

# Introduction

Civil litigation in the United States is becoming an increasingly international practice, requiring litigants and courts to apply foreign and international law in order to resolve domestic cases. International cases frequently require the cooperation of foreign courts and authorities in executing orders of the domestic court. Discovery is one of the principal areas of civil litigation that requires collaboration across national lines and efficacy of court orders beyond jurisdictional boundaries. Although central to the practice of civil litigation in the United States, discovery is virtually unknown in most civil law jurisdictions, which creates a problem for obtaining necessary evidence from these countries.

Understanding how different jurisdictions approach and manage the collaboration across sovereign lines is, of course, critical in cases that involve different jurisdictions. One of the primary legal mechanisms for obtaining discovery in foreign jurisdictions is the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters of 1970 (the “Hague Evidence Convention”). This international convention has been adopted—either through ratification, accession, or succession—in sixty-one countries. The Hague Evidence Convention provides an international legal framework for requesting documents, and in some cases even oral or written testimony that are in or from witnesses in a jurisdiction foreign from the domestic case. However, each contracting state has adopted its own procedures for obtaining documents through the international convention. Additionally, many countries have adopted domestic legislation to either effectuate or supplement the provisions of the Hague Evidence Convention, or to provide an alternative procedure for obtaining the evidence.

Viewed through the prism of civil litigators in the United States seeking evidence in foreign jurisdictions, the first chapter of this book considers the procedures for obtaining evidence in the United States through the Federal Rules of Civil and the Hague Evidence Convention. The book then describes, in successive chapters organized by jurisdiction, the laws that enable foreign litigants to obtain evidence in the respective

countries. Each chapter discusses the controlling law on foreign discovery, including the type of evidence obtainable, confidentiality and privilege, alternative dispute resolution, and costs.

With the benefit of the authors' extensive experiences, each jurisdictional analysis provides a legal, practical, and case-specific review of the laws and challenges that the reader should understand when litigation invokes the laws of that jurisdiction.

—Jorge Mestre