

Questionnaire concerning the Practical Operation of the 1980 Child Abduction Convention

Wherever responses to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 1980 Convention, **please provide a copy of the referenced documentation** in (a) the original language and, (b) wherever possible, accompanied by a translation into English and / or French.

Name of State or territorial unit:¹	Georgia
<i>For follow-up purposes</i>	
Name of contact person:	
Name of Authority / Office:	
Telephone number:	
E-mail address:	
Date:	

PART I – PRACTICAL OPERATION OF THE 1980 CONVENTION

Recent developments in your State²

1. Since the 2017 SC, have there been any significant developments in your State regarding the **legislation or procedural rules** applicable in cases of international child abduction? Where possible, please state the reason for the development and the results achieved in practice.

- No
 Yes

Please specify:

On November 5, 2020, the Government of Georgia enacted an ordinance №663 which prescribes detailed rules on the rights and responsibilities of all the relevant state authorities that are involved in the referral and enforcement of the cases originated from the 1980 Hague International Child Abduction Convention and the 1996 Hague Convention. The main aim of the document is to effectively implement the principles and provisions of the 1980 and 1996 Hague Conventions and efficiently enforce the court judgments. The document prescribes the precise procedures for each relevant state agencies, which are in charge of examination, referral and enforcement of the above mentioned cases.

In order to effectively implement The Hague Conventions of 1980 and 1996 and the ordinance №663 of the Government of Georgia, in December, 2020 and January, 2021, representatives of state authorities involved in the referral and enforcement process were trained by the Central Authority of Georgia (57 participants in total).

2. Following the Covid-19 pandemic,³ have there been any **improvements** that have remained in your State in the following areas, in particular in relation to the **use of information technology**, as a result of newly adopted procedures or practices applicable to child abduction cases? In each case, please describe the tools, guidelines or protocols put in place.

¹ The term “State” in this Questionnaire includes a territorial unit, where relevant.

² This Part of the Questionnaire is intended to deal primarily with the developments in law and practice relating to international child abduction which have occurred in your State since the Seventh Meeting of the Special Commission (SC) to review the operation of the 1980 Abduction Convention and the 1996 Child Protection Convention (held from 10 to 17 October 2017) (“2017 SC”).

³ This question aims to gather information about good practices that were developed in those exceptional circumstances and that will continue to be applied regardless of the pandemic.

- a) Methods for accepting and processing return and access applications and their accompanying documentation;
Acceptation and processing of return and access applications were conducted via email and fax.
- b) Participation of the parties and the child (e.g., appearance in court proceedings, mediation);
Participation of the parties and child was ensured by using an electronic or other means of communication (for instance – video-link). Moreover, with regard to the involvement in court proceedings, it should be highlighted that relevant Georgian courts were relying on the guide to good practice on the taking of evidence by video-link prepared by HCCH.
- c) Promoting mediation and other forms of amicable resolution;
Promotion of amicable resolution of disputes was ensured via remote communication. The Central Authority of Georgia referred to the guide to good practice on mediation prepared by HCCH for the initiation of mediation or other forms of amicable resolution of disputes.
- d) Making arrangements for organising or securing the effective exercise of rights of access, including while pending return proceedings;
During the Covid-19 pandemic effective exercise of rights of access was ensured via remote communication.
- e) Obtaining evidence by electronic means;
Please, refer to the question b.
- f) Ensuring the safe return of the child;
All relevant state agencies (Central Authority of Georgia, the Police, The Consulate, State Care Agency, LEPL Public Service Development Agency and etc.) were involved to ensure the safe return of the child. The return proceedings was in full compliance with the provisions provided under the guide to good practice on Enforcement prepared by HCCH.
- g) Cooperation between Central Authorities and other authorities;
Georgian Central Authority cooperated with other Central Authority via email, fax, telephone and in emergency situations via mobile cells in order to effectively implement the objects of the 1980 Hague Convention. The main guiding document for Georgian Central Authority was guide to good practice on Central Authorities practice prepared by HCCH.
- h) Providing information and guidance for parties involved in child abduction cases;
All the necessary information with regard to the developments of child abduction cases were provided to the parties via email, telephone or mobile cells. Foreign Central Authorities received updated information on the pending child abduction cases in an expeditious manner.
- i) Other, please specify.
Not applicable.
3. Please provide the three most **significant decisions concerning the interpretation and application of the 1980 Convention** rendered since the 2017 SC by the relevant authorities⁴ in your State.

⁴ The term “relevant authorities” is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1980 Convention. Whilst in the majority of Contracting Parties such “authorities” will be courts (*i.e.*, judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

Case Name	Court Name	Court Level	Brief summary of the ruling
Return Case - minor Igelbrink	The Supreme Court of Georgia	The court of last resort, Cassation	The minor was removed from the Federal Republic of Germany to Georgia by his mother without father's consent. Father of the child requested the return of the minor to the Federal Republic of Germany. The case was considered by the First instance, Appellate, and cassation courts of Georgia. The Supreme Court of Georgia found that minor was wrongfully removed, but did not issue a return decision based on Article 13 (b) of the Hague Convention since the return decision would have negative effect on the child's psychological condition. The Supreme Court stated that the "grave risk" test, which is enshrined in Article 13 of the 1980 Hague Convention, shall be interpreted narrowly. In addition, the court suggested, that the opinion of the child, which is based on the favor of free time and entertainment and is not based on the actual needs of the minor, shall not be taken into account as the justification of the refusal for the return of the child.
Return Case - Minor Vergun	Tbilisi City Court	The court of first instance	The minor was removed from Ukraine to Georgia by his father. The mother of the child requested the return of the minor to Ukraine. Tbilisi city court did not consider the child wrongfully removed since father of the minor introduced evidence that mother gave the consent to the removal of the child to Georgia. Moreover, the court stated, that the child (11 years old) had attained an age and the degree of maturity and took into account his opinion on the refusal to the return to Ukraine together with his mother. It should be highlighted that during the process of reviewing the case, the court analyzed the psychological state of the minor and the estimated results in the case of the minor's return to the requesting state.
Return Case - minor Ovanesyan	The Supreme Court of Georgia	The court of last resort, Cassation	Mother of the child claimed that minor was wrongfully retained on the territory of Georgia by her father and requested the return of the child to Ukraine. The case was considered by First instance, Appellate, and Cassation courts of Georgia. The Supreme Court of Georgia stated that the minor has been living in Georgia for 4 years and the habitual residence of the minor

			<p>became Georgia since the degree of integrity with Georgia was high. In addition, the Supreme Court particularly emphasized the importance of defending the best interests of the child and stated, that it primarily followed the principle, according to which the child should not be perceived as an object of protection, but as a subject whose rights have to be acknowledged and protected.</p>
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4. Please provide a brief summary of **any other significant developments** in your State since the 2017 SC.

Please, refer to the question N1.

Issues of compliance

5. Has your State faced any particular **challenges with other Contracting Parties** to the 1980 Convention in achieving successful cooperation? Please specify the challenges that were encountered and, in particular, whether the problems appear to be systemic.

- No
- Yes

Please specify the challenges encountered:
Please insert text here

6. Are you aware of situations or circumstances in which there has been **avoidance or improper application** of the 1980 Convention as a whole or any of its provisions in particular?

- No
- Yes

Please specify:
Please insert text here

Addressing delays and ensuring expeditious procedures

7. The 2017 SC encouraged States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / other alternative dispute resolution - “ADR” phases)⁵ in order to identify possible sources of delay and implement the adjustments needed to secure shorter time frames consistent with Articles 2 and 11 of the Convention. Please indicate any identified sources of delay at the following phases:

Central Authority

- No
- Yes
- Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

⁵ See C&R No 4 of the 2017 SC, “The Special Commission acknowledges that some States have made progress in reducing delays and encourages States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / ADR phases) in order to identify possible sources of delay and implement the adjustments needed to secure shorter time frames consistent with Articles 2 and 11 of the Convention.”

Please insert text here

Judicial proceedings

- No
- Yes
- Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Please insert text here

Enforcement

- No
- Yes
- Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Please insert text here

Mediation / ADR

- No
- Yes
- Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Please insert text here

Court proceedings and promptness

- 8. Does your State have mechanisms in place to deal with return decisions within six weeks (e.g., production of summary evidence, limitation of appeals, swift enforcement)?

- No
- Yes

Please specify:

According to Article 351-14 of Civil Procedure Code of Georgia a court shall deliver a judgment on the return of a wrongfully removed or retained child or on the right of access to the child expeditiously, within six weeks after commencement of proceedings. If the court fails to comply with this provision the Central Authority of Georgia, acting with its capacity under Article 7 of 1980 Hague Convention, is entitled to request information from the court on the impeding circumstances due to which the case could not be considered within 6 weeks and to request the court to act in an expeditious manner with regard to the consideration of the case.

The judgment delivered by the first instance courts on returning of a wrongfully removed/retained child or on applying the right of access to the child may be appealed to the Court of Appeal in accordance with the procedures established by Civil Procedure Code, within two weeks after a reasoned judgment has been served upon the party.

Moreover, the judgment delivered by the Court of Appeal on returning of a wrongfully removed/retained child or on applying the right of access to the child may be appealed to the Supreme Court of Georgia within two weeks after a reasoned judgment has been served upon the party. The decision rendered by the Supreme Court of Georgia is final and is not subjected to the appeal.

9. If the response to question 8 above is “No”, does your State contemplate implementing mechanisms to meet the requirement of prompt return under the 1980 Convention (e.g., procedures, bench-books, guidelines, protocols)?

- No
Please specify:
Please insert text here
- Yes
Please specify:
Please insert text here

10. Do the courts in your State make use of direct judicial communications⁶ to ensure prompt proceedings?

- No
 Yes
Please specify:
Please insert text here

11. If your State has not designated a judge to the International Hague Network of Judges (IHNJ) does your State intend to do so in the near future?

- No
 Yes
Please specify:
Georgia does not have a Hague Network Judge yet, but internal processes are underway to appoint a judge.

12. Please comment upon any cases (where your State was the requested State) in which the judge (or decision-maker) has, before determining an application for return, communicated with a judge or other authority in the requesting State regarding the issue of the child’s safe return. What was the specific purpose of the communication? What was the outcome?

Not applicable.

The role and functions of Central Authorities designated under the 1980 Convention

In general

13. Have any of the duties of Central Authorities, as set out in **Article 7** of the 1980 Convention, raised any particular problems in practice either in your State, or in Contracting Parties with which your State has cooperated?

- No
 Yes
Please specify:
Please insert text here

⁶ For reference, see “*Direct Judicial Communications - Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for Direct Judicial Communications in specific cases, within the context of the International Hague Network of Judges*”.

14. Has your Central Authority encountered any challenges with the application of **any of the 1980 Convention provisions**? If so, please specify.

- No
 Yes

Please specify:

[Please insert text here](#)

Legal aid and representation

15. Do the measures your Central Authority takes to provide or facilitate the provision of legal aid, legal advice and representation in return proceedings under the 1980 Convention (**Art. 7(2)(g)**) result in delays in proceedings either in your own State, or, where cases originate in your State, in any of the requested States that were dealt with?

- No
 Yes

Please specify:

[Please insert text here](#)

16. Are you aware of any other challenges in your State, or, where cases originate in your State, in any of the requested States your Central Authority has dealt with, regarding the **obtaining of legal aid, advice and / or representation for either left-behind parents or taking parents**?⁷

- No
 Yes

Please specify:

[Please insert text here](#)

Locating the child

17. Has your Central Authority encountered any **challenges with locating children** in cases involving the 1980 Convention, either as a requesting or requested State?

- No
 Yes

Please specify the challenges encountered and what steps were taken or are considered to be taken to overcome these challenges:

[Generally, there are no challenges with regard to the locating of the child, although, in some cases, if the applicant does not have an accurate information about the child's whereabouts, this may cause some delays in the locating process.](#)

Voluntary agreements and bringing about an amicable resolution of the issues

18. How does your Central Authority (either directly or through any intermediary) take, or is considering taking, appropriate steps under **Article 7(c)** to bring about an amicable resolution of the issues? Please explain:

⁷ See paras 1.1.4 to 1.1.6 of the C&R of the Fifth Meeting of the SC to review the operation of the 1980 Child Abduction and the practical implementation of the 1996 Child Protection Convention (30 October – 9 November 2006) (2006 SC C&R) and paras 32 to 34 of the C&R of the Sixth Meeting of the SC to review the operation of 1980 and 1996 Conventions (1-10 June 2011 and 25-31 January 2012) (2012 SC C&R), available on the HCCH website at www.hcch.net under “Child Abduction Section” then “Special Commission meetings”.

In order to ensure the prompt and effective resolution of the dispute, before submitting the case file to the competent court, the Central Authority of Georgia actively encourages parties to reach an agreement without using judicial proceedings. Apart from the official communication means, the Central Authority contacts the parties either by phone and/or email in order to quicken the process and proposes a meeting (when the party/parties are in Georgia) within 4-5 days after receiving application. If the party/parties so agree, the representatives of the Central Authority meet them and pass the relevant information on the circumstances and the possible outcomes of the case as well as the general procedures under the 1980 Hague Convention. In addition, representatives of the Central Authority of Georgia also inform the requesting Central Authority on the developments of the case and the steps taken in order to encourage the parties to settle the dispute amicably without referring the case file to the court.

19. In the case that your Central Authority offers mediation services, or other alternative dispute resolution methods to bring about an amicable resolution of the issues, has your Central Authority reviewed these procedures in the light of the framework of international child abduction cases (e.g., by providing trained, specialised mediators, including with cross-cultural competence and necessary language skills⁸)?

Please specify:

The Guide to Good Practice on Mediation is a very important tool to facilitate friendly settlement of the dispute between the parties. It gives a lot of useful information on how does the mediation work for the child abduction cases. The Central Authority of Georgia offers the parties the initiation of mediation with the involvement of specialised mediators. Moreover, in 2020, the Central Authority of Georgia in close cooperation with IRZ (the German Foundation for International Legal Cooperation) provided trainings on mediation within the framework of child abduction cases and 20 specialized mediators were trained by the German experts on the specific characteristics of mediation with regard to the child abduction cases.

20. Should the services mentioned in the question above not yet be provided, does your Central Authority intend to provide them in the future?

Please provide comments:

Not applicable.

21. Has your State considered, or is it in the process of considering, the establishment of a central service for international family mediation to facilitate access to information on available mediation services and related issues for cross-border family disputes involving children?⁹

No

Please explain:

However, this issue might be discussed in the near future.

Yes

Please explain:

Please insert text here

Ensuring the safe return of children¹⁰

⁸ For reference, please see the recommendation in the Guide to Good Practice on Mediation, item 3.2, paras 98-105, "Specific training for mediation in international child abduction cases", available on the HCCH website at www.hcch.net under "Child Abduction Section" then "Guides to Good Practice".

⁹ As it has been encouraged in the Guide to Good Practice on Mediation, Chapter 4, on "Access to Mediation". paras 114-117. See also 2011 / 2012 SC C&R at para. 61.

¹⁰ See Art. 7(2)(h) of the 1980 Convention.

22. How does the competent authority in your State obtain information about the protective measures available in the requesting State when necessary to ensure the safe return of the child?

Please explain:

The Central Authority of Georgia contacts Central Authority of the requesting state and provides with the relevant information on the case circumstances and the measures taken by the competent Georgian authorities, as well as the concerns of the Georgian Central Authority with regard to the safe return of the child and requests information on the protective measures available in the requesting state when necessary to ensure the safe return of the child. In parallel with the official correspondence, the contact can be made via e-mail and phone.

23. If requested as a safe return measure (e.g., in accordance with the 1996 Convention), would your Central Authority be in a position to provide, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?

- No
 Yes

Please specify:

In accordance with Article 32 (a) of the 1996 Convention Georgian Central Authority will refer to the State Care Agency in order to prepare the report on the situation of the child .

Information exchange, training and networking of Central Authorities

24. Has your Central Authority shared experiences with other Central Authority(ies), for example by organising or participating in any networking initiatives such as regional meetings of Central Authorities, either in person or online? ¹¹

- No
 Yes

Please specify:

Please insert text here

Case management and collection of statistical data on applications made under the Convention

25. Has your Central Authority developed any protocols or internal guidelines for the processing of incoming and outgoing cases?

- No
 Yes

Please specify and share the relevant instruments whenever possible:

The Central Authority of Georgia elaborated and the Government of Georgia approved the Ordinance №663 on the referral and enforcement mechanism of the cases of wrongful removal/retention or right to access of the child. This document is a management tool for the processing of incoming and outgoing child abduction cases. Moreover, it should be underlined that the Central Authority of Georgia is going to finish its work on the preparation of internal guidelines on the examination of incoming and outgoing cases.

26. Does your Central Authority operate a case management system for processing and tracking incoming and outgoing cases?

¹¹ See, in particular, Chapter 6.5, on twinning arrangements, of the Guide to Good Practice – Part I – Central Authority Practice, available on the HCCH website at www.hcch.net (see path indicated in note 8).

- No
- Yes

Please specify:

Georgian Central Authority produces electronic database of child abduction statistics and records detailed information on incoming and outgoing child abduction cases.

27. Does your State collect statistical data on the number of applications made per year under the 1980 Convention (e.g., number of incoming and / or outgoing cases)?¹²

- No
- Yes

In case this information is publicly made available, please share the links to the statistical reports:

statistical information is available at:
<https://justice.gov.ge/?m=articles&id=5indu2LCrB>

Transfrontier access / contact¹³

28. Since the 2017 SC, have there been any significant developments in your State regarding Central Authority practices, legislation, procedural rules or case law applicable in cases of transfrontier access / contact?

- No
- Yes

Please specify:

Please insert text here

29. Has your Central Authority encountered any problems as regards cooperation with other States in making arrangements for organising or securing the effective exercise of rights of access / contact?

- No
- Yes

Please specify:

Please insert text here

30. Has your State had any challenges, or have questions arisen, in making arrangements for organising or securing the effective exercise of rights of access / contact under **Article 21** when the application was *not* linked to an international child abduction situation?¹⁴

- No
- Yes

Please specify:

Please insert text here

31. In the case of access / contact applications under **Article 21**, which of the following **services** are **provided by your Central Authority**?

Position	Services provided
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¹² In the Country Profile for the 1980 Child Abduction Convention, question No 23(e), States are asked to inform whether statistics related to applications under the Convention are publicly available. Please note that, at its meeting of 2021, according to Conclusion & Decision (C&D) No 19, the Council on General Affairs and Policy (CGAP) mandated the discontinuance of INCASTAT.

¹³ See C&R Nos 18-20 of the 2017 SC.

¹⁴ According to C&R No 18 of the 2017 SC, “The Special Commission agrees that an application to make arrangements for organising or securing the effective exercise of rights of access / contact under Article 21 can be presented to Central Authorities, independently of being linked or not, to an international child abduction situation.”

<p>A request of assistance to organise or secure effective exercise of rights of access in another Contracting Party (as requesting State)</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1. Assistance in obtaining information on the operation of the 1980 Convention <input checked="" type="checkbox"/> 2. Assistance in obtaining information on the relevant laws and procedures in the requested State <input checked="" type="checkbox"/> 3. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input checked="" type="checkbox"/> 4. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input checked="" type="checkbox"/> 5. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input checked="" type="checkbox"/> 6. Assistance in providing or facilitating the provision of legal aid and advice <input checked="" type="checkbox"/> 7. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input checked="" type="checkbox"/> 8. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 9. Provision of regular updates on the progress of the application <input type="checkbox"/> 10. Other, please specify: Please insert text here
<p>A request of assistance to organise or secure effective exercise of rights of access in your State (as requested State)</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1. Providing information on the operation of the 1980 Convention and / or the relevant laws and procedures in your State <input checked="" type="checkbox"/> 2. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input checked="" type="checkbox"/> 3. Assistance in providing or facilitating the provision of legal aid and advice <input checked="" type="checkbox"/> 4. Assistance in obtaining private legal counsel or mediation services available in your State <input checked="" type="checkbox"/> 5. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 6. Regular updates on the progress of the application <input type="checkbox"/> 7. Other, please specify: Please insert text here

32. Should your State also be a Contracting Party to the 1996 Convention, are you aware of any use being made of **provisions of the 1996 Convention**, including those under Chapter V, **in lieu of or in connection with an application under Article 21** of the 1980 Convention?

- No
 - Yes
- Please specify:
Please insert text here

Special topics

Obtaining the views of a child in a child abduction case

33. When obtaining the views of a child in a child abduction proceeding in your State’s jurisdiction, what are the elements normally observed and reported by the person hearing the child (e.g., expert, judge, guardian *ad litem*? (E.g., the views of the child on the procedures, the views of the child on the subject of return, the maturity of the child, any perceived parental influence on the child’s statements)?

Please explain:
According to Georgian legislation there is no defined age upon which the child is able to object/consent in court hearing or during the enforcement of orders.

In addition, it should be underlined that Article 78 of Child Rights Code of Georgia highlights general principle of rights of the child to express his/her opinion and to have such opinion duly considered in administrative/court proceedings. In Particular, during administrative procedures and court proceedings related to the child, the child is guaranteed the opportunity to express his/her opinion regarding the case at any stage of the hearing of the case. The right of the child to have his/her opinion heard is not prejudiced by reference to age or other circumstances. The child is given the opportunity to express his/her opinion in the desired form. Appropriate conditions necessary to express his/her opinion is created for a child with disabilities. The process of expressing his/her opinion by the child is not take the form of an examination. It takes place in a friendly environment in the form of free dialogue.

Furthermore, Article 351-13 of Civil Procedure Code of Georgia regulating rules of court hearings on child abduction cases is in full compliance with Article 13 of the 1980 Hague Convention and prescribes that court hears the child if the child has attained an age and degree of maturity at which it is appropriate to take account of its views. An expert and/or a social worker attends child's hearing. As for enforcement of orders, it is worth mentioning that the same attitude with regard to the child's hearing is obtained in this particular cases. As Article 24 of "the referral and enforcement procedures for the return of a wrongfully removed or retained child or exercise of the right of access to the child" states enforcement proceedings of judicial decision on the return of the child is terminated on the basis of court order on the termination of enforcement procedure if the child, who has reached such age and maturity (physical and mental state) at which it is appropriate to take into account her/his opinion, refuses to return.

Furthermore, in the process of obtaining child views in child abduction cases a judge, social worker/expert/psychologist observe the views of the child with regard to the return, habitual residence, the age and maturity of the child, parental influence on the child's statements and etc.

34. Are there are any procedures, guidelines or principles available in your State to guide the person (e.g, expert, judge, guardian *ad litem*) in seeking the views of the child in a child abduction case?

- No
 Yes

Please specify:

Please insert text here

Article 15

35. As requesting State (outgoing applications), how often have judicial or administrative authorities in your State received requests for Article 15 decisions or determinations?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

36. As requested State (incoming applications), how often have judicial or administrative authorities in your State requested Article 15 decisions or determinations?

- Do not know
 Never

- Rarely
 Sometimes
 Very often
 Always

37. Please indicate any good practices your State has developed to provide as complete as possible information in the return applications as required under Article 8 with a view to speed up proceedings?

Please indicate:

Upon receipt of child abduction application, the Central Authority of Georgia contacts the initiator of the request to provide documents prescribed under Article 8 of the 1980 Hague Convention. In outgoing cases the Central Authority of Georgia itself requests relevant information from the Georgian state agencies. As for incoming cases, the Central Authority of Georgia studies the presented documentation and in case of inaccuracy or additional documentation is needed, refers to the requesting Central Authority.

38. Considering C&R No 7 of the 2017 SC,¹⁵ what information do you suggest adding to the Country Profile for the 1980 Convention, either as requested State or requesting State in relation to Article 15?

Please insert your suggestions:

Georgian Central Authority suggests adding to the Country Profile for the 1980 Convention detailed information on the procedures for determining wrongful removal/retention within the framework of Article 15 of 1980 Hague Convention, the necessary documentation, the person entitled to request determination of wrongful removal/retention and the deadline for considering the request.

Relationship with other international instruments on human rights

39. Has your State faced any challenges, or have questions arisen, in processing international child abduction cases where there was a **parallel refugee claim** lodged by the taking parent?

- No
 Yes

If possible, please share any relevant case law or materials that are relevant to this type of situation in your State or, alternatively, a summary of the situation in your State:
[Please insert text here](#)

- Do not know

40. Has the concept of the **best interest of the child** generated discussions in your State in relation to child abduction proceedings? If it is the case, please comment on any relevant challenges in relation to such discussions.

- No
 Yes

Please provide comments:
[Please insert text here](#)

Use of the 1996 Convention¹⁶

¹⁵ See C&R No 7: "The Special Commission recommends amending the Country Profile for the 1980 Convention to include more detailed information on the Article 15 procedure. It is further recommended that an Information Document on the use of Article 15 be considered with, if necessary, the assistance of a small Working Group."

¹⁶ For this part of the Questionnaire, the [Practical Handbook on the Operation of the 1996 Child Protection Convention](#) can provide helpful guidance, available on the HCCH website at [under "Child Protection Section"](#).

41. If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention (please comment where applicable below):
- (a) providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**)
Please insert text here
- (b) providing for the recognition of urgent protective measures by operation of law (**Art. 23**)
Please insert text here
- (c) providing for the advance recognition of urgent protective measures (**Art. 24**)
Please insert text here
- (d) communicating information relevant to the protection of the child (**Art. 34**)
Please insert text here
- (e) making use of other relevant cooperation provisions (e.g., **Art. 32**)
Please insert text here
42. If your State is a Party to the 1996 Convention, does your State make use of the relevant cooperation provisions (e.g., Art. 32) to provide, if requested, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?¹⁷
- No
 Yes
Please specify:
In accordance with Article 32 (a) of the 1996 Convention Georgian Central Authority will refer to the State Care Agency in order to prepare the report on the situation of the child.

Primary carer and protective measures

43. Are you aware of any cases in your State where a primary carer taking parent, for reasons of personal security (e.g., domestic or family violence, intimidation, coercive control, harassment, etc.) or others, has refused or has not been in a position to return with the child to the requesting State? How are such cases dealt with in your State?
- Please explain and provide case examples where possible:
Not applicable
44. Would the authorities of your State consider putting in place measures to protect the primary carer upon return in the requesting State if they were requested as a means to secure the safe return of the child?
- Please explain and provide case examples where possible:
In case of necessity, the relevant national authorities will take measures within their field of competence to protect the primary carer of the child. In addition, the Central Authority of Georgia will contact the Central Authority of the requesting state to coordinate the further steps for the safe return of the above mentioned person.

¹⁷ See C&R No 40 of the 2017 SC: “The Special Commission notes that many Central Authorities may provide certain degrees of assistance (both when the 1980 Convention and / or the 1996 Convention apply), both to individuals within their own State and to foreign Central Authorities on behalf of an individual residing abroad. Requests for assistance may encompass such matters as: securing rights of access; the return of children (both when the 1980 Convention and / or the 1996 Convention apply); the protection of runaway children; reporting on the situation of a child residing abroad; post-return reports for children returned to their habitual residence; the recognition or non-recognition of a measure taken abroad (advanced recognition); and, the enforceability of a foreign measure of protection.” (Emphasis added.)

45. In cases where the return order was issued together with a protective measure to be implemented upon return, are you aware of any issues encountered by your State in relation to the enforcement of such protective measures?

- No
 Yes

Please explain and distinguish between such measures being recognised and enforced under the 1996 Convention:

[Please insert text here](#)

46. In cases where the return order was issued together with an undertaking given by either party to the competent authority of the requested State, are you aware of any issues encountered by your State in relation to the enforcement of such undertakings?

- No
 Yes

Please specify:

[Please insert text here](#)

47. If your State is a Contracting Party to the 1996 Convention, is Article 23 of that Convention being used or considered for the recognition and enforcement of undertakings given by either party while returning a child under the 1980 Convention?

- No
 Yes

Please specify:

[Please insert text here](#)

- N/A

48. In cases where measures are ordered in your State to ensure the safety of a child upon return, does your State (through the Central Authority, competent Court or otherwise) attempt to monitor the effectiveness of those measures upon the child's return?

- No
 Yes

Please specify:

[In case of necessity, the Georgian Central Authority contacts the Central Authority of the requesting state in order to get the follow-up information on the situation of the child.](#)

International family relocation¹⁸

49. Has your State adopted specific procedures for international family relocation?

- Yes

Please describe such procedures, if possible:

[Please insert text here](#)

- No

Please describe how the authorities deal with international family relocation cases, if possible:

¹⁸ See the C&R of the 2006 SC at paras 1.7.4-1.7.5, C&R No 84 of the 2012 SC, and C&R No 21 of the 2017 SC, the latter of which says: "The Special Commission recalls the importance of securing effective access to procedures to the parties in international family relocation cases. In this regard, the Special Commission notes that: i) mediation services may assist the parties to solve these cases or prepare for outcomes; ii) the Washington Declaration of 25 March 2010 on Cross-border Family Relocation may be of interest to competent authorities, in particular in the absence of domestic rules on this matter. The Special Commission recommends joining the 1996 Convention."

Please insert text here

Publicity and debate concerning the 1980 Convention

50. Considering any potential impact on its practical operation, has your State had any recent publicity (positive or negative) or has there been any debate or discussion in your national parliament or its equivalent about the 1980 Convention?

- No
- Yes

Please indicate the outcome of this debate or discussion, if any:
Please insert text here

51. By what methods does your State disseminate information to the public and raise awareness about the 1980 Convention?

Please explain:

The general information regarding the application of the 1980 Hague Convention, the Explanatory Report of Elisa Perez-Vera, the application forms and the national implementing legislation is available on the website of the Ministry of Justice of Georgia: <https://justice.gov.ge/?m=articles&id=5indu2LCrB>. In addition, upon request, the representatives of the Central Authority of Georgia deliver the relevant information on the operation of the 1980 Hague Convention.

PART II – TRAINING, EDUCATION AND POST-CONVENTION SERVICES

Training and education

52. Please provide below details of any training sessions / conferences organised in your State to support the effective functioning of the 1980 Convention, and the influence that such sessions / conferences have had:

Please provide details:

In 2019-2021, the Central Authority of Georgia, in close cooperation with the GIZ, IRZ and with the involvement of international expert, conducted the following trainings for judges, social workers, law enforcement officials, mediators and for the staff of central Authority and raised awareness and knowledge of participants on:

- 1) the practical operation of 1980 Hague Convention;
- 2) the specific aspects of mediation within the framework of 1980 Hague Convention;
- 3) the enforcement of return orders within the framework of 1980 Hague Convention;
- 4) the practical application of 1996 Hague Convention;
- 5) the procedures for the recognition and enforcement of judicial decisions/administrative arrangements within the framework of 1996 Hague Convention.

The tools, services and support provided by the PB

53. Please comment or state your reflections on the specific tools, services and support provided by the PB to assist with the practical operation of the 1980 (and 1996) Conventions, including:

- a. The Country Profile available under the Child Abduction Section, including the addition and / or revision of its questions.

This document is very useful to get acquainted with the application of the 1980 Hague Convention in the other contracting states. It is a great opportunity for the Central Authorities to learn about the specific practical details regarding the operation of the 1980 Hague Convention upon filing the request for the return of the child/realization of the access rights.

- b. INCADAT (the international child abduction database, available at www.incadat.com).

This is a very useful tool for every actor involved in the examination process of the relevant cases as it contains the information on the interpretation of the particular provisions of the 1980 Hague Convention by various national and international courts.

- c. *The Judges' Newsletter* on International Child Protection - the HCCH publication which is available online for free;²⁰

This is a great opportunity for the judges and other professionals in order to get the relevant information on the various topics, including, the relevant national legislation/practice of the other contracting states.

- d. The specialised “Child Abduction Section” of the HCCH website (www.hcch.net);

This is a helpful tool as it contains the useful information on the implementation of the 1980 Hague Convention. For example, the updated list and contact information of the Central Authorities; the status table of the 1980 Hague Convention; the relevant publications on the child abduction issues, etc.

- e. Providing technical assistance and training to Contracting Parties regarding the practical operation of the 1980 (and 1996) Conventions. Such technical assistance and training may

²⁰ Available on the HCCH website at under “Child Abduction Section” and “Judges’ Newsletter on International Child Protection”. For some volumes of *The Judges’ Newsletter*, it is possible to download individual articles as required.

involve persons visiting the PB or, alternatively, may involve the PB (including through its Regional Offices) organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;

It is a perfect way for exchanging the information about the best practice towards the implementation of the 1980 and 1996 Hague Conventions and, in result, improving the relevant national legislation/practice.

- f. Encouraging wider ratification of, or accession to, the 1980 (and 1996) Conventions, including educating those unfamiliar with the Convention(s);²¹

In general, the increasing number of the contracting states will facilitate the better application of the 1980 Hague Convention in practice

- g. Supporting communications between Central Authorities, including maintaining updated contact details on the HCCH website or intervening to facilitate contact in cases where obstacles arise.

This is very important, as it facilitates the swift and efficient coordination between the respective Central Authorities and encourages the effective implementation of the main aims and objectives of the 1980 Hague Convention.

- h. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges or intervening to facilitate contact in cases where obstacles arise.

Not applicable.

- i. Responding to specific questions raised by Central Authorities, Hague Network Judges or other operators regarding the practical operation or interpretation of the 1980 (and 1996) Conventions.

Not applicable

Guides to Good Practice under the 1980 Convention

54. For any of the Guides to Good Practice²² which you may have used to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State please provide comments below:

- a. Part I on Central Authority Practice.

The document clearly describes the general functions and responsibilities of the main actors involved in the process of the examination of the 1980 Hague Convention, as well as the general recommendations with regard to the effective implementation of the above mentioned international treaty, it is widely used by the Central Authority of Georgia in order to improve the relevant national legislation and/or practice.

- b. Part II on Implementing Measures.

See above

²¹ Which again may involve State delegates and others visiting the PB or, alternatively, may involve the PB organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the 1980 (and 1996) Conventions and participating in such conferences.

²² All Parts of the Guide to Good Practice under the 1980 Convention are available on the HCCH website at www.hcch.net under "Child Abduction Section" then "Guides to Good Practice".

c. Part III on Preventive Measures.

See above

d. Part IV on Enforcement.

See above

e. Part V on Mediation

See above

f. Part VI on Article 13(1)(b)

See above

g. Transfrontier Contact Concerning Children – General Principles and Guide to Good Practice

See above

55. How has your Central Authority ensured that the relevant authorities in your State have been made aware of, and have had access to the Guides to Good Practice?

Some of the Guide to Good Practice is being translated into Georgian language and is disseminated among the judges and other representatives of the relevant state authorities, as well as the general public.

56. Do you have any other comments about any Part of the Guide to Good Practice?

Not applicable.

57. In what ways have you used the *Practitioner's Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children*²³ to assist in improving the practical operation of the 1980 Convention in your State?

Not applicable

Other

58. What other measures or mechanisms would you recommend:

a. to improve the monitoring of the operation of the 1980 Convention;

Not applicable

b. to assist States in meeting their Convention obligations; and

Not applicable

c. to evaluate whether serious violations of Convention obligations have occurred?

The encouragement of the dialogue and cooperation between the two states by the Hague Conference on Private International Law.

²³ The *Practitioner's Tool* is available at the HCCH website at www.hcch.net under "Child Abduction Section" then "Guides to Good Practice".

PART III – NON-CONVENTION STATES

59. Are there any States that you would particularly like to see become a Contracting Party to the 1980 Convention? If so, what steps would you suggest could be taken to promote the Convention and encourage ratification of, or accession to, the Convention in those States?

Please explain:

In general, the increasing number of the contracting states will facilitate the better application of the 1980 Hague Convention in practice. In order to encourage the ratification/accession of the Convention, it is advisable to hold more meetings/workshops/seminars or conferences between contracting states and non-contracting states with regard to the practical operation of the 1980 Hague Convention.

60. Are there any States which are not Party to the 1980 Convention or not Members of the HCCH that you would like to see invited to the SC meeting in 2023?

Please indicate:

Not applicable.

The “Malta Process”²⁴

61. Do you have any suggestions of activities and projects that could be discussed in the context of the “Malta Process” and, in particular, in the event of a possible Fifth Malta Conference?

Please explain:

Within the framework of the Malta process, it is important to consider issues that are challenging under the provisions of 1980 and 1996 Hague Conventions. For instance, the application of 1996 Hague Convention in child abduction cases, mediation within the framework of 1980 Hague Convention, the strengthening of cooperation with countries where Sharia laws apply, and the realization of the right of access to the child by the left-behind parent and etc.

²⁴ The “Malta Process” is a dialogue between certain Contracting Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and addressing the problems posed by international abduction between the States concerned. For further information see the HCCH website at www.hcch.net under “Child Abduction Section” then “Judicial Seminars on the International Protection of Children”.

PART IV – PRIORITIES AND RECOMMENDATIONS FOR THE 2023 SC AND ANY OTHER MATTERS

Views on priorities and recommendations for the SC

62. Are there any particular issues that your State would like the SC meeting to discuss in relation to the 1980 Convention?

Please specify and list in order of priority if possible:

- 1) The clarification of the "grave risk" exception, the term of habitual residence and the best interest of the child in the process of the examination of the 1980 Hague Convention cases by the competent administrative/judicial authorities;
- 2) The further facilitation of the cooperation between the Central Authorities of the state parties to the 1980 Hague Convention;
- 3) The highlighting of the importance of the application of the 1996 Hague Convention provisions in the child abduction/retention/realization of the rights to access cases;
- 4) Sharing best practice with regard to the mediation within the framework of 1980 Hague Convention.

63. Are there any proposals your State would like to make concerning any particular recommendation to be made by the SC?

Please specify:
Not applicable

Bilateral meetings

64. Should your State be interested in having bilateral meetings during the SC meeting, please indicate, for the PB's planning purposes, an estimate of how many States with which it intends to meet:

Please insert number:
2

Any other matters

65. States are invited to comment on any other matters which they may wish to raise at the 2023 SC meeting concerning the practical operation of the 1980 Convention.

Please provide comments:
Not applicable.