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| <b>Title</b>              | Report on post-Convention work and developments in relation to the 1980 Child Abduction and 1996 Child Protection Conventions  |
| <b>Document</b>           | Prel. Doc. No 12 of December 2021  |
| <b>Author</b>             | PB   |
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| <b>Mandate(s)</b>         | C&D Nos 16, 17 and 18 of CGAP 2021<br>C&D No 17 of CGAP 2020   |
| <b>Objective</b>          | To report to CGAP on ongoing post-Convention work, including the celebration of the 25 <sup>th</sup> anniversary of the 1996 Child Protection Convention and preparations for the next meeting of the Special Commission envisaged to 2023   |
| <b>Action to be Taken</b> | For Decision <input checked="" type="checkbox"/><br>For Approval <input type="checkbox"/><br>For Discussion <input type="checkbox"/><br>For Action / Completion <input type="checkbox"/><br>For Information <input type="checkbox"/>   |
| <b>Annexes</b>            | Annex I – Malta Process<br>Annex II – Report on the audience overview of INCADAT (www.incadat.com)   |
| <b>Related Documents</b>  | Prel. Doc. No 5 of December 2020 for CGAP 2021;<br>Prel. Doc. No 6 of December 2020 for CGAP 2021;<br>Prel. Doc. No 7 of December 2020 for CGAP 2021;<br><a href="#">Conclusions and Recommendations of the Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention</a> |

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# Report on post-Convention work and developments in relation to the 1980 Child Abduction and 1996 Child Protection Conventions

## I. Introduction

- 1 The *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (1980 Child Abduction Convention) and the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* (1996 Child Protection Convention) both aim to protect children in international situations. The Preambles of both Conventions frame their object and purpose around the interests of the child – in the case of the 1980 Child Abduction Convention, noting that it is “[f]irmly convinced that the interests of children are of paramount importance in matters relating to their custody”,<sup>1</sup> and in the case of the 1996 Child Protection Convention, “[c]onfirming that the best interests of the child are to be a primary consideration”.
- 2 Reflecting the complementary objects and purposes of these two Conventions, and to support the effective implementation and operation of these two instruments, post-Convention work related to both Conventions are carried out by the Permanent Bureau (PB). In the past year, the PB carried out many activities related to post-Convention assistance, including the preparation for the next meeting of the Special Commission (SC), the preparation and publication of documents, the monitoring and maintenance of databases (e.g., INCADAT), the organisation of promotional and training activities such as seminars and conferences, as well as the provision of day-to-day information and replies to enquiries from States and other stakeholders.
- 3 This document, in section II, reports on the status of the 1980 Child Abduction Convention and the 1996 Child Protection Convention. Section III reports on the work carried out, and progress made, in relation to the various post-Convention projects. Section IV reports on the HCCH|Approach Initiative, the global event that celebrated the 25<sup>th</sup> anniversary of the 1996 Child Protection Convention, and identifies plans for following up with the discussions and trends driven by the event. Finally, this document presents further information about the preparations for the next meeting of the SC, currently scheduled to take place in 2023.

## II. Status of the 1980 Child Abduction and 1996 Child Protection Conventions

- 4 The 1980 Child Abduction Convention has 101 Contracting Parties, the third highest number of any instrument of the HCCH. The Convention has Contracting Parties from all continents, out of which approximately one quarter are non-Member States (e.g., Cuba, Fiji, Iraq, Jamaica, Zimbabwe). The PB continues to promote the proper implementation and effective practical operation of the Convention, with a view not only to increasing the number of Contracting Parties but also to promote the acceptance of newly acceding Parties, allowing for increased global coverage and better protection of children in the international situations falling within the scope of the Convention.
- 5 The 1996 Child Protection Convention has 53 Contracting Parties, all of which are also Parties to the 1980 Child Abduction Convention. With the 25<sup>th</sup> Anniversary of the Convention in 2021 and the renewed interest in its wide-ranging framework, the PB identified opportunities to increase momentum towards accession and ratification by new Contracting Parties. The PB has also identified areas for further work, which reflect current and future needs concerning the protection of children's rights worldwide, strategically profiling the Convention as a comprehensive framework for international cooperation in its field of application.

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<sup>1</sup> See Art. 11 of the *UN Convention of 20 November 1989 on the Rights of the Child* (UNCRC). The reference to “accession to existing agreements” in Art. 11(2) of the UNCRC includes the 1980 Child Abduction Convention.

### III. Post-Convention work

#### A. COVID-19 pandemic and the 1980 Child Abduction Convention

- 6 Since March 2020, the fluid situation in relation to travel and other restrictions on public services as a result of the COVID-19 pandemic have had a significant impact on the complexity of international child abduction cases. Measures taken by public authorities around the world in response to the pandemic have produced challenges in, among other issues, hearing parties and children, arranging visitation rights, as well as in the enforcement of return orders. Against the backdrop of these extraordinary circumstances, the PB participated in several events that aimed to cushion the impact of the COVID-19 pandemic on the 1980 Child Abduction Convention, including global and regional meetings with members of the International Hague Network of Judges (IHNJ) and with the Central Authorities. Meetings that focused on the impact of the COVID-19 pandemic on the practical operation of the 1980 Child Abduction Convention included, for example, the 18 June 2020 meeting of the IHNJ judges that discussed the implication of COVID-19 and protective measures on return applications under the Convention, as well as the December 2020 meeting organised by the Regional Office for Latin America and the Caribbean (ROLAC), in which Central Authorities and IHNJ judges of the United States and some Contracting Parties of the region participated to exchange lessons learned from their experience in managing the impact of the pandemic.
- 7 As the COVID-19 pandemic continued throughout 2021, the PB continues to follow new developments in order to ensure that the 1980 Child Abduction Convention operates properly, effectively and efficiently. Besides monitoring activities in this regard, the PB continues to collate relevant case law to update its Toolkit for the 1980 Child Abduction Convention in times of COVID-19.<sup>2</sup> Case law that involves issues raised as a result of the COVID-19 pandemic is also continuously made available on INCADAT.<sup>3</sup> The PB is working on a report on the impact of the COVID-19 pandemic on international child abduction cases, to be presented at the next meeting of the SC.

#### B. Malta Process and the Working Party on Mediation

- 8 Under its co-Chairs, Ms Karine Asselin (Canada) and Judge Kamal Ali Saleh Al Smadi (Jordan), the Working Party on Mediation under the Malta Process continues with its activities. Annex I sets out the history and development of the Malta Process from its inception to its present status. The PB has been working towards increasing the membership of the Working Party, and has reached out to potential new Members which recently have enacted new domestic legislation concerning cross-border issues, including issues outside of the child protection portfolio (e.g., Japan). This outreach is being undertaken with an eye on increasing the representation of the Africa region as a priority.<sup>4</sup>
- 9 Following on C&D No 17 of CGAP 2020, the PB plans to make information about the Malta Process more readily available through the publication of research on specific topics of interest drawn-up or organised by members of the Working Party. These include topics such as *kafala* in the context of alternative care and international placements of children. Engagement on these topics (e.g., through a Malta Conference) presents a unique opportunity to enable cooperation and dialogue among Contracting and non-Contracting Parties with different legal traditions in the field of family law.

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<sup>2</sup> The [Toolkit for the 1980 Child Abduction Convention in times of Covid-19](https://www.hcch.net) is available on the HCCH website at [www.hcch.net](https://www.hcch.net) under the “Child Abduction Section”.

<sup>3</sup> The list of [relevant case law](#) is provided through a link in the [Toolkit for the 1980 Child Abduction Convention in times of Covid-19](https://www.hcch.net) available on the HCCH website at [www.hcch.net](https://www.hcch.net) (see path indicated in note 2).

<sup>4</sup> In line with Strategic Priority No 2 of the Strategic Plan 2019-2022, available on the HCCH website at [www.hcch.net](https://www.hcch.net) under “Governance”.

- 10 Following on C&D No 11 of CGAP 2020, States that have not yet designated a Central Contact Point for International Family Mediation under the Malta Process are invited to consider establishing such a Central Contact Point (or designating their Central Authority as a Central Contact Point).

### **C. INCADAT ([www.incadat.com](http://www.incadat.com))**

- 11 The International Child Abduction Database (INCADAT) continues to attract an increasing number of users from different jurisdictions, contributing to the development of a uniform and autonomous interpretation of the Convention. In the reported period in 2021,<sup>5</sup> INCADAT attracted 25,768 users. This number represents an increase of approximately 18% compared to the number of users in 2020. Compared to 2018, this represents an increase of nearly 75%. The interest in the database has become more global, with an upward trend in user acquisition in the Asia Pacific region and in Latin America. Further information and graphical visualisation of the data relating to the user of INCADAT are presented in Annex II. The PB continues to assess how the database can be improved in terms of translations, geographical coverage of the decisions, a better UI/UX of the website, and the possibility of using relevant tags and keywords to assist practitioners, researchers and other users of the database in finding relevant case law. The PB continues to monitor decisions and provides translated summaries of the cases in English, French and Spanish<sup>6</sup> whenever possible.
- 12 INCADAT currently depends on voluntary contributions for its maintenance and operation. In order for the database to continue its operation, the PB invites CGAP to consider reiterating its invitation to Members to make voluntary contributions towards its operation. The PB further proposes that CGAP consider recommending that Members designate a national INCADAT correspondent. In order to ensure inclusiveness and allow for broader geographical coverage of the decisions in the database, the PB proposes that CGAP recommends that all Members appoint an INCADAT correspondent to work with the PB in keeping INCADAT up to date.

### **D. International Hague Network of Judges (IHNJ)**

- 13 The PB is in close communication with the judicial authorities in Singapore with a view to rescheduling the 4<sup>th</sup> Global Meeting of the IHNJ and the HCCH Judicial Roundtable on the 1980 Child Abduction and 1996 Child Protection Conventions. Initially scheduled to take place in 2020, the meeting has been postponed (but not yet confirmed) to the first half of 2023 due to the continuing uncertainty caused by the COVID-19 pandemic and in order for it to be held in person. 2023 marks the 25<sup>th</sup> anniversary of the IHNJ. Given the period that has elapsed since the last Global Meeting (2018), and considering that it was essential for members of the INHJ to continue meeting in order to discuss important issues in a timely manner, the PB is organising, in consultation with the members of the Network, online meetings to be held in January 2022.
- 14 On 27 September and 15 November 2021 ROLAC held an online meeting for Latin American IHNJ members. Considerable time at these meetings was devoted to the exchange of views on the challenge of judicial delays and the sharing of some successful procedural remedies that have been implemented in different jurisdictions to address this issue. The practical implementation of protective measures and arrangements to secure the safe return of the child was also discussed, as well as the interpretation of Article 21 of the 1980 Convention concerning access applications. Finally, some meeting time was dedicated to sharing experiences on the operation of the 1996

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<sup>5</sup> From 1 January to 6 December 2021.

<sup>6</sup> Latin American decisions are being increased largely by the generous cooperation provided by Prof. Nieve Rubaja and a team of students and young professors from Buenos Aires University. Likewise, the Spanish version of the database is being increased thanks to the work of advanced translation students from the Belgrano University of Argentina.

Convention and, in particular, its beneficial impact on child abduction cases reported by IHNJ members in jurisdictions that have both instruments in force.

## **E. Status of Publications**

- 15 Since its approval and subsequent publication in 2020, the PB has been promoting the *Guide to Good Practice under the Child Abduction Convention: Part VI - Article 13(1)(b)*,<sup>7</sup> in a series of training events and seminars. More recently, a Spanish translation provided by ROLAC was revised with the generous voluntary contribution provided by the *Asociación Internacional de Juristas de Derecho de Familia*. A provisional Japanese translation was also made available thanks to the Ministry of Foreign Affairs of Japan. Thanks to the support of the Directorate-General for Justice and Consumers of the European Commission, the Guide is now also available in 19 official languages of the European Union (EU) on the HCCH website. With these new translations, the Guide is now available in 23 EU languages.<sup>8</sup>
- 16 The earlier publications relating to the 1980 Child Abduction and 1996 Child Protection Conventions may also be re-published with a view to being updated and re-printed where necessary.

## **F. Enquiries**

- 17 The PB, including through its Regional Offices, deals with a great number of enquiries from stakeholders and individuals in relation to the 1980 Child Abduction and 1996 Child Protection Conventions every year. Enquiries that the PB frequently receives and responds to include requests from Central Authorities and other stakeholders to obtain updated information regarding the contact details of Central Authorities and substantive queries raised by governmental bodies and the IHNJ concerning the practical operation of the Conventions.
- 18 Considering the number and repeated content of substantive enquiries that the PB receives, the PB is exploring the possibility of creating a Frequently Asked Questions (“FAQ”) page on its website containing basic answers concerning the scope of application of the 1980 Child Abduction Convention, clarifying the role of the PB, and information guiding users to the relevant Central Authorities. The answers on this FAQ page will be drawn from text already approved for publication in the various publications relating to the 1980 Child Abduction and 1996 Child Protection Conventions.

## **G. Events: seminars, conferences and training**

- 19 In the last reporting cycle, the PB participated in a number of seminars, conferences, and training sessions focused on the 1980 Child Abduction and 1996 Child Protection Conventions, among which the following are noteworthy:
- a. Through its Regional Office for Asia and the Pacific (ROAP), the PB organised together with the Ministry of Foreign Affairs of Japan (MOFA) the “Web Seminar on the HCCH 1980 Child Abduction Convention in the Asia Pacific” on 18 March 2021.<sup>9</sup> The seminar was attended by more than 30 government officials from the Asia Pacific region, representing both Contracting and non-Contracting Parties, such as Australia, China (Hong Kong SAR), India, Indonesia, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand and Viet Nam.

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<sup>7</sup> [Guide to Good Practice under the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction – Part VI, Article 13\(1\)\(b\)](#), available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction” then “HCCH Publications”.

<sup>8</sup> All these translations are available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction” then “HCCH Publications”, then “Guide to Good Practice Child Abduction Convention: Part VI - Article 13(1)(b)”.

<sup>9</sup> A Press Release from the Ministry of Foreign Affairs of Japan containing information about the event was published on 19 March 2021 and is available on [https://www.mofa.go.jp/press/release/press4e\\_002985.html](https://www.mofa.go.jp/press/release/press4e_002985.html).



- b. On 22 April 2021, the PB participated in the online international seminar on “The Practical Operation of the Hague Convention of the 25th of October 1980 on the Civil Aspects of International Child Abduction”, which was organised by the German Foundation for International Legal Cooperation (IRZ) and the Ministry of Education and Science of the Republic of Kazakhstan. The seminar was attended by more than 100 participants from governmental bodies in Germany, Kazakhstan and Turkey.<sup>10</sup>
- c. On 1 June 2021, the PB contributed to the Regional Discussion on Children’s Rights and Alternative Care, an event organised by the Council of Europe in preparation for the UNCRC 2021 Day of General Discussion.<sup>11</sup> The PB made a presentation on the framework provided by the 1996 Child Protection Convention. As a concrete result, the Council of Europe cited the relevance of the Convention for ensuring that a designated body has responsibility for determining standards in relation to necessity and suitability principles, and highlighted the Convention’s usefulness for encouraging States’ cooperation to ascertain whether a cross-border alternative care placement is truly necessary and suitable with regard to the child’s best interests.
- d. On 9 August 2021, a webinar entitled “The Safeguards of Children and Adolescents’ Rights in International Child Abduction cases” was co-organised by the Inter-American Commission on Human Rights and the HCCH. Among the more than 300 participants who attended the webinar were representatives of Central Authorities, judges (including some members of the IHNJ), academics, and other stakeholders interested in the subject. Panellists representing the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the Inter-American Children’s Institute and the HCCH addressed topics of crucial importance for the implementation of the 1980 Child Abduction Convention. These topics included the compatibility of the Convention and the *Inter-American Convention on the International Return of Children* on the return of children with the UNCRC and *the American Convention on Human Rights*, the best interests of the child and hearing the child’s views in international child abduction proceedings, delays in child abduction proceedings and the effective implementation of the various Conventions, domestic and gender-based violence, and the recently-published Guide to Good Practice on Article 13(1)(b).
- e. On 5 November 2021, the PB and the EU-funded Project Pravo-Justice co-organised a judicial roundtable for the Supreme Court of Ukraine, focused on the 1980 Child Abduction and 1996 Child Protection Conventions. The event was organised as part of the Pravo-Justice series of seminars entitled “Application of the instruments of the Hague Conference on Private International Law”. Six speakers representing the judiciary and Central Authorities from Australia, Germany, Israel, the Netherlands, Switzerland and the United Kingdom discussed topics including the main features of the Conventions, the relationship between the Conventions and the *United Nations Convention on the Rights of the Child*, and perspectives from the bench including examples of coordination through the IHNJ. The seminar was attended by 150 participants from the Supreme Court, appeal courts and local courts of Ukraine, the Ministry of Justice of Ukraine, the National School of Judges and academics.
- f. On 23 and 24 September 2021, the PB hosted a study visit of the European Judicial Training Network. The PB delivered presentations on the 1980 Child Abduction and 1996 Child Protection Conventions, including discussions on relevant jurisprudence and an interactive case study that walked participants through a hypothetical international child abduction

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<sup>10</sup> The seminar was livestreamed at the YouTube Channel of the Ministry of Education and Science of the Republic of Kazakhstan. It is available at: <<https://www.youtube.com/watch?v=E-bhGBZEIls>>

<sup>11</sup> The Council of Europe created a dedicated page for the event, which is available at <<https://www.coe.int/en/web/children/regional-discussion-childrens-rights-in-alternative-care>>.

scenario. The seminar was attended by 22 family law judges and prosecutors from 11 European jurisdictions.<sup>12</sup>

- 20 The PB participated actively as a speaker in various other online events discussing the operation of these two Conventions, including the Conference organised by the Swiss Institute of Comparative Law in May 2021 on *New Developments in Private International Law in East Asia*, the 8<sup>th</sup> World Congress on Family Law and Children's Rights in May, and the first meeting of the Nigerian Group on Private International Law on 21 June 2021. Under its cooperation agreement with Kyushu University, PB staff members also observed LL.M. student presentations concerning the 1980 Child Abduction Convention and its implementation in various jurisdictions.

#### IV. HCCH|Approach Initiative – Advancing and Promoting the Protection of All Children (25<sup>th</sup> Anniversary of the 1996 Child Protection Convention)

- 21 Thanks to generous voluntary contributions from the Federal Ministry of Justice and Consumer Protection of Germany and the International Association of Family Lawyers, the PB developed and hosted the HCCH|Approach Initiative (Advancing and Promoting the Protection of All Children), featuring multiple events and promotional activities to mark the 25<sup>th</sup> Anniversary of the 1996 Child Protection Convention.
- 22 On 28 September 2021, ROAP hosted a region-focused event titled “Twenty-Five Years of the HCCH 1996 Child Protection Convention in the Asia and Pacific Region: Present, Development and Future”. The meeting, held via video conference, was attended by participants representing 15 Member States and two observers. The event brought together experts and scholars to explore matters in the historical evolution and future development of the 1996 Child Protection Convention in the Asia and Pacific region. Through their respective keynote speeches, the experts provided valuable insights on the domestic and private international law of Japan, the Republic of Korea, and Indonesia concerning child protection. In addition, they discussed the necessity and feasibility of increasing the influence of the Convention in the Asia and Pacific region.
- 23 On 19 October 2021, the PB hosted the HCCH|Approach Global Event. The event highlighted current perspectives on the 1996 Child Protection Convention, recounted the history and successes of the Convention, and set out a vision for increasing the recognition and influence of the Convention. Speakers representing a diversity of regions, legal systems and points of view each delivered pre-recorded remarks to create a series of “expert videos” broadcast throughout the entire day of the Global Event. The expert videos were organised under the following themes: “The Convention: 25 Years On”; “Issues Addressed by the Convention”; and “Why Join the HCCH 1996 Child Protection Convention: Perspectives”. The event concluded with a live panel discussion titled “The HCCH 1996 Child Protection Convention at 25: Going from Silver to Gold”.
- 24 On 28 October 2021, ROLAC organised an online event for Central Authorities for the 1996 Child Protection Convention in the region. The event was attended by officials from the Central Authorities of Argentina (as observers), Costa Rica, Cuba, the Dominican Republic, Honduras, Nicaragua and Uruguay. The purpose of the meeting was to exchange ideas and experiences regarding the application of the Convention and to identify challenges for its implementation and operation. Participants discussed the need to promote the Convention in the region to increase membership, as well as various solutions to address the challenges identified, such as trainings for Central Authority officers, judges and other actors.

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<sup>12</sup> Participants were from Bulgaria, Czech Republic, Estonia, France, Germany, Hungary, Poland, Portugal, Romania, Slovakia and Spain.



- 25 The HCCH|Approach Essay Competition and HCCH|Approach Media and Design Competition were opened in July 2021 to legal professionals, law students, and law academics or researchers. In the Essay Competition, entrants were invited to author an essay examining any legal issue within the scope of the 1996 Child Protection Convention. The three winners in the essay competition, which were selected by an international panel of expert judges, came from the United States (first place), France (second place) and the Philippines (third place). In the Media and Design Competition, entrants were invited to create an audio, visual, graphic or other representation of the protection of children across borders in general, or on any aspect of the 1996 Child Protection Convention in particular. The three winners of the Media and Design Competition were from Jamaica (first place), Venezuela (second place), and Costa Rica (third place). The winners of each competition were announced during the HCCH|Approach Global Event on 19 October 2021.
- 26 The PB created a dedicated webpage for the 25<sup>th</sup> Anniversary of the 1996 Child Protection Convention, which contains all the videos and recordings of the HCCH|Approach Global Event.<sup>13</sup> The HCCH|Approach videos are hosted online and are accessible at any time. These videos form the core of a library of audio-visual materials on child protection, which will be re-publicised to coincide with dates and events relevant to the child protection portfolio. In addition, the PB will produce a post-event publication of transcripts and speaker profiles of the HCCH|Approach proceedings.

## **V. Eighth Meeting of the SC**

### **A. Scheduling**

- 27 Following on C&D No 16 of CGAP 2021, the PB has started preparations for the Eighth Meeting of the SC on the practical operation of the 1980 Child Abduction and 1996 Child Protection Conventions, currently scheduled for Q3 2023. Subject to CGAP's approval, the PB proposes that the format of the meeting be discussed at a later stage, in order to allow for the possibility of an in-person meeting taking into account the most updated health and safety regulations concerning international travel.

### **B. Collection of statistical data and questionnaire on possible topics**

- 28 Considering the discontinuance of INCASTAT mandated by C&D No 19 of CGAP 2021, the PB is working on a questionnaire to collect statistical data on applications made under the 1980 Child Abduction Convention. This questionnaire will be circulated in the first half of 2022. The PB emphasises the importance of consistently collecting such data to allow for its proper analysis in the statistical study that will be prepared to inform the meeting of the SC. As was the case at the last meeting of the SC in 2017, the PB plans to circulate the preliminary results of the statistical study a few months before the meeting of the SC and to present final revised results soon after the meeting. The PB hopes that, subject to funding, a statistical analysis of applications made in 2022 under the 1980 Child Abduction Convention can be undertaken.
- 29 A questionnaire on possible topics for discussion at the next meeting of the SC will also be circulated in the first half of 2022. This questionnaire will assist the PB in preparing the Preliminary Documents for the SC and prioritising the most relevant topics, considering the most urgent needs of the Members in relation to the operation of the 1980 Child Abduction and 1996 Child Protection Conventions. This questionnaire will also take into account feedback that was received from Members during the 2021 meeting of CGAP.

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<sup>13</sup> The webpage is available on the HCCH website at [www.hcch.net](http://www.hcch.net) under the "Child Protection Section". All the videos are also available at the [HCCH YouTube Channel playlist](#).

### **C. Review of Central Authorities contact information**

- 30 Another step in the preparation of the Eighth Meeting of the SC is the review of details of Central Authorities that have been communicated to the PB. Stakeholders and parties rely on the information provided on the HCCH website in order to obtain the contact details of Central Authorities designated under these two Conventions. The PB will contact the relevant Central Authorities and National Organs throughout 2022 to obtain and update their contact information.

### **D. Country Profile for the 1996 Child Protection Convention**

- 31 Following on C&D No 17 of CGAP 2021, the PB will circulate a draft Country Profile for the 1996 Child Protection Convention for Members' comments as a Preliminary Document for the Eighth Meeting of the SC. A revised draft will be circulated again shortly before the meeting, with a view to having a finalised draft Country Profile for approval at the meeting.

## **VI. Proposal for CGAP**

- 32 The PB invites CGAP to take note of the updates and developments in this portfolio and to further support the efforts of the PB in providing post-Convention services to ensure the proper operation of the Conventions and raise awareness of the 1980 Child Abduction and 1996 Child Protection Conventions and their associated projects.
- 33 The PB invites CGAP to consider reiterating its invitation to Members to make voluntary contributions towards the operation of INCADAT. The PB further proposes that CGAP consider recommending that Members designate a national INCADAT correspondent. In order to ensure inclusiveness and allow for broader geographical coverage of the decisions in the database, the PB proposes that CGAP recommend that all Members appoint an INCADAT correspondent to work with the PB in keeping INCADAT up to date.
- 34 The PB invites CGAP to consider inviting Members to make voluntary contributions towards the statistical study of applications made in 2022 under the 1980 Child Abduction Convention.
- 35 The PB invites CGAP to take note of the activities undertaken under the HCCH|Approach Initiative to promote the visibility of the 1996 Child Protection Convention on its 25<sup>th</sup> anniversary. The PB further invites CGAP to consider extending activities under the HCCH|Approach Initiative to other Conventions in the field of family law and child protection.
- 36 With respect to the preparations for the 2023 SC Meeting, the PB invites CGAP to endorse the work undertaken by the PB to date and approve the proposed tentative schedule for the holding of the meeting in Q3 2023.
- 37 Finally, the PB invites CGAP to consider encouraging Contracting Parties to the 1980 Child Abduction Convention to:
- a. establish mediation Central Contact Points (or designate their Central Authority as a Central Contact Point);
  - b. expedite, to the extent possible, the process of acceptance of accessions to the 1980 Child Abduction Convention; and
  - c. consider acceding to or ratifying the 1996 Child Protection Convention if not already the case.

## **ANNEXES**

## Annex I: History, development and status of the Malta Process

- 1 Since its establishment in 2004,<sup>1</sup> the Malta Process has contributed to significant developments made in the field of child protection and child abduction. The Malta Process is a platform for international dialogue between Contracting Parties to the 1980 Child Abduction Convention and 1996 Child Protection Convention and non-Contracting Parties of Islamic and Shariah legal traditions.<sup>2</sup> The objective of the Malta Process is to enhance cooperation between these participants and to ensure the effective protection of children, acknowledging challenges in the application of these Conventions while exchanging ideas and fostering mechanisms that allow for better practical operation.<sup>3</sup> The Malta Process has grown in popularity over the years and has increasingly gathered participants from different regions of the world.<sup>4</sup>
- 2 Four Malta Conferences have been held over 12 years from 2004 to 2016, with participation increasing from 14 States in 2004<sup>5</sup> to 34 States in 2016.<sup>6</sup> Growing interest in the Malta Process has also led to the increased participation of States of Islamic and Shariah legal traditions in the Fourth Malta Conference.<sup>7</sup>
- 3 One of the significant achievements of the Malta Process is the establishment of a Working Party with the purpose of promoting the development of mediation structures to resolve matters relating to custody and contact in cases of child abduction (“Working Party on Mediation”).<sup>8</sup> Through the work of the Working Party on Mediation, private international law experts have participated in a number of conferences, meetings and seminars which have successfully informed discussions on different legal perspectives in matters related to international family disputes. Formal and informal meetings of the Working Party have been held since 2009.<sup>9</sup>
- 4 The Working Party on Mediation has elaborated the Principles for the Establishment of Mediation Structures, a non-binding tool that aims to encourage States to establish a Central Contact Point for the purposes of mediation in cross-border disputes where the 1980 Child Abduction and 1996 Child Protection Conventions do not apply.<sup>10</sup> The Principles provides for standards to be considered in implementing mediation processes and identifying mediators and mediation organisations.<sup>11</sup> The Principles also encourage States to take steps to ensure that mediated agreements will be legally binding in the relevant jurisdictions.<sup>12</sup>
- 5 The Malta Process has been pivotal in the creation of a Central Contact Point by Pakistan<sup>13</sup> and its subsequent accession to the 1980 Child Abduction Convention.<sup>14</sup> Moreover, Pakistan has also

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<sup>1</sup> Report of the Malta Judicial Conference on Cross-Frontier Family Law Issues, March 2004, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction Section” then “The ‘Malta process’ and the Working Party on Cross-border family mediation”.

<sup>2</sup> “10<sup>th</sup> Anniversary of the Malta Process”, 24 March 2014, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “News Archive” and “2014”.

<sup>3</sup> *Ibid.*

<sup>4</sup> Report of the Fourth Malta Conference on Cross-Frontier Child Protection and Family Law, May 2016, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 1).

<sup>5</sup> See Report of the Malta Judicial Conference on Cross-Frontier Family Law Issues, *supra* note 1.

<sup>6</sup> See Report of the Fourth Malta Conference on Cross-Frontier Child Protection and Family Law, *supra* note 4.

<sup>7</sup> Experts from Algeria, Bangladesh, Indonesia, Iran, Jordan, Lebanon, Libya, Malaysia, Mauritania, Morocco, Pakistan, Saudi Arabia, Senegal and Tunisia joined the Fourth Malta Conference.

<sup>8</sup> Third Malta Judicial Conference on Cross-Frontier Family Law Issues of March 2009, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 1).

<sup>9</sup> A list of meetings can be found at the path indicated in note 1.

<sup>10</sup> Principles for the Establishment of Mediation Structures in the Context of the Malta Process, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction Section” then “Cross-border family mediation”.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Report of the Working Party on Mediation - 29 October 2009 conference call, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 1).

<sup>14</sup> “Pakistan joins the 1980 Hague Child Abduction Convention”, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “News Archive” and “2016”.

designated members the IHNJ.<sup>15</sup> Morocco<sup>16</sup> and Tunisia<sup>17</sup>, which are Members of the HCCH, have also acceded to the 1980 Child Abduction Convention following on their participation in the Malta Process. Several other States have also designated Central Contact Points following the meetings of the Working Party. These include Australia, Canada, France, Germany, Hungary, Jordan, the Netherlands, Pakistan, the Russian Federation, the Slovak Republic and the United States of America.<sup>18</sup>

- 6 In addition to its success in promoting dialogue and offering a platform where experts from different legal traditions share their knowledge and expertise, the Malta Process has also inspired further research within the EU, where a handbook on best practices concerning the resolution of cross-border family conflicts, with the purpose of identifying Good Practices for the Euro-Mediterranean region, was developed.<sup>19</sup>
- 7 The PB has provided substantive and logistical support to the Malta Conferences and the work of the Working Party on Mediation. The PB continues to provide training and technical assistance for government officials, judges, practitioners and other relevant professionals concerning the implementation of the HCCH Conventions, including the facilitation of international coordination through its assistance in the designation of new members of the IHNJ.

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<sup>15</sup> Members of the International Hague Network of Judges, December 2021, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction Section” then “The International Hague Network of Judges”.

<sup>16</sup> HCCH profile of Morocco, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “HCCH Members”.

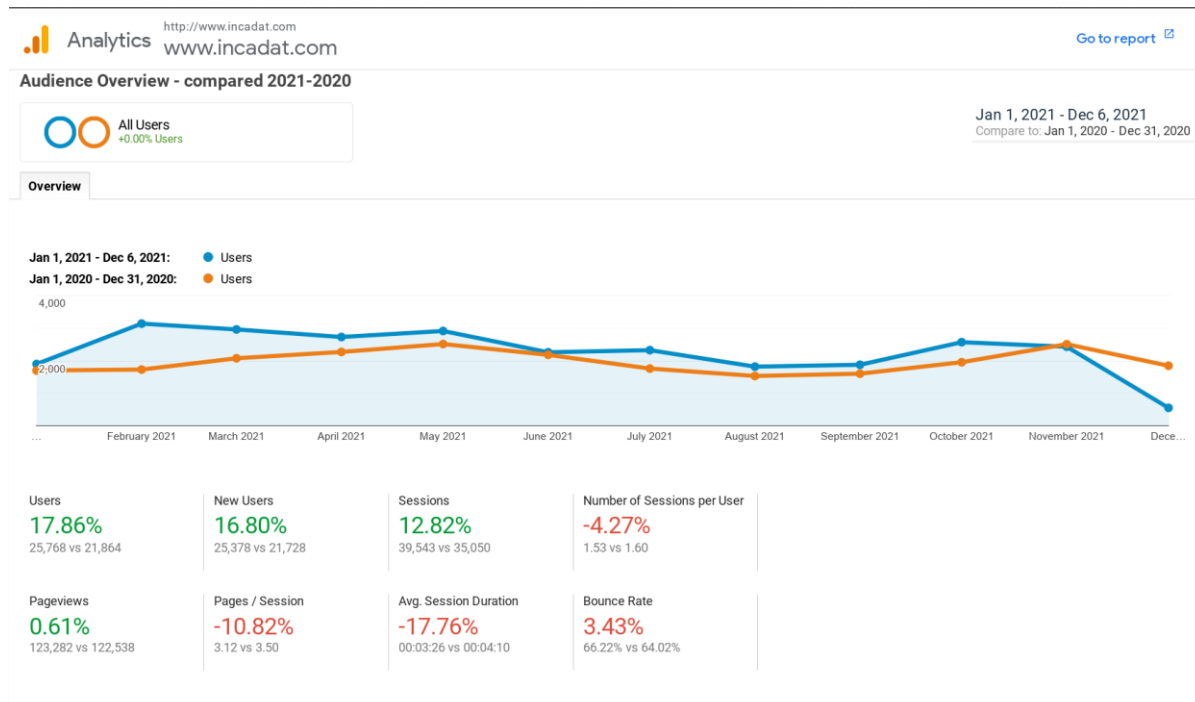
<sup>17</sup> HCCH profile of Tunisia, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 16).

<sup>18</sup> Central Contact Points for international family mediation, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 10).

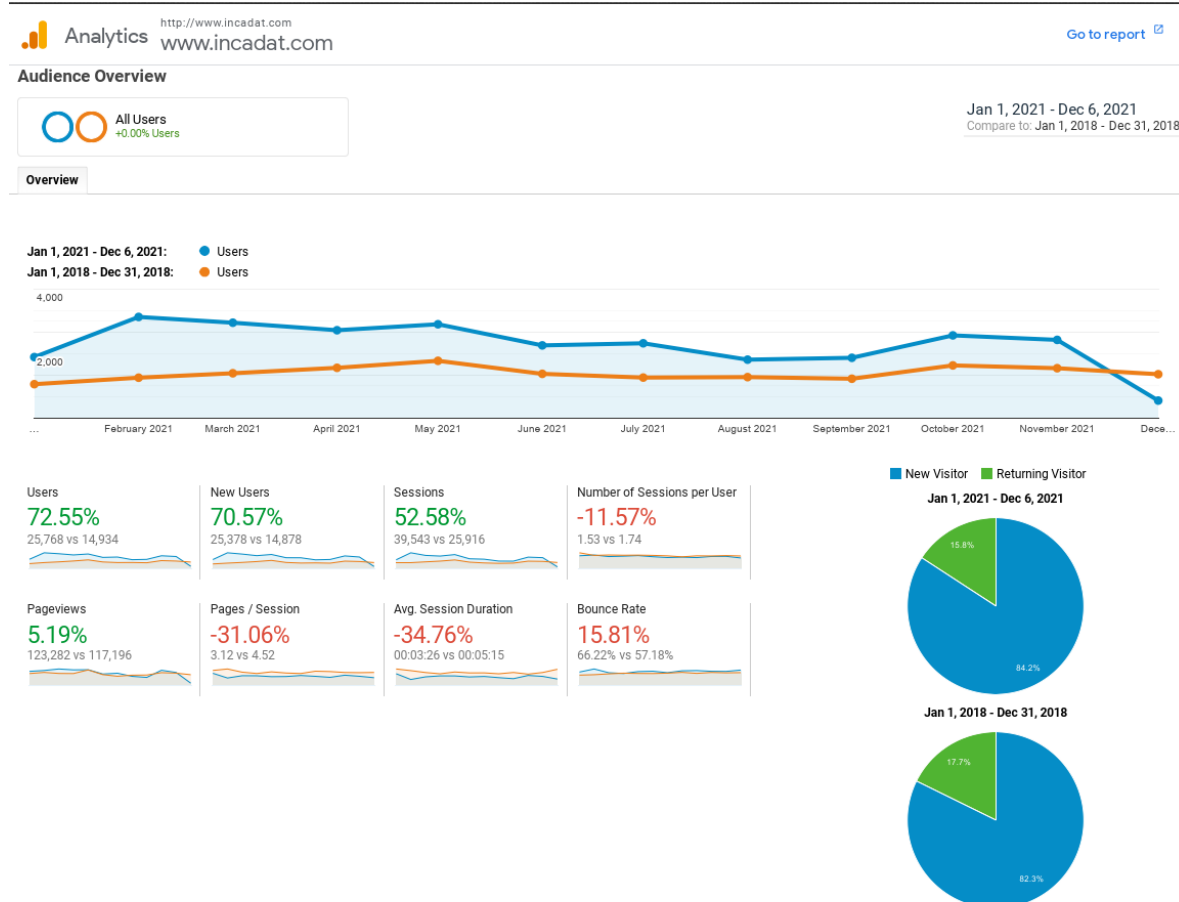
<sup>19</sup> “Handbook on Good Practices Concerning the Resolution of Cross-Border Family Conflicts, with Special Focus on Cross-Border Disputes Concerning Parental Responsibility. (Handbook 2)” available at <http://www.euromed-justice-iii.eu/content/handbook-good-practices-concerning-resolution-cross-border-family-conflicts-special-focus>.

## Annex II: Report on the audience overview of INCADAT ([www.incadat.com](http://www.incadat.com))

2020 vs 2021



2018 vs 2021



User location (2020 vs 2021)



