

## QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF THE 1980 CONVENTION

Wherever your replies 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.

<b>Name of State or territorial unit:</b> <sup>1</sup>	República de Panamá
<i>For follow-up purposes</i>	
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### PART I: RECENT DEVELOPMENTS<sup>2</sup>

#### 1. Recent developments in your State

1.1 Since the 2011 / 2012 Special Commission, 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 in the legislation / rules, and, where possible, the results achieved in practice (e.g., reducing the time required to decide cases).

- No  
 Yes, please specify:  
[Please insert text here](#)

1.2 Please provide a brief summary of any significant decisions concerning the interpretation and application of the 1980 Convention rendered since the 2011 / 2012 Special Commission by the relevant authorities<sup>3</sup> in your State including in the context of the 20 November 1989 United Nations Convention on the Rights of the Child and relevant regional instruments.

A decision of relevance is the Benitez Charry case. In this case the right of visit and custody and upbringing by the stepfather of a minor, considered a foster parent, was evaluated. This figure is not provided for in Panamanian legislation, and Article 328 of the Family Code should be applied by analogy.

1.3 Please provide a brief summary of any other significant developments in your State since the 2011 / 2012 Special Commission relating to international child abduction.

In Panama, from 2012 to date, efforts have been made through the Ministry of Social Development, as an authority that has convened certain sectors of society, with the intention of elaborating a comprehensive protection law, a project for which it has also used external consultation.

#### 2. Issues of compliance

<sup>1</sup> The term "State" in this Questionnaire includes a territorial unit, where relevant.

<sup>2</sup> This Part of the Questionnaire is intended to deal primarily with the developments in law and practice relating to international child abduction and international child protection which have occurred in your State since the Sixth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the *Hague 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* (1-10 June 2011 and 25-31 January 2012) (hereinafter "the 2011 / 2012 Special Commission"). However, if there are important matters which you consider should be raised from *prior to* the 2011 / 2012 Special Commission, please provide such information here.

<sup>3</sup> 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 States Parties such "authorities" will be courts (*i.e.*, judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

2.1 Are there any States Parties to the 1980 Convention with whom you are having particular challenges in achieving successful co-operation? Please specify the challenges you have encountered and, in particular, whether the problems appear to be systemic.

- No  
 Yes, please specify:

Yes. There have been difficulties in achieving effective cooperation with the Central Authorities of Brazil and Bermuda.

With respect to the first, the situation corresponds to a request for visiting regulations based on the 1980 Convention. It has been difficult to obtain certain information through the Central Authority of Brazil on aspects of social order of the parent that required said right. Finally, a decision was made on this process, but in the absence of this information, and despite the efforts of the Central Authority of Panama, no response was obtained on this matter.

Regarding the second point, the Central Authority of Panama requested information from the Central Authority of Bermuda regarding a proceeding before the Supreme Court of that State and related to the request made to the Central Authority of Panama. Such information was important to resolve legally, however, and although it was requested since 2016, has not yet been answered, which has not allowed progress to the corresponding procedural stage.

2.2 Are you aware of situations / circumstances in which there has been avoidance / evasion of the 1980 Convention?

- No  
 Yes, please specify:  
 Please insert text here

## PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION

### 3. The role and functions of Central Authorities designated under the 1980 Convention<sup>4</sup>

*In general*

3.1 Have any challenges arisen in practice in achieving effective communication or co-operation with other Central Authorities?

- No  
 Yes, please specify:  
 Please insert text here

3.2 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 States Parties with whom you have co-operated?

- No  
 Yes, please specify:  
 Please insert text here

3.3 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*

3.4 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 you have dealt with?

- No  
 Yes, please specify:

<sup>4</sup> See also Section 5 below on "Ensuring the safe return of children" which involves the role and functions of Central Authorities.

Please insert text here

3.5 Are you aware of any other challenges in your State, or, where cases originate in your State, in any of the requested States you have dealt with, regarding the obtaining of legal aid, advice and / or representation for either left-behind parents or taking parents?<sup>5</sup>

- No  
 Yes, please specify:  
 Please insert text here

#### *Locating the child*

3.6 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:

Yes. The greatest difficulty in locating minors when submitting restitution applications is the address where they can be located is not fully provided, or is not true. However, competent courts have an interdisciplinary team to locate minors allegedly abducted or unlawfully detained, whose investigative work ultimately finds the child's whereabouts.

In addition to the above, it should be noted that in situations in which, despite having a specific place where the child is, once the restitution has been declared, the abductor parent usually moves to another place, without notifying that change to the authorities. However, in this type of situation we have had the support of the Division of Judicial Investigation of the Specialized Police for Children and of INTERPOL, which has made it possible to overcome these obstacles and locate the whereabouts of the abducted child.

3.7 Has your Central Authority worked with any external agencies to discover the whereabouts of a child wrongfully removed to or retained within your State (e.g., the police, Interpol, private location services)?

- No  
 Yes, please share any good practice on this matter:

Yes. The Republic of Panama avails itself of the support of the DIVISION OF JUDICIAL INVESTIGATION and of INTERPOL to find the location of the minors.

In addition, we have been widely supported by the National Migration Service, who are responsible for reporting whether the allegedly stolen child entered the national territory.

#### *Information exchange, training and networking of Central Authorities*

3.8 Has your Central Authority shared its expertise with another Central Authority or benefited from another Central Authority sharing its expertise with your Central Authority, in accordance with the Guide to Good Practice – Part I on Central Authority Practice?<sup>6</sup>

- No  
 Yes, please specify:

Yes, the Central Authority of the Republic of Panama has used the expertise of other Central Authorities with respect to the general application of the 1980 Hague Convention and the application of the same Convention in their respective territories.

<sup>5</sup> See paras 1.1.4 to 1.1.6 of the "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague 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* (30 October – 9 November 2006) (hereinafter referred to as the "[Conclusions and Recommendations of the 2006 Special Commission](#)") and paragraphs 32 to 34 of the [Conclusions and Recommendations of the Special Commission to review the operation of the Hague Convention of 19 October 1980 on Jurisdiction, Applicable law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children \(1-10 June 2011 and 25-31 January 2012\)](#) (hereinafter the "C&R of the 2011/2012 Special Commission") (available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Special Commission meetings").

<sup>6</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice". See, in particular, Chapter 6.5 on twinning arrangements.

In addition, information has been exchanged when meetings are held, either at a general or regional level, where in certain circumstances Panama has had the opportunity to present specific situations and cases.

Likewise, the Central Authority of the Republic of Panama, when it has been questioned about the application of the Convention in the Republic of Panama, has endeavored to answer the doubts raised by the other Central Authorities as soon as possible.

3.9 Has your Central Authority organised or participated in any other networking initiatives between Central Authorities such as regional meetings via conference call or videoconference?

No

Yes, please specify:

A regional meeting of Central Authorities and Judges of the International Network of Judges of The Hague was held in Panama in March (2017), which allowed the exchange of experiences and ideas on the Implementation of the 1980 Convention on the Civil Aspects of International Child Abduction.

This meeting was made possible by the collaboration of the Judicial Branch of Panama and the Regional Office of the Hague Conference.

#### *Statistics<sup>7</sup>*

3.10 If your Central Authority does not submit statistics through the web-based INCASTAT database, please explain why.

We were collecting the information about the child abduction processes, in order to submit the statistics through the web-based INCASTAT database. The data we have collected to date are being incorporated into the platform.

#### *Prompt handling of cases*

3.11 Does your Central Authority have mechanisms in place to ensure the prompt handling of cases?

No

Yes, please specify:

Yes, the Central Authority of the Republic of Panama has implemented mechanisms to expedite the applications filed under the 1980 Hague Convention.

Among other things, much attention has been paid to the obligation to notify another authority when it has not been able to verify that the child is in Panamanian territory, so that the petition can be appealed to the corresponding State. And if the request is formally received and verified that the requested party has left the country, that request is addressed to the receiving State, so that the processing of the request for restitution is not delayed.

Among other things, it has been decided to send the requests and other documentation sent by the Central Authorities of the requesting State to the competent Child and Adolescent Courts within the territory of Panama by mail, which results in a reduction in the Initiation of the process at the national level.

3.12 If your Central Authority is experiencing delays in handling cases please specify the main reasons for these delays:

Yes. In the situations where we have had delays, these correspond to the requests that are sent incompletely. In such cases the authority is informed that the application is incomplete and invited to correct it. The time taken by the other authorities can be considered as a delay.

## **4. Court proceedings & promptness**

4.1 Has your State limited the number of judicial or administrative authorities who can hear return applications under the 1980 Convention (*i.e.*, concentration of jurisdiction)?<sup>8</sup>

<sup>7</sup> See paras 1.1.16 to 1.1.21 of the Conclusions and Recommendations of the 2006 Special Commission (*supra*, note 5).

<sup>8</sup> See, *The Judges' Newsletter* on International Child Protection – [Vol. XX / Summer-Autumn 2013](#) the special focus of which was "Concentration of jurisdiction under the *Hague Convention of 25 October 1980 on the civil aspects of International Child Abduction* and other international child protection instruments".

Yes

No, please indicate if such arrangements are being contemplated:

No. In the Republic of Panama there is no concentration of competition, as it operates in the other countries of the region. Our country has twelve national judges of children and adolescents in various provinces, who are competent to hear applications for international restitution under the territorial jurisdiction assigned according to the place where the child is located

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

No

Yes, please explain:

Please insert text here

4.3 If your response to the previous question 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 explain:

Please insert text here

Yes, please explain:

Yes. Panama has as a challenge to develop special legislation to regulate these aspects, with the intention of establishing an abridged and expedited procedure, all in order to comply with the terms established in the Convention.

4.4 If your State is experiencing delays in handling return decisions please specify the main reasons for these delays:

Yes. Panama has improved considerably in process time for requests for International Restitution, both in the first instance and in the second. However, it must be acknowledged that for the time being it has not been possible to reach the six-week deadline except in cases where the parties may express an interest in returning voluntarily.

4.5 Do your courts regularly order immediate protective measures when initiating the return procedure, so as to prevent a new removal and minimize the harm to the child (e.g., prohibit removal of the child from the jurisdiction, retain documentation, grant provisional access rights to the left-behind parent)?

No, please explain:

Please insert text here

Yes, please explain:

Yes. Executive Decree 222 of 2001 develops some of the measures that the Judge of Childhood and Adolescence can apply to avoid a new subtraction or to minimize the damages to the minors. These judges may, in accordance with our domestic legal system, take the necessary measures to ensure the protection and safety of minors.

Immediate measures that can be taken include the impediment to leave the country from the moment the request arrives and is admitted in court, communicating this to the National Immigration Authority and carrying out an immediate social inspection of the child's domicile to corroborate that there are no risk factors that may affect their personal and emotional integrity, and if there is any risk, the Judge may take protective measures to safeguard the integrity of these growing people in the event of a possible violation of their rights. Example: Chinchilla case, coming from the Republic of Costa Rica.

4.6 Do your courts make use of direct judicial communications to ensure prompt proceedings?

Yes

No, please explain:

To date, Panamanian judges have no direct contact with judges in other countries who are responsible for implementing the 1980 Convention. However, in spite of the challenges that this entails, we believe that it could contribute to a better interpretation of the Convention, and could provide greater clarity regarding the norms on childhood and adolescence that govern other countries.

4.7 If your State has not designated a sitting judge to the International Hague Network of Judges does your State intend to do so in the near future?

- Yes  
 No, please explain:  
[Please insert text here](#)

4.8 Please comment upon any cases (whether your State was the requesting or 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?

[Panama has had experience in judicial communications with other requesting States. Said communications have been made with the purpose that once the abduction has been declared, the minors are subject to being returned safely. The judge of the requesting State facilitates contact so that the above is fulfilled](#)

## 5. **Ensuring the safe return of children**<sup>9</sup>

*Methods for ensuring the safe return of children*<sup>10</sup>

5.1 What measures has your Central Authority taken to ensure that the recommendations of the 2006 and 2011 / 2012 Special Commission meetings<sup>11</sup> regarding the safe return of children are implemented?

[Among the measures that have been adopted with the aim of ensuring that the minor returns safely, there is the diligence of Panama's diplomatic staff after granting restitution. Officials of this nature are responsible for transferring the child to the requesting State and submit it to the competent judicial authority for the knowledge of the custody process, so that the latter can determine whether it can be delivered to the parent or other relative before complaints of cross-violence.](#)

[Likewise, a decision is made to accompany the parent to the airport until the aircraft is boarded, and the Central Authority is notified of the return so that once they enter the territory of the requesting State, the corresponding authority is present, so as to determine whether the child is to remain with the parent who is charged with abduction.](#)

[It has also been ordered that passports be consigned to the captain of the aircraft and remain in his custody until the minor enters the requesting State. In this case the deposit of said passport has been ordered, not only for the minor, but the parent with whom he travels.](#)

5.2 In particular, in a case where the safety of a child is in issue and where a return order has been made in your State, how does your Central Authority ensure that the appropriate child protection bodies in the *requesting* State are alerted so that they may act to protect the welfare of a child upon return (until the appropriate court in the requesting State has been effectively seised)?

[The Central Authority of the Republic of Panama proceeds to inform the Central Authority of the State to which the minor is reinstated, so that the latter may take appropriate steps with the agencies of that State to ensure the protection and welfare of the child.](#)

[In cases where a court has requested, by means of a resolution, the adoption of special protection measures in the State to which the child is to be returned, the Central Authority of the Republic of Panama shall proceed to refer that decision to the Central Authority of that State, to inform us if it is possible to comply with those measures or conditions.](#)

[Likewise, in the event that a court requires information on the current situation of a minor returned to the State of his habitual residence, the Central Authority of the Republic of Panama proceeds to bring that request to the attention of the Central Authority of that State, so that the previous proceedings, send us that information.](#)

5.3 Where there are concerns in the requested State regarding possible risks for a child following a return, what conditions or requirements can the relevant authority in your State put in place to minimise or eliminate those concerns?

<sup>9</sup> See **Art. 7(2) h** of the 1980 Convention.

<sup>10</sup> Where relevant, please make reference to the use of undertakings, mirror orders and safe harbour orders and other such measures in your State.

<sup>11</sup> See the [Conclusions and Recommendations](#) of the Special Commission of 2006 (*supra*. note 5) at paras 1.1.12 and 1.8.1 to 1.8.2 and 1.8.4 to 1.8.5 and the Appendix to the Conclusions and Recommendations and the Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra*. note 5).at paras 39-43.

Among the measures that can be taken by the competent judicial authorities to minimize or eliminate the risk, we can mention: to verify the circumstances denounced, and once you are certain of the risk, you can adopt as a measure to locate the child where you are; And not counting a family in Panamanian territory, the SENNIAF -a central authority is requested to grant protection of this nature- in order to provide an alternative placement or foster family for a certain time, so that it can be protected Fully to the minor before a circumstance of danger.

*Use of the 1996 Convention to ensure a safe return*

5.4 If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**), in providing for their recognition by operation of law (**Art. 23**), and in communicating information relevant to the protection of the child (**Art. 34**)?

- No  
 Yes, please explain:  
 Please insert text here

*Protection of primary carer*

5.5 Are you aware of cases in your State where a primary carer taking parent, for reasons of personal security (*e.g.*, domestic or family violence, intimidation, 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.

With the exception of domestic or family violence, a judicial decision has ordered that the Central Authority of Panama coordinate with the Central Authority of the requesting State so that the latter may notify the judicial authorities of that country, so that when the minor enters that country they are received by the protection system of their State, allowing the abducting father to accompany him on the trip and accompany him to the presentation before the Competent Authority, so that it determines the protection of both the child and the parent at risk from retaliation.

Another alternative used is to maintain communications through our Central Authority with the Central Authority of the requesting State, in order to obtain a response to a judicial decision on the lifting of the measures that may have been taken against the abductor, starting from the fact that he shows his will to return, and is intended to prevent once he enters the territory of the requesting State can be learned or deprived of freedom. In summary, the measure adopted is designed to coordinate with the corresponding judicial authorities to allow the abductor in the company of his minor son to appear before the corresponding authority and can express the reasons for which he illegally abducted or retained the minor to the acts of violence of the other parent.

5.6 In particular, would your authorities consider putting in place measures to protect the primary carer upon return in the requesting State as a mean to secure the safe return of the child? Please explain and provide case examples where possible.

Yes. In order to ensure the return of a child to a requesting State, the Republic of Panama, faced with the fears of the parent who committed the illegal detention and who was ordered to be abducted, stated that he would guarantee his legal assistance in the requesting State. This commitment was due to the mother's claim that she was at a disadvantage because the father was a national of that State, and she was a foreigner; and affirmed, accordingly, "discrimination". That is why, in response to the Central Authority's question to the High Court regarding the allegations made by the mother's legal representative in Panama, she pointed out that when the mother returned to that State, she would be offered legal assistance by our State. The intention was for the mother to comply with the judgment and return it with her son and to discuss it in the courts that dealt with the divorce and custody case, since she claimed that she was a victim of violence and had brought this situation to the attention of without an effective response.

*Post-return information*

5.7 In cases where measures are put in place in your State to ensure the safety of a child upon return, does your State (through the Central Authority, or otherwise) attempt to monitor the effectiveness of those measures upon the child's return? Would you support a recommendation that States Parties should co-operate to provide each other with follow-up information on such matters, insofar as is possible?

The Central Authority of the Republic of Panama, at the request of the various Children's and Adolescents' Courts of Panama, who are aware of the proceedings brought under the 1980 Hague Convention, have opted to request other Central Authorities, the effective fulfillment of the conditions or measures for the return of a child to another State party.

In this regard, the Central Authority of the Republic of Panama supports any measure aimed at exchanging information, on the situation of a minor in the State to which he has been returned, or in compliance with the measures adopted by the Judges Of Children and Adolescents, within the framework of an international restitution.

In a particular case with Nicaragua, it was ordered to return the child in the company of a Diplomatic Agent of the requesting State and to be presented before the competent Judge of custody and upbringing of that country. The Judicial Branch requested information from the Central Authority of Panama on behalf of the child after she returned to her country of origin, which replied that the Central Authority of Nicaragua had informed the girl that she had been delivered to a consanguineous relative, due to the cross-complaints between both parents of domestic violence. This motivates us to support the cooperation between States in providing information on the follow-up of this case with the intention of ensuring that the measure adopted at the end guarantees the protection of the restitution

5.8 If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for requesting a report on the situation of the child upon return to the State of habitual residence (**Art. 32-(a)**)?

No

Yes, please explain:

Yes, the Directorate General for Legal Affairs and Treaties of the Ministry of Foreign Affairs of the Republic of Panama is aware of the benefits of signing the 1996 Hague Convention with respect to obtaining reports on the situation of the child upon return to the State of residence and is consulting with the Judicial Branch and other Panamanian authorities to determine whether or not the Panamanian State becomes a State Party.

## **6. Voluntary agreements and mediation**

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

Efforts to reach agreement on a proceeding initiated under the 1980 Hague Convention are carried out by the Judges who are aware of the case, based on article 782 of the Family Code of the Republic of Panama, and in accordance with the concept of the best interest of the minor, contained in the different treaties that deal with the rights of the child and the family. In accordance with the procedure regulated in said legal provision, the judge is empowered to promote the agreement between the parties in the oral act, where favorable results have been obtained. Equally, it is worth mentioning that if both parties agree, the judge can send the case to the Alternate Methods Centers (which is driven by the judge from the beginning of the process).

In addition, the Central Authority of the Republic of Panama met on Friday, March 31, 2017, in the Ministry of Foreign Affairs, with representatives of the Judicial Branch of Panama, with Dr. Ignacio Goicoechea, representative of Latin America, of the Conference of The Hague, and with Mrs. Alison Shalaby of the NGO Reunite, to discuss the possible creating of a national mediation protocol, which would allow the voluntary return of an allegedly stolen child, or the friendly settlement of a process initiated in the Republic of Panama, based on the Convention Of The Hague of 1980

6.2 In what ways have you used the “Guide to Good Practice on Mediation”<sup>12</sup> for the purpose of implementing the 1980 Convention in your State? Please explain:

The guide to good practices of mediation at the moment is not being implemented directly to the Convention of 1980, however if it is being used as input to elaborate the protocol of mediation or conciliation for Panama.

6.3 Has your State considered or is it in the process of considering the establishment of a Central Contact Point for international family mediation to facilitate access to information on available mediation services and related issues for cross-border family disputes involving children, or has this task been entrusted to the Central Authority?<sup>13</sup>

No, please explain:  
Please insert text here

Yes, please explain:

6.3. Yes. As we have discussed, the Office of Alternate Methods of the Judicial Branch is assessing the feasibility of being the central contact point at the international level, for which at a given moment it should be defined by higher levels of the Judicial Branch.

## 7. Preventive measures

7.1 Has your State taken steps to advance the development of a travel form under the auspices of the International Civil Aviation Organisation?<sup>14</sup>

No  
 Yes, please describe:  
Please insert text here

7.2 Regardless of whether the International Civil Aviation Organisation adds the development of a travel form to its work programme, would your State support the development of a non-mandatory model travel form under the auspices of the Hague Conference?

Yes  
 No, please explain:

This should be consulted with migration authorities and others who are involved with juvenile authorities. If the Hague Conference elaborates a form, we consider that it would be an input that could be valued for uniformity and at the same time that the parents and family know the formula in which they should be involved in order to obtain authorization for their children to leave. Children and specify if this should be merely administrative or judicial.

## 8. The Guide to Good Practice under the 1980 Convention

8.1 In what ways have you used the Parts of the Guide to Good Practice<sup>15</sup> to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State?

a. Part I on Central Authority Practice. Please explain:

In response to some recommendations contained in the Central Authorities' guide on good practices, the Panamanian Central Authority has used electronic means to communicate continuously with the Central Authorities of the other States Parties to the Convention. Similarly, in order to avoid delays in the implementation of the provisions of the 1980 Convention, after receiving a request for international return sent by post by another Central Authority, the corresponding administrative procedures (drafting of the memorandum, duly based on the 1980 Convention, addressed to the competent judicial body), and to send all the documentation provided by the requesting Authority by mail to the different officials and judges of the Child and Adolescent Courts of the country. In addition, some Childhood and Adolescence Courts have opted to adopt interim communality regimes,

<sup>12</sup> Available on the Hague Conference website at < www.hcch.net > under “Child Abduction Section” then “Guides to Good Practice”.

<sup>13</sup> As it has been encouraged in the Guide to Good Practice on Mediation, Chapter 4, on “Access to Mediation”. par. 114-117. See also Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra*. note 5) at par. 61.

<sup>14</sup> See the Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra*. note 5) at par. 92.

<sup>15</sup> All Parts of the Guide to Good Practice under the 1980 Convention are available on the Hague Conference website at < www.hcch.net > under “Child Abduction Section” then “Guides to Good Practice”.

enabling video conference communication between the requesting parent and the minor allegedly abducted in the territory of the Republic of Panama, which usually takes place in the facilities of the Courts.

In addition, in some cases the requesting parents intervene by video conference in the international restitution hearings.

b. Part II on Implementing Measures. Please explain:

In compliance with Article 7 of the 1980 Convention, the Panamanian Central Authority has ample powers to request other Panamanian institutions (Police for Minors, INTERPOL (PANAMÁ), National Migration Directorate, among others) to locate children presumably subtracted from Panamanian territory. Likewise, in order to avoid further harm to the child allegedly abducted, the Panamanian Central Authority has decided to request the Child and Adolescent Courts competent to hear the international restitution proceedings, to instruct the corresponding authorities, prohibition of the child to leave the country object of the process.

c. Part III on Preventive Measures. Please explain:

As a precautionary measure to prevent child abduction at the time they request the release authorization, the minor's habitual residence is declared, stating the exact time of departure and return, the place where they must remain, and appear in the office after the term of the permit has expired and the return of the child to the country.

d. Part IV on Enforcement. Please explain:

At the time of implementing the recommendations, the recommendations on how to implement the decision adopted have been taken into account. Likewise, it has been chosen to include in the operative part some formulas recommended in those resolutions

8.2 How have you ensured that the relevant authorities in your State have been made aware of, and have had access to, the Guide to Good Practice?

The Panamanian Central Authority has worked with the Liaison Judge of the Republic of Panama to disseminate the contents of the good practice guidelines under the 1980 Convention. To that end, in 2014, meetings and seminars were held for Judges for Childhood and Adolescence, who were trained in the application of the 1980 Convention. Similarly, the Inter-American Meeting of Central Authorities and Judges of the International Network of Judges of The Hague , which took place in our country in March of the current year, emphasized the use by the Judges of Children and Adolescents of the guides to good practice under the 1980 Convention on Civil Aspects of International Abduction of Minors.

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

No.

**9. Publicity and debate concerning the 1980 Convention**

9.1 Has the 1980 Convention given rise to (a) any publicity (positive or negative) in your State, or (b) any debate or discussion in your national parliament or its equivalent?

No

Yes, please indicate the outcome of this debate or discussion, if any:

Please insert text here

9.2 By what methods does your State disseminate information to the public about the 1980 Convention?

On occasion, the staff of the Panamanian Central Authority, at the request of teachers who teach courses in Family Law in the different Panamanian universities, have attended seminars and explanatory talks on the content and implementation of the provisions of the Hague de 1980. On the other hand, the Liaison Judge of the International Network of Judges of The Hague has produced articles published in Panamanian legal journals (Revista Sapientia), in order to report on the scope and purpose of the 1980 Convention. In addition, the Liaison Judge of the Republic of Panama has held seminars at public and private

universities and at the Institute of Judiciary of the Judicial Branch of Panama, in which she has invited the development of the subject, while at the same time has explained the benefits and experience of Panama in the application of the 1980 Convention

<b>PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION</b>
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**10. Transfrontier access / contact<sup>16</sup>**

10.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding Central Authority practices, legislation, procedural rules or case law applicable in cases of transfrontier contact / access?

- No  
 Yes, please explain:  
[Please insert text here](#)

10.2 Please indicate any important developments in your State, since the 2011 / 2012 Special Commission, in the interpretation of **Article 21** of the 1980 Convention.

[There have been no significant changes.](#)

10.3 What problems have you experienced, if any, as regards co-operation with other States in respect of:

- a. the granting or maintaining of access rights;  
[None.](#)
- b. the effective exercise of rights of access; and  
[The Panamanian Central Authority has had difficulty obtaining information from the corresponding authorities of the requesting State on the socioeconomic conditions of the applicant for the restitution or international regulation of visits. For the effective resolution of a process initiated under the 1980 Convention, this information is required by the jurisdictional authorities responsible for settling the dispute, depending on the content of articles 759 and 761 of the Panama Family Code](#)
- c. the restriction or termination of access rights.  
[None.](#)

Please provide case examples where possible.  
[We have no recent cases.](#)

10.4 In what ways have you used the "General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children"<sup>17</sup> to assist in transfrontier contact / access cases in your State? Can you suggest any further principles of good practice?

[In accordance with recommendations and good practice guidelines on cross-border contact regarding minors, the Panamanian authorities \(Central Authority or the Juvenile Court\) seek to:](#)

- [As a measure prior to the release of a minor, establish the Panamanian State as the country where the minor has his habitual residence;](#)
- [Request the collaboration of other States, in the sense of confirming to us whether it is possible to take precautionary measures, to ensure that a child is not illegally transferred to a third State; and](#)
- [Establish the exact address where the child must remain, in the territory of the State to which he is transferred, to make effective an international visitation regime.](#)

**11. International family relocation<sup>18</sup>**

<sup>16</sup> See the [Conclusions and Recommendations](#) of the 2006 Special Commission (*supra.* note 5) at paras 1.7.1 to 1.7.3.

<sup>17</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice".

<sup>18</sup> See the Conclusions and Recommendations of the 2006 Special Commission meeting at paras 1.7.4 to 1.7.5:

11.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding the legislation, procedural rules or case law applicable to international family relocation? Where possible, please explain these developments in the legislation, procedural rules or case law:

There have been no significant changes.

## PART V: NON-CONVENTION CASES AND NON-CONVENTION STATES

### 12. Non-Convention cases and non-Convention States

12.1 Are there any States that you would particularly like to see become a State 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:

No.

12.2 Are there any States which are not Parties to the 1980 Convention or not Members of the Hague Conference that you would like to see invited to the Special Commission meeting in 2017?

No.

*The "Malta Process"*<sup>19</sup>

12.2 In relation to the "Malta Process":

- a. Do you have any comment to make on the "Principles for the Establishment of Mediation Structures in the context of the Malta Process" and the accompanying Explanatory Memorandum?<sup>20</sup>  
No comments.
- b. Have any steps been taken towards the implementation of the Malta Principles in your State and the designation of a Central Contact Point, in order to better address cross-border family disputes over children involving States that are not a Party to the 1980 and 1996 Hague Conventions?  
 No  
 Yes, please explain:  
[Please insert text here](#)
- c. What is your view as to the future of the "Malta Process"?  
No comments in this regard.

## PART VI: TRAINING AND EDUCATION AND THE TOOLS, SERVICES AND SUPPORT PROVIDED

<sup>19</sup> "1.7.4 The Special Commission concludes that parents, before they move with their children from one country to another, should be encouraged not to take unilateral action by unlawfully removing a child but to make appropriate arrangements for access and contact preferably by agreement, particularly where one parent intends to remain behind after the move.

1.7.5 The Special Commission encourages all attempts to seek to resolve differences among the legal systems so as to arrive as far as possible at a common approach and common standards as regards relocation."

<sup>19</sup> The "Malta Process" is a dialogue between certain States 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 Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

<sup>20</sup> The Principles and Explanatory Memorandum were circulated to all Hague Conference Member States and all States participating in the Malta Process in November 2010. They are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

## BY THE PERMANENT BUREAU

**13. Training and education**

13.1 Can you give 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?

In 2014, the Judicial School of Panama, in collaboration with the Regional Office of the Hague Conference, organized an event for the dissemination and teaching of the 1980 Convention, which was attended by justice operators, lawyers, law students and the general public.

Similarly, a training seminar was held in Panama City in March of the current year (2017) for the Judges of Children and Adolescents, Prosecutors, Officers of the Judicial Branch, and other Panamanian public institutions, which intervene directly and indirectly in the application of the 1980 Convention.

**14. The tools, services and support provided by the Permanent Bureau**

*In general*

14.1 Please comment or state your reflections on the specific tools, services and support provided by the Permanent Bureau to assist with the practical operation of the 1980 and 1996 Conventions, including:

- a. The Country Profile available under the Child Abduction Section.

The tool is useful for solving the doubts that arise regarding the application and interpretation of the 1980 Convention by other Central Authorities. Information concerning reservations to the provisions of the Convention, internal legislation of third States, procedures for free legal representation, among other things, are available in the country profile, which facilitates the processing of cases of restitution and visits regime Countries.

- b. INCADAT (the international child abduction database, available at < [www.incadat.com](http://www.incadat.com) >).

The platform is useful to know the legislation of third States, regarding concepts that are related to the objectives of the 1980 Convention (custody, foster care, habitual residence, parental authority, among others). Panama's justice system operators therefore have INCADAT to support their decisions, within the process of restitution and the international regime of visits initiated under the 1980 Convention.

- c. *The Judges' Newsletter* on International Child Protection - the publication of the Hague Conference on Private International Law which is available online for free;<sup>21</sup>

The tool is useful because it collects expert opinions on specific topics such as adoption, judicial communication, international abduction, and international return or regulation of visits. The bulletin also facilitates the interpretation and application of the Convention, and is even easy for the petitioners to understand, or for those who do not act as attorneys.

- d. The specialised "Child Abduction Section" of the Hague Conference website (< [www.hcch.net](http://www.hcch.net) >);

The section provides a comprehensive overview of the countries parties to the 1980 Convention and also contains guides to good practice, questionnaires and their respective responses, contacts of central authorities, and other up-to-date documentation for the implementation of the Convention. 1980, on judicial communications, cross-border family mediation, among other things

- e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);<sup>22</sup>

<sup>21</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > 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.

<sup>22</sup> Further information is available via the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "INCASTAT".

The tool offers greater transparency, as regards the fulfillment and initiation of the processes of restitution and regulation of visits, filed under the 1980 Convention.

- f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.<sup>23</sup> Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;  
We believe that this is a good initiative, since it promotes the development of the knowledge of the staff of the States Parties responsible for implementing the 1980 Convention, both in judicial and administrative proceedings. Similarly, the Permanent Bureau could, if it deems it appropriate, organize regional meetings via videoconference, which would facilitate the exchange of ideas with regard to the implementation of the 1980 Convention, without incurring in mobilization costs
- g. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);<sup>24</sup>  
It is a positive one, as it would help combat international abductions of minors, while offering a broader conventional structure, to ensure the return of a minor allegedly detained in the territory of a State other than his habitual residence, and the effective exercise of the rights of custody and visits and communication of the parents, with respect to their children
- h. Supporting communications between Central Authorities, including maintaining their contact details updated on the HCCH website;  
It is positive, since it facilitates immediate communication between the administrative staff of the Central Authorities of States Parties
- i. 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  
It is positive, since it facilitates the exchange of information, with respect to the internal rules of a State on children; And facilitates the obtaining of relevant information to acquit the concerns of the requested party, while at the same time it could favor the safe return of the children to the country of their habitual residence.

#### *Other*

- 14.2 What other measures or mechanisms would you recommend:
- a. To improve the monitoring of the operation of the Conventions;  
No comment.
  - b. To assist States in meeting their Convention obligations; and  
No comment.
  - c. To evaluate whether serious violations of Convention obligations have occurred?  
No comment.

<b>PART VII: PRIORITIES AND RECOMMENDATIONS FOR THE SPECIAL COMMISSION AND ANY OTHER MATTERS</b>
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### **15. Views on priorities and recommendations for the Special Commission**

15.1 Which matters does your State think ought to be accorded particular priority on the agenda for the Special Commission? Please provide a brief explanation supporting your response.

<sup>23</sup> Such technical assistance may be provided to judges, Central Authority personnel and / or other professionals involved with the practical operation of the Convention(s).

<sup>24</sup> Which again may involve State delegates and others visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences.

Even though in 2008 a model law on International Restitution was drawn up as a proposal for Latin America, we believe that to date most countries do not have special legislation in this area, which will shorten the terms and power To resolve the processes in the time established by the Convention (six weeks). For this reason, it is necessary to return to this task, for the purposes of which States are interested in the elaboration of a special law, in order to seek the uniformity that is possible, within the American Continent.

15.2 States are invited to make proposals concerning any particular recommendations they think ought to be made by the Special Commission.

Propose the creation of a special law on international restitution in the States Parties. In addition, the Special Commission is invited to urge States parties to submit the information required by the judicial authorities responsible for resolving the processes of international return or regulation of visits (for example, psychosocial reports, applicants' economic status, other things), in the shortest possible time, to comply with the times established in the Agreement

## **16. Any other matters**

16.1 States are invited to comment on any other matters which they may wish to raise concerning the practical operation of the 1980 Convention.

No comment.