



Guidelines on the Implementation of the Hague Service Convention in the Philippines

October 28, 2020

This is an overview of *Supreme Court Administrative Order No. 251-2020 (Guidelines on the Implementation in the Philippines of the Hague Service Convention on the Service Abroad of Judicial Documents in Civil and Commercial Matters)*¹ (the Hague Service Convention Guidelines). The guidelines became effective on October 1, 2020.²

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A. Scope

The Hague Service Convention Guidelines govern the service of judicial documents in civil or commercial matters from one State Party to another State Party pursuant to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention).³ The guidelines will apply to requests by party litigants in the Philippines to serve judicial documents abroad as well as requests from litigants in a case abroad to serve judicial documents in the Philippines. According to the Supreme Court, the guidelines will simplify the serving of summons and other documents in a foreign jurisdiction.

¹ *Supreme Court Administrative Order No. 251-2020 (Guidelines on the Implementation in the Philippines of the Hague Service Convention on the Service Abroad of Judicial Documents in Civil and Commercial Matters)* dated September 11, 2020; <http://sc.judiciary.gov.ph/13552/> last accessed at 3:13 PM on September 21, 2020.

² *Hague Service Convention Guidelines*, V.1; The Guidelines were published in the Manila Bulletin and Philippine Star on September 17, 2020.

³ *Hague Service Convention Guidelines*, I.1. and I.2.

B. Steps to Request Service Outside the Philippines

Below is an outline of the steps under the Hague Service Convention Guidelines for a party in a civil or commercial proceeding in the Philippines to request the Forwarding Authority (which is the authority or judicial officer of the Requesting State⁴ competent to forward the request for service)⁵ for the extraterritorial service of judicial documents.

1. The litigant has to file a motion for leave of court (with the Model Form) before the Forwarding Authority. In the Philippines, all Justices and Clerks of Court of collegiate courts, and Judges of lower courts are designated as Forwarding Authorities.⁶

The Model Form accomplished by the litigant has to be attached to the motion. A copy of the Model Form is posted at <https://www.hcch.net/en/publications-and-studies/details4/?pid=6560&dtid=65> and it consists of the following:

- a. *Request* – A request for service has to be sent to the Central Authority (which is the authority in charge of receiving requests for service from Requesting States and executing them or causing them to be executed)⁷ of the Requested State.⁸ In the Philippines, the Office of the Court Administrator (OCA) is designated as the Central Authority for judicial documents;⁹
 - b. *Certificate* – This certificate confirms whether or not the documents have been served; and
 - c. *Summary of Documents to be Served* – A summary has to be delivered to the addressee and preceded by a *Warning* relating to the legal nature, purpose, and effects of the documents to be served.
2. The court acting as Forwarding Authority has to determine the propriety of extraterritorial service through the Hague Service Convention in accordance with Rules 13 and 14 of the Rules of Court, as amended. If such service is proper, the court will issue an Order that would include a directive to the requesting party to submit a prepaid courier pouch for the transmission of the documents.¹⁰
 3. The party then has to pay for the fees and costs of the request for service.¹¹ Failure to fully settle the fees is a ground for direct contempt, in addition to other sanctions that may be imposed by the judge in accordance with the Rules of Court as amended.¹²

⁴ *Hague Service Convention Guidelines*, I.5.d; under Article 3 of the Hague Service Convention, the Requesting State refers to the State in which the documents originate.

⁵ *Hague Service Convention Guidelines*, I.5(d).

⁶ *Hague Service Convention Guidelines*, I.5(d).

⁷ *Hague Service Convention Guidelines*, I.5(c).

⁸ *Hague Service Convention Guidelines*, I.5.d; under Article 3 of the Hague Service Convention, the Requested State refers to the State to which the request is addressed to.

⁹ *Hague Service Convention Guidelines*, I.5(c)

¹⁰ *Hague Service Convention Guidelines*, II.2.

¹¹ *Hague Service Convention Guidelines*, II.3.

¹² *Hague Service Convention Guidelines*, II.3.

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4. Upon completion of requirements, the court will transmit the documents to the Requested State.¹³
5. The Central Authority of the Requested State will process the request and attempt service in accordance with its domestic laws.¹⁴ Thereafter, it will accomplish the Certificate indicating whether the service was successful or not.¹⁵ The Certificate will be transmitted back to the requesting court and will form part of the case records.¹⁶

C. Steps to Request Service in the Philippines

Below is an outline of the steps under the Hague Service Convention Guidelines for a party abroad in a civil or commercial proceeding in the Philippines to request for the extraterritorial service of judicial documents in the Philippines.

1. The Forwarding Authority of the Requesting State has to transmit the request for extraterritorial service of judicial documents and all relevant documents to the OCA either through email or physical submission via registered mail or courier services.¹⁷
 - a. The request has to be accompanied by proof of payment of US\$ 100.00 for the costs of service for each recipient to be served.¹⁸ Payment has to be made through bank deposit/transfer to the Land Bank of the Philippines.¹⁹
 - b. For multiple recipients residing at the same address, only one fee has to be paid.²⁰ If the cost of service exceeds the said amount, the OCA will send an updated Statement of Cost to the Forwarding Authority of the Requesting State for payment.²¹
2. The OCA has to then evaluate the request to check for compliance with the Hague Service Convention Guidelines .²²
3. In case the request fails to comply with any of the requirements in the guidelines, or if there are objections for the execution of the request, the OCA has to inform the Forwarding Authority, specifying the objections thereto.²³

¹³ *Hague Service Convention Guidelines*, II.4.

¹⁴ *Hague Service Convention Guidelines*, II.7.

¹⁵ *Hague Service Convention Guidelines*, II.7.

¹⁶ *Hague Service Convention Guidelines*, II.7.

¹⁷ *Hague Service Convention Guidelines*, III.1 and 4.

¹⁸ *Hague Service Convention Guidelines*, III.3.

¹⁹ *Hague Service Convention Guidelines*, III.3; bank deposit/transfer details may be accessed at <https://oca.judiciary.gov.ph/wp-content/uploads/2020/10/Inbound-Request.pdf>.

²⁰ *Hague Service Convention Guidelines*, III.3.

²¹ *Hague Service Convention Guidelines*, III.3.

²² *Hague Service Convention Guidelines*, III.5.

²³ *Hague Service Convention Guidelines*, III.5.

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If the objections are resolved, the processing of the request will then proceed.²⁴ Otherwise, the request will be denied, and all documents relating thereto, together with a notice of objection or denial, will be returned to the Forwarding Authority.²⁵

4. If the request is sufficient in form, the OCA will forward the request to the court having jurisdiction over the area where the intended recipient resides.²⁶ The Executive Judge in multiple-sala courts, or the Presiding Judge in single-sala courts, will then assign a sheriff, process server, or any other competent personnel to serve the document in accordance with the Hague Service Convention Guidelines and the Rules of Court.²⁷
5. The officer assigned to serve the document has to execute a return on the service in accordance with the Rules of Court, and within five days from service, submit the return to the judge of the court who directed the service of the document.²⁸

The return has to state whether the document and attachment/s have been served, and has to include information on the method, the place and the date of service, and the person to whom the document was delivered.²⁹

If the document was not delivered successfully, the return has to state the reasons which prevented the successful service, and the officer assigned has to deliver the unserved document to the court so that it may later be returned to the Forwarding Authority.³⁰

6. As soon as the return is submitted, the judge will then immediately accomplish and sign the Certificate, following the Model Form annexed to the Hague Service Convention.³¹ In case of unsuccessful service, the documents sought to be served will be attached to the Certificate.³²
7. Within 30 calendar days from receipt of the request, the judge will transmit to the Forwarding Authority of the Requesting State (a) the duly accomplished Certificate, (b) Return of Service, and (c) a copy of the documents served, in cases of successful service, or the original documents, in cases of unsuccessful service.³³

If the compliance exceeds 30 calendar days, the judge will also submit an explanation to the OCA justifying the delay.³⁴

²⁴ *Hague Service Convention Guidelines*, III.5.

²⁵ *Hague Service Convention Guidelines*, III.5.

²⁶ *Hague Service Convention Guidelines*, Section III.6.

²⁷ *Hague Service Convention Guidelines*, Section III.7.

²⁸ *Hague Service Convention Guidelines*, Section III.8.

²⁹ *Hague Service Convention Guidelines*, Section III.8.

³⁰ *Hague Service Convention Guidelines*, Section III.8.

³¹ *Hague Service Convention Guidelines*, Section III.9; a copy of the certificate may be accessed at <https://www.hcch.net/en/publications-and-studies/details4/?pid=6560&dtid=65>.

³² *Hague Service Convention Guidelines*, Section III.9.

³³ *Hague Service Convention Guidelines*, Section III.10.

³⁴ *Hague Service Convention Guidelines*, Section III.17.

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