

Guide for Service of Process in Mexico

Background

For cases where a respondent no longer resides in the state of Washington, the question may arise whether to transfer the case to the IV-D agency where the respondent currently resides or, if there is a legal basis to do so, to seek to exercise long-arm jurisdiction. As discussed in our September initial international training, IV-D policy and regulations have always contemplated the efficacy of a support enforcement agency exercising long-arm jurisdiction where practicable. In cases where personal service of process is necessary to exercise long-arm jurisdiction to establish parentage or a support order or, if needed to enforce or modify an existing order, particular attention must be paid if the respondent is residing outside the territory of the United States of America. Fortunately, for the purposes of the ongoing WA-DCS Project to improve case-processing with Mexico and Canada, Mexico and the United States of America are parties to two international conventions on the service of civil process abroad. Each convention has standard forms and online sources of information available to assist in successfully effectuating service of process – not only in Mexico and the USA, but also in other countries which have ratified or acceded to the conventions. These instructions are intended to assist WA IV-D personnel:

1. Correctly fill out the standard forms.
2. Identify the supporting documentation that must also be transmitted.
3. Assemble a service packet and bilingual cover letter.
4. Monitor the status of a service request; and
5. Decide which convention to use to serve a respondent in Mexico.

Overview of the Conventions

This guide will refer to the InterAmerican Convention on Letters Rogatory¹ and Protocol² as the “InterAmerican Convention” and the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters³ as the “Hague Convention.”

A quick perusal of the conventions’ standard forms sets reveals that the InterAmerican Convention set has seven pages while the Hague set has four. In addition, the InterAmerican Convention sets are either completely in English or Spanish while the Hague set to be used for Mexico is trilingual (Spanish/English and French).

An InterAmerican Convention service request is actually one of several types of Court-to-Court requests for judicial assistance (usually to serve process, locate a person or property, obtain evidence, explain law, etc.). These requests pre-date either service convention and have traditionally been referred to as Letters Rogatory. The United States has made a reservation to not use the InterAmerican Convention for the taking of evidence. For our purposes we will be using the InterAmerican Convention for service of process only. A Letter Rogatory is initiated and signed by a Court or Clerk of Court and directed to the attention of the Mexican Central Authority (MCA), which transmits the request to the proper Court in Mexico.

¹ O.A.S.T.S. No. 43, Jan. 30, 1975,

² O.A.S. T.S. No. 56, May 8, 1979

³ 20 U.S.T. 361, T.I.A.S. No. 6638

A Hague service request is made by a party to a pending case, refers to the Court where the case is pending and is also directed to the MCA, which transmits the request to the proper Court in Mexico. Supporting documentation, which must accompany the forms sets for either convention are the same, mainly the documents to be served, laws applicable to the computation of time, and time and method for answering the suit, photographs of the respondent and perhaps photographs of the respondent's residence and/or place of employment.

General Rule: In Mexico, Serve Pursuant to one of the Conventions

As a General Rule, and pursuant to USA and Mexico jurisprudence, law and reservations filed with the Hague Conference on Private International Law and the Organization of American States, the Conventions must be used to serve respondents in Mexico. **See, Exhibit A, Memorandum of Law Supporting Use of Conventions for Service of Process in Mexico**, attached. There are two exceptions to this general rule.

The first exception is that a) if your court is satisfied with notifying a respondent in a manner other than prescribed by the conventions, b) you have local (in the USA) options to enforce the resulting order, and c) you do not envision ever having to ask Mexico to recognize and enforce that order, then serve by whatever means satisfies your court – and preferably not a means which may create an international “incident” in Mexico.

The second exception is if the respondent a) is willing to waive formal service of process; b) voluntarily and knowingly acknowledges receipt of the documents; and c) understands the content and meaning of the documents, the time and method of responding to the suit and how time is computed in Washington, then tender an appropriate waiver – preferably a bilingual one, which we will develop over the course of the project for specific use by the Washington DCS.

Hague Convention Service of Process in Mexico

Practitioners of International Service of Process mostly agree that today, the Hague Convention is the easiest convention to use for service of process in Mexico. To begin with, Mexico, like most members of the Hague Convention, does not require the designation and utilization of forwarding central authorities to send requests for service of process. During various Special Commissions and Regional Conferences of the Hague to study the operation of the convention, Mexico has taken a number of other positive steps to simplify and improve results when using the Hague Convention. These steps include confirming that:

- The judge does not need to sign the request.
- Legalization (having an Apostille affixed to the document) is not required.
- The forms may be filled out in English (though Mexico “would appreciate” them being filled out in Spanish).
- Communication will occur as to whether or not the request is compliant to the sending authority within 30 days of receipt of the request.
- There will be a response to status requests within a reasonable time and a method provided for the sending authority to track the status of a service request.
- Of the utmost potential for relaxing some of the legalization and translation requirements, the MCA committed to reaching out to the Mexican Federal Courts to take the overall benefit of facilitating international service of process attempted pursuant to both conventions, if contentious respondents elect to claim their constitutional rights are violated if the forms are not in Spanish and the support documents are not legalized with Apostille or chain authentication.

Instructions for Filling out the Hague Convention Forms for Service in Mexico:

- A. Obtain two copies of the fill-in-the blank model form in Spanish/English/French from the Hague Conference on Private International Law website: <https://assets.hcch.net/docs/706e1b50-b541-4909-8ebe-460d85311cba.pdf>. These are fill-in-the-blank pdf files which may be printed and saved. One copy will be filled out in English. A sample of this form filled out is provided for reference as **Exhibit B**. The other copy will be filled out in Spanish, which is recommended as a best practice, and a sample is provided for reference as **Exhibit C**.
- B. The model form consists of four pages. The first page is a PETICIÓN (Request). The second page is a CERTIFICADO (Certificate). The third page is an AVISO (Warning). The fourth page is an ELEMENTOS ESENCIALES DEL DOCUMENTO (Summary of Documents to be Served).

C. Fill in one form in English as follows:

1. PETICIÓN (Request).

- a. In the block for Applicant, provide the name, title and address of the person or office which issues the Citation or Summons.
- b. In the block for the Receiving Authority enter the name Directorate-General of Legal Affairs, SRE and for Address enter Plaza Juarez no. 20, Planta Baja, Colonia Centro Alcaldía Cuauhtémoc, C.P, 06010 Ciudad de Mexico, MEXICO.
- c. In the block entitled "identity and address", enter the complete name and address of the person to be served.
- d. Check option (b) and in the blank space add: "DELIVERY IN PERSON TO THE RESPONDENT [then write name of the respondent] OF THE DOCUMENTS TO BE SERVED" Note: It is recommended to enter this sentence in all capital letters to stress its importance.
- e. In the block "Enumeración de los documentos" (List of documents), list the documents to be served)
- f. In the block "Hecho en" (Done at) enter the place of execution and under the "El" (the) enter the date of execution.
- g. In the block "Firma y / o sello (Signature and/or stamp) leave the signature line blank for the applicant to sign (e.g., clerk) or you can sign if you are allowed (e.g. as an attorney) to issue citation in your state.

2. CERTIFICADO (Certificate)

Leave this page blank. It will be executed by the Local Court effectuating service and validated by the MCA.

3. AVISO (Warning)

In the fill in the blank block provided, you may list the particulars of any legal aid clinic or attorney willing to provide pro bono advice/answers to questions if requested by the respondent after he/she is served.

4. ELEMENTOS ESENCIALES DEL DOCUMENTO (Summary of Document(s) to be Served

- a. In the fill-in-the-blank section to the right of "Nombre y dirección de la autoridad requirente (Name and address of the requesting authority)", enter the Court and Court address or the Washington DCS Agency, if the request for service of process is done as an administrative action.
- b. In the fill-in-the-blank section to the right of "Identidad de las partes" (Particulars of the parties), enter the names of the petitioner and respondent.
- c. Check the box DOCUMENTO JUDICIAL (JUDICIAL DOCUMENT).
- d. In the space to the right of "Naturaleza y objeto del document" (Nature and purpose of the document), enter the title of the proceeding as appropriate (e.g. Suit or Petition to Establish Parentage and/or Child Support).
- e. In the space to the right of "Naturaleza y objeto del procedimiento y, en su caso, cuantía del litigio" (Nature and purpose of the proceedings and, when appropriate, the amount in dispute) you may re-state the information in an establishment case or for enforcement or modification, enter the financial information of nature, amount and duration of periodic support and arrears if any as of a particular date or summary basis for modification.
- f. In the space to the right of "Fecha y lugar de comparenci" (date and place for entering appearance), enter the date and place for filing a response or appearing.
- g. In the space to the right of "Autoridad judicial que ha dictado la decision" (Court which has given judgment), enter the judge and court information which issued the order.
- h. In the space to the right of "Fecha de la decision" (Date of judgment) enter the date of the order.
- i. In the space to the right of "Indicación de los plazos que figuran en el documento" (Time limits stated in the document), enter the language of the Citation or Summons, e.g. "10 am on the first Monday following the expiration of 20 days from the date of the service of documents. See attached Rules for Computation of Time and Time to Answer Suit."
- j. Leave the section entitled "DOCUMENTO EXTRAJUDICIAL" (EXTRAJUDICIAL DOCUMENT) blank.

- D. Fill in one form in Spanish (Best Practice Tip) using **Exhibit C** as a guide.
 - 1. If you, the Clerk or Court signing the document are comfortable with signing the Spanish form at the bottom of Page 1, do so. Otherwise enter ("Firma original en formulario del Ingles").
 - 2. During the life of the Project we will develop a Glossary of Spanish terms for the names of suits, citations/summons, and other supporting documents typically used in Washington IV-D cases.
- DI. Attachments
 - 1. Any documents to be served along with those listed on the request (bottom of first page) and on the documents to be served (fourth page), including details of the Washington Superior Court Rules 6 (Computation of Time) and 12 (Time to Answer Suit).
 - 2. Any attachment which is in English must be translated in Spanish to include with the Spanish form set.
 - 3. Photographs of the respondent and his/her residence and place of work.
- DII. Make three copies each of the English forms and attachments, Spanish forms and attachments, and photographs.
- DIII. Assemble an Original Packet consisting of the original bilingual cover letter, original English form set and attachments, and Spanish form set and attachments.
- DIV. Make three complete copies of the original packet, keeping one for your records.
 - I. FedEx or DHL the Original Packet and two of the complete copies of same to the MCA at the address on the first page of the forms set. Include the following phone number for the Air bill: +52-55-3686-5100 ext 6421 or 6127. Both FedEx and DHL require recipient phone numbers for international air bills.

InterAmerican Convention Service of Process in Mexico

The InterAmerican Convention requires members to designate sending and receiving Central Authorities. The U.S. Central Authority is the Department of Justice. In the past, incoming requests for service were handled by U.S. Marshals. Since 2003, the DOJ has contracted ABC Legal Services, formerly "Process Forwarding International," to perform the functions of sending Central Authority for Hague Convention requests (if asked) and Receiving Authority for incoming requests. ABC is Sending and Receiving Authority for all requests made pursuant to the InterAmerican Convention. Its current contract with DOJ runs through January 31, 2025. It charges fees for its services, to wit, incoming service requests for both Conventions cost the foreign sending authority USD \$95. ABC charges USD \$550 for sending a Hague Service to Mexico. There is no charge for ABC to send service requests pursuant to the InterAmerican Convention if the forms and service packets are properly filled out and compiled. Otherwise, it will charge USD \$450 to fill out the forms and send the request the Mexican receiving Central Authority.

Instructions for Filling out the InterAmerican Convention Forms for Service in Mexico:

- A. Obtain copies of the forms from the U.S. Marshals website.
 - English form: [usm272.pdf](#) (usmarshals.gov)
 - Spanish form: [usm272a.pdf](#) (usmarshals.gov)
- B. The forms consist of seven pages which comprise the Letter Rogatory. Pages 1-2 constitute Form A which is the basic form letter from the sending central authority to the receiving central authority. Pages 3-5 constitute Form B, which is an annex with the details of the parties and what the case is about. Pages 6-7 constitute Form C, which is also an annex which the destination court will execute and return to indicate service was obtained or not.
- C. Fill out the English form USM272. See, sample attached as **Exhibit D**.
 - 1. FORM A.
 - a. The first page has six numbered blocks. In Block 1, REQUESTING JUDICIAL OR OTHER ADJUDICATORY AUTHORITY, enter the name of the person issuing the citation or summons, usually a Clerk of Court. In the space below the name enter the address of the court which will hear the case.
 - b. In Block 2, CASE, enter the style (name) of the case, e.g. Smith v. Jones, In the Matter of ..., etc. For DOCKET File: enter the WA DCS file number. For Case: enter the Court cause number.
 - c. In Block 3, CENTRAL AUTHORITY OF THE STATE OF ORIGIN, for Name, enter ABC LEGAL SERVICES, and for Address, enter 633 Yessler Way, Seattle, WA 98104 USA

- d. In Block 4, CENTRAL AUTHORITY OF THE STATE OF DESTINATION, for Name enter Directorate-General of Legal Affairs, SRE and for Address enter Plaza Juarez no. 20, Planta Baja, Colonia Centro Alcaldía Cuauhtémoc, C.P. 06010 Ciudad de Mexico, MEXICO.
- e. In Block 5, REQUESTING PARTY, for Name, enter the Name of the petitioner and for address, enter c/o Washington State DCS P.O. Box 9162 Olympia, WA. 98507-9162 USA.
- f. In Block 6, COUNSEL TO THE REQUESTING PARTY, for Name, enter (petitioner Atty, DCS or "No Counsel") and then the appropriate Address.
- g. Leave the block titled PERSON DESIGNATED TO ACT IN CONNECTION WITH THE LETTER ROGATORY blank.
- h. The second page of Form A, is fairly straight-forward. For * A. Requests their prompt service on, enter the name and address of the respondent.
- i. Select A, Subsection (1) by entering in the block provided "DELIVERY IN PERSON TO (NAME OF RESPONDENT) OF THE DOCUMENTS TO BE SERVED". Note: It is recommended to enter this sentence in all capital letters to stress its importance.
- j. For * B, in the Block enter the name and address of the Court to which you want the proof of service returned, e.g. Clerk of Court, Washington Superior Court XYZ and address for that Court.
- k. For * C, this portion is for the Clerk or Court to enter the place and date of, and then sign in the left signature block (Remember, this ultimately is a Court to Court communication). Leave the signature block on the right Blank, as that is where ABC Legal Services will sign.
- l. At the bottom of page 2, for Title or other identification of each document to be delivered: list the names of the documents to be served. If there is not enough space, enter as shown on the sample "See Part III, List of Attached Documents, below" – which is a part of the form set with more space for a more comprehensive list of names of documents.

2. FORM B.

- a. The third page of the forms set is the beginning of Form B part I. In the first blocks enter the name and address of the respondent and in the space provided that he/she is a respondent and the nature of the pending suit, e.g. as shown on the sample form.
- b. For part A, enter the nature of the suit (e.g., Establish Parentage, Establish Child Support, Enforce Child Support, etc.
- c. For part B, you may add the same information as part A, or add details of the remedy such as "Establish a Wage-Withholding Order."
- d. For part C, track the language of the citation or summons such as shown in the sample for the respondent "Personally appear in Court or file a written answer to the suit."
- e. For part D, if there is a date certain for appearance or answer, enter that in the space. If the time to appear or answer is not definitive such as "10am on the first Monday following the expiration of 20 days from the date of service of these documents on you", you can refer to and add an attachment with those details AND provide the Washington Superior Court Rules 6 (Computation of Time) and 12 (Time to Answer). Failure to specify these requirements is cause for the request for service to be rejected. In the second block of part D, simply re-state "the respondent (or defendant) named in the suit."
- f. The fourth page of the forms set is a continuation of Form B, Part I, D, and begins with a block to enter any additional action the Respondent may be requested to do, e.g. "make an appointment to provide a DNA sample" or "provide the name and address of your employer."
- g. Block E is for entering the consequences for failure to appear or answer such as indicated "You might have a default judgment entered against you, granting the relief requested."
- h. Block F is for entering the name and contact information for legal counsel provided or legal aid available to the respondent, if any.
- i. Leave the Blocks for Part II blank.
- j. Page 5 is Form B, Part III, LIST OF ATTACHED DOCUMENTS, and the larger block, referenced above, at the bottom of the second page of Form A, to list the names of all documents to be served upon the respondent. The documents to be served are referred to as being "attachments" and here you may also include the photograph(s) being sent (attached).

- k. The remaining blocks on Page 5 of Form B are for entry of the same place and date of execution as appears at the bottom of Form A, page 2 of the forms set. The clerk of court or the court will sign in the left signature block and the right signature block is left blank and will be signed by ABC Legal Services.
3. FORM C. CERTIFICATE OF EXECUTION
 - a) Form C is the proof of service of process upon the Respondent (or failure to serve process) and is to be executed by the Requesting Authority. As a courtesy, WA DCS may enter the name of the Court Clerk or Judge, and the name and address of the court in the space provided at the top of Form C, page 6 of the forms set as shown on the sample.
- D. Fill out the Spanish form USM272a.
 1. Refer to the sample provided as **Exhibit E**, which translates the language in the sample English form USM272 provided as **Exhibit D**. As in the case of the Hague Convention forms set, if the clerk or the court signing the document is comfortable with signing the Spanish form at the bottom of Pages 2 and 5, have them do so. Otherwise enter ("Firma original en formulario del Ingles" in those two signature blocks.
- DI. Attachments.
 1. Any documents to be served along with those listed on the Request (bottom of first page) and on the Documents to be served (fourth page), including details of the Washington Superior Court Rules 6 (Computation of Time) and 12 (Time to Answer Suit) must be translated into Spanish. As previously mentioned, certified translations have a better impact on judges in Mexico.
 2. Obtain good, preferably several, photographs of the respondent, and his/her residence and place of work.
- DII. Make three copies each of the original English documents and attachments to be served and their Spanish translations.
- DIII. Make one packet consisting of the filled-out USM272 (English) forms set and original documents to be served plus attachments (law and photographs) and one packet consisting of the USM272a (Spanish) forms set and the translations of the documents to be served and translations.
- DIV. Take both packets to the clerk or the court for their review and signing where indicated on Pages 2 and 5 of the English forms set (and his/her signatures on pages 2 and 5 of the Spanish forms set if he/she is willing to do that).
- DV. Assemble three complete copies each of the original Spanish and English packets, keeping one for your records. The MCA wants two translated copies. They keep one and the other is served upon the defendant.
- DVI. FedEx or DHL the original Spanish and English packets and TWO complete copies of each to ABC Legal Services and include a pre-paid FedEx or DHL packet pre-addressed from ABC to the MCA at the address on the first page of the forms set. Include the following phone number for the Pre-paid Air bill: +52-55-3686-5100 ext 6421 or 6127. Both FedEx and DHL require recipient phone numbers for international air bills.

Tracking a Request for Service

The MCA provides an online method for tracking the progress of a request for service of process – provided the person seeking the update is conversant in Spanish. Clicking on SICRE (sre.gob.mx) takes you to a form for locating a case in the Central Authority automated system. Enter the parties' names and case number. Use the Washington case number until Mexico has provided its case number. The MCA is in the process of updating this portal. The author has also been pleased to find accessible (as in answer the phone published for the court) and English-conversant personnel in various Mexican state Supreme Courts – which have the responsibility of identifying and transferring the service request to the appropriate court geographically nearest the address of the Respondent.

Deciding which Convention to use / other Considerations

The author's experience with changes in legal protocol in Mexico is that there is always a very slow "trickle-down" of changes from law and policy makers in Mexico City to the individual state Supreme Courts and Local Courts. Since the latter's officers will effectuate the service of process in Mexico, it is best to bear in mind Conclusion 24 in the Memorandum of Law, Exhibit A, Page 9, *infra*, cautioning that service is subject to the amparo, an appeal alleging a public official or agency has violated an individual's constitutionally protected rights.

Therefore, although recent developments suggest Mexico will not object to Hague service requests filled out in English or French, absence of legalization and failure to specify precisely the time period for defendants to respond to citations, the author highly recommends filling in one set of the forms in English, filling in a Spanish-language set in Spanish, obtaining file stamps and official seals on the original documents wherever possible, clarifying the time periods for the defendant to respond to the complaint (specifying calendar days, business days, whether holidays count, etc.), providing a copy of the legislation or court rule, in English and in Spanish, and including those with the documents to be served.

As indicated during the WA DCS initial training on Mexico, the author would highly recommend using the InterAmerican Convention if service is to be had in a smaller town. All Mexican courts have received legal education in, and many have initiated and responded to a variety of other court-to-court Letters Rogatory. They are far less likely to be familiar with the Hague Service Convention and respond as hoped to “suggestions” from the MCA.

One matter not previously discussed is the possibility of the MCA passing on an unspecified fee to cover the costs of effectuating service in Mexico. Time will tell how much Mexican State Courts will charge for executing service under the Hague Convention. The author has never been charged for service in Mexico pursuant to the InterAmerican Convention, except for the cost of a taxi cab when he accompanied the officer of the court to personally observe service on a defendant there.

Another factor to consider and which is outside the control of the MCA, is the fact that service papers may find themselves at the bottom of some state level court bureaucracy. In such a case, it may be more efficacious to send a letter in Spanish directly to the State Supreme Court, or have a member of the Mexican private bar do so.

Finally, even if service is properly effectuated pursuant to convention, exercise care when taking a default in the U.S. court to avoid all appearances of taking advantage of the absent party. This may include requesting that the Court appoint an ad litem attorney for the defaulting party.