

“Report on the discussions held in workshop 1” prepared by Imbi Markus (Estonia).

Workshop 1: The Convention in practice

We discussed:

Judgment

The whole judgment or just a summary – do we need in all cases the whole judgment? Maybe it would be possible to create “a list” of basic points from judgments.

Is there a need to present (and translate) judgments of all (in some cases three) court instances? Will some kind of “summary” be enough? Some countries mentioned that a summary made by administrative bodies (the Ministries of Justice) is not efficient. Partial translation of the judgment should be sufficient.

And what does it mean – judgment – it is not the same understanding in all countries.

Consent of the person concerned

When the consent should be taken/given? And if the country gave its consent, is it final or there is a possibility to revoke that consent?

In some countries the “final” consent” has to be given by the end of the whole transfer procedure in the court. We found out, that guidelines could be a solution or a deadline for the consent be a solution?

Time-limits

Is there a need to insert the time-limits? In general it could be a good idea but to do it among all 64 countries parties to this Convention – will it be possible?

Certified copy or an original judgement

We reached the common understanding that “certified” means stamp and signature under the judgment and does not create any problems. But we also find out, that the solution is totally different in South-American countries. In transfer cases with above mentioned countries we have to solve all problems in case-by-case basis.

Forwarding requests and documents

In our days all means of communication must be acceptable (post, faxes and e-mails). INTERPOL channels be also used (by the opinion of Interpol representative) and in general electronic transfer of documents should be promoted.

Costs of actual transfer

Some countries ask the reimbursement of costs from the transferred person (Estonia and Georgia); some countries opposed that kind of policy (Italy and Portugal). But there is no need to make any recommendations on this issue.

And finally we discussed about one interesting proposal – maybe it would be wise first to contact the administering state and send the official request in a later stage.