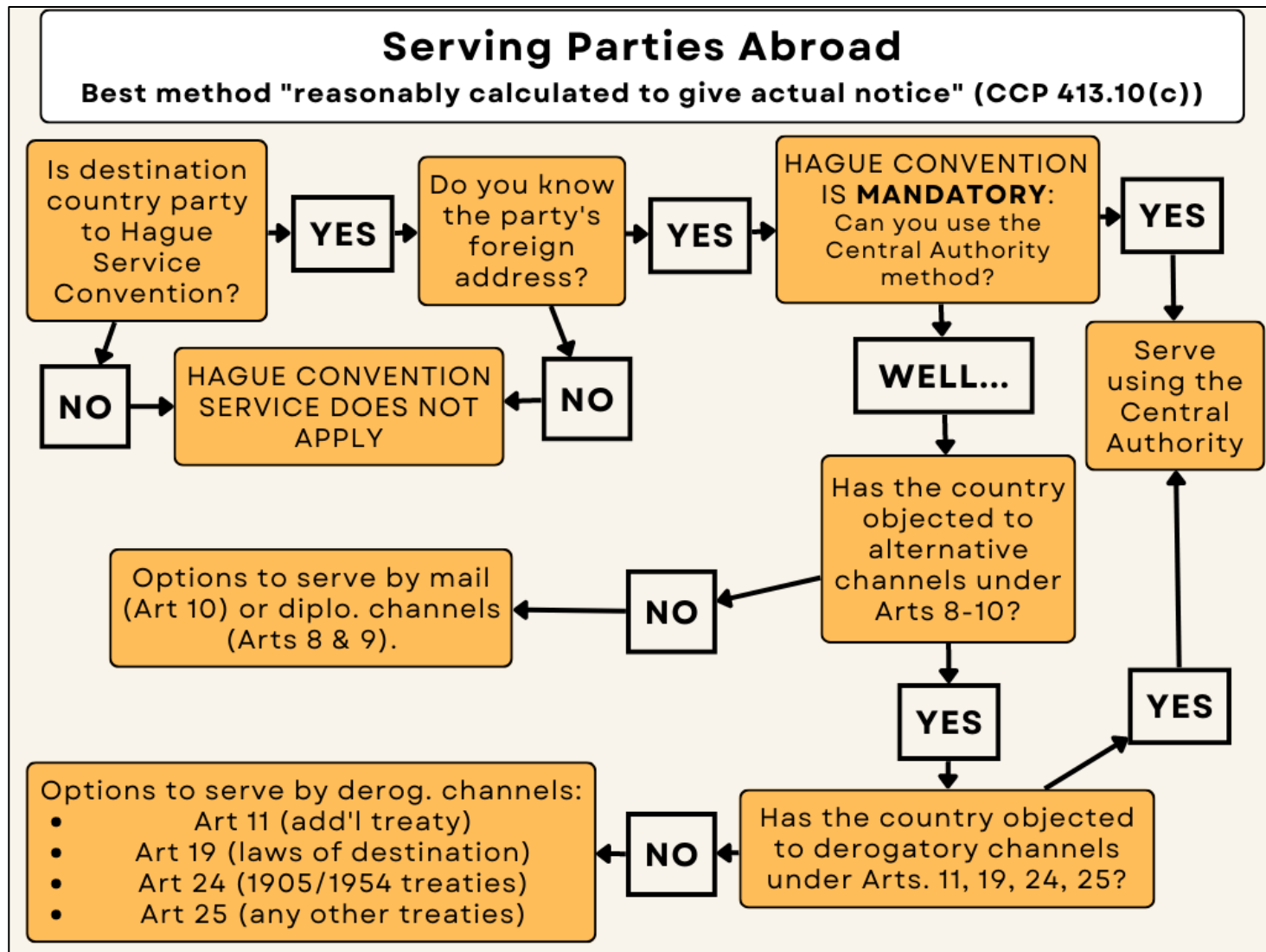
Service through Derogatory Channels

Service through a Derogatory Channel is any method outside of the Main Channel and Alternative Channels such as:

- Agreement between member nations to allow “other channels of transmission” (Hague Service Convention Art. 11)
- Previous or supplemental conventions (unilateral or multilateral) *among member nations* to the Hague Service Convention (Hague Service Convention Arts. 24 & 25)
- Unilateral derogation from normal Hague Service Convention channels (Hague Service Convention Art. 19)
 - Domestic laws of the member nations may specify methods, or may not **EXPLICITLY** ban particular methods of service



What should you do?



Tips for Hague-Compliant Service

Here are some things to keep in mind as you decide how to serve someone in a foreign country:

- Use the State Department Judicial Assistance Country Information web portal: <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information.html>
 - Country by Country specifics about service in foreign countries, such as:
 - Whether they are a member of the Hague Service Convention
 - Whether they are a member of the IACAP
 - Whether they allow service by mail

Philippines Republic of the Philippines	
Hague/Inter-American	
Party to Hague Service Convention?	Party to Inter-American
No	No
Party to Hague Evidence Convention?	Service of Process by
No	N/A
Party to Hague Apostille Convention?	
No	

Mexico United Mexican States	
Hague/Inter-American	
Party to Hague Service Convention?	Party to Inter-American
Yes	Yes
Party to Hague Evidence Convention?	Service of Process by
Yes	No
Party to Hague Apostille Convention?	
Yes	



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Tips for Hague-Compliant Service (continued)

- Identify the legal means for service within a particular country
 - There may be methods of service allowed in the destination country that are NOT specified in California, nor in the Hague Service Convention
 - Objections to methods of service in Hague Service Convention often conform to existing laws of that country; e.g., no domestic legal service by mail in Japan
 - Some Courts in U.S. have ruled MOST service methods are valid, as long as the destination nation has not BANNED a particular method
- Successful service ultimately depends on forum Court determining service was valid under Hague Service Convention and under laws of destination country



Relief from Judgments and Orders

Protections under Convention Article 16:



Hague convention countries must allow for relief from judgments and orders.

Party must:

- Show they did not have knowledge in time to defend, and
- Provide prima facie defense on the merits, and
- File claim for relief w/in one year of “date of the judgment”

When joining, member countries may set further time limits, as long as they are not less than one year.

Ex: US has declared relief available:

- “after the expiration of the period within which the same may be filed under the procedural regulations of the court in which the judgment has been entered, or
- b) after the expiration of one year following the date of judgment, whichever is later”

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Cases of Interest

Honda Motor Co. v. Superior Court (1992), 10 Cal. App. 4th 1043

- Court of Appeal, Sixth District, California.
- Initially, Japan did not object to transmittal by mail under Article 10(a) with the understanding that “send” as opposed to “service” was intentionally used by drafters of the convention. This is in keeping with domestic laws of Japan, as Japan requires action by court clerk to allow service by mail.
- Case is now moot as Japan has now declared objections to Article 10 (a) (12-21-2018)

Rockefeller Technology Investments (Asia) VII v. Changzhou SinoType Technology Co., Ltd. (2020), 9 Cal.5th 125

- Supreme Court of California
- Hague Convention only applies when transmittal is required for **service abroad**; since parties had agreed to service by FedEx/courier, service aboard was not required.

Volkswagenwerk Aktiengesellschaft v. Schlunk (1988), 108 S.Ct. 2104

- Supreme Court of the United States
- Service on domestic subsidiary as involuntary agent for service on foreign corporation was valid and Hague Service Convention would not apply as service abroad was not required

Inversiones Papaluchi S.A.S. v. Superior Court (2011), 20 Cal.App.5th 1055

- Court of Appeal, Second District, California.
- When cross-complainants attempted service first by FedEx and then by email, they did not comply, first, with California law, which requires return receipt for service by international mail, and, then Colombian law, which allows service by email, but requires recording acknowledgment of receipt of the e-mail service. By failing to comply with the laws of the forum and destination countries, authorized service under the Hague Service Convention is not complete.



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Research References

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

- Hague Conference/Conférence de La Haye 1965 Service Convention
- Treaty text: <https://assets.hcch.net/docs/f4520725-8cbd-4c71-b402-5ade1994d14c.pdf>

Practical handbook on the operation of the Service Convention

- Published by Hague Conference/Conférence de La Haye
- [GRR K7637.A41965 P73 2016](#)

Model Form annexed to the Convention

- <https://www.hcch.net/en/publications-and-studies/details4/?pid=6560&dtid=65>

Guidelines for Completing the Model Form

- <https://assets.hcch.net/docs/1e4b0a96-9e87-4b10-99c8-8647c843b80e.pdf>



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Research References

California Forms of Pleading and Practice

- [Volume 45, Chapter 518 "Service of Summons and Papers"](#)

United States Department of State on International Service of Process

- <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-asst/Service-of-Process.html#ExternalPopup>

United States Department of State Judicial Assistance Country Information

- <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information.html>

Black's Law Dictionary (11th ed. 2019)

- [KF156 .B53 2019](#)



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