

***Convention de La Haye du 25 octobre 1980 sur les aspects civils
de l'enlèvement international d'enfants***

Profil des États

établi par le Bureau Permanent

* * *

***Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction***

Country Profile

drawn up by the Permanent Bureau

*Document d'information No 2 de mars 2011 à l'intention de la
Commission spéciale de juin 2011 sur le fonctionnement pratique de la
Convention Enlèvement d'enfants de 1980 et de la
Convention Protection des enfants de 1996*

*Information Document No 2 of March 2011 for the attention of the
Special Commission of June 2011 on the practical operation of the
1980 Hague Child Abduction Convention and the
1996 Hague Child Protection Convention*

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FOREWORD TO THE COUNTRY PROFILE

This Country Profile should be used by Contracting States¹ to assist with fulfilment of the obligations contained within Article 7 of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.² In particular, it is anticipated that the Country Profile will help Contracting States fulfil their obligations under Article 7(2) e) and 7(2) i) of the Convention, that is:

- To provide information of a general character on the law of their State in connection with the application of the Convention; and
- To keep other Central Authorities informed regarding the operation of the Convention in their State and to eliminate any obstacles to the Convention's application.

The Country Profile is intended to assist with the practical operation of the Convention. It is hoped that it will facilitate:

- a) information exchanges between Contracting States;
- b) knowledgeable service by Central Authorities under the 1980 Hague Child Abduction Convention;
- c) cost-effective translation of the information provided by Contracting States into English, French, Spanish, and other languages as required by Contracting States; and
- d) prompt updates of the information provided.

NEWLY ACCEDING STATES:

It should be noted that the Country Profile does not replace the "Standard questionnaire for newly acceding States" (available at < www.hcch.net > under "Child Abduction Section" then "Questionnaires and responses"). The Standard Questionnaire provides a means for newly acceding States to describe promptly, and in brief, the measures taken in their State to ensure compliance with their Convention obligations and to ensure the effective practical operation of the Convention in their State. It thereby assists States already Party to the Convention with their decision as to whether to accept an accession.

Newly acceding States are encouraged to complete this full Country Profile as soon as is practicable.

INSTRUCTIONS:

- Please mark the box which best represents the arrangements in your State:
 - Where the response requires either "Yes" or "No", please mark one box only.
 - For all other questions, it may be necessary to mark more than one box.
- Where applicable, please specify the relevant provision(s) of your domestic legislation and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.
- Please complete a separate profile for each territorial unit if there are significant differences in the substance and operation of the laws in each.
- Please note: the information contained in the Country Profile **is of a general nature only**. The purpose of the Country Profile is to assist with the practical operation of the Convention and not to provide a comprehensive picture of the legal system of each Contracting State. Please consider this when completing the Country Profile and when using the Country Profile of other Contracting States. Please contact the relevant Central Authority for clarification or specific advice.
- Contracting States are exclusively responsible for updating the information contained in their Country Profile. However, reminders for updates will be provided by the Permanent Bureau of the Hague Conference on Private International Law.

¹ Any reference to a Contracting State in this Country Profile is a reference to a Contracting State of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*

² Hereinafter, "the 1980 Hague Child Abduction Convention", or simply "the Convention".

**1980 Hague Child Abduction Convention
Country Profile**

- Completed Country Profiles will be published on the website of the Hague Conference on Private International Law < www.hcch.net >.
- The Permanent Bureau of the Hague Conference has prepared a number of resources which may assist States in the effective implementation and operation of the Convention, in particular Guides to Good Practice. See < www.hcch.net > under "Child Abduction Section" for further information in this regard.

TERMINOLOGY:

- Whilst it is acknowledged that in some Contracting States the formal applicant to a return or access application under the Convention may be a State authority (see question 10.3 b) below), please note that the term "**applicant**" is used in the Country Profile as follows:
 - (a) In relation to a *return* application, the term "applicant" denotes the person, institution or other body alleging that their actually exercised rights of custody in relation to a child have been breached by the removal or retention of the child, in accordance with Article 3 of the Convention; and
 - (b) In relation to an *access* application, the term "applicant" denotes the person, institution or other body seeking to establish and / or exercise rights of access in relation to a child under Article 21 of the Convention.
- The term "**abducting party**" or "***alleged* abducting party**" in the Country Profile refers to the person, institution or other body who has, or is alleged to have, wrongfully removed or retained a child in accordance with Article 3 of the Convention.

***Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction***

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**Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction**

COUNTRY PROFILE

Country Name: REPUBLIC OF SOUTH AFRICA

Territorial Unit (where applicable): WHOLE COUNTRY

Last updated: 21 November 2012

Part I: Central Authorities

1 Central Authority contact details

Provide the designation and contact details of the Central Authority to which communications may be addressed.
Always check < www.hcch.net > then "Child Abduction Section" and "Central Authorities" for the most current contact details.

Organisation: Department of Justice and Constitutional Development

Address: Momentum City Walk
c/o Sisulu and Pretorius Street
Private Bag x 81
PRETORIA 0001

Territorial and personal extent of functions, if applicable: Office of the Chief Family Advocate
Central Authority for the Republic of South Africa

Telephone: +27 (12) 357 8022

Fax: +27 (12) 357 8043

E-mail: PeSeabi@justice.gov.za

Website: www.justice.gov.za

Contact person(s) and direct contact details (please indicate language(s) of communication): Adv P.I. Seabi
(language of communication: English)

Preferred method of communication: ☐ Telephone
☐ Fax
☒ E-mail
☐ Post
☐ Other (please specify):

OTHER DESIGNATED CENTRAL AUTHORITIES (IF APPLICABLE)

Please attach additional pages if there is more than one designated Central Authority in your State.

Organisation: N/A

Address: N/A

Territorial and personal extent of functions, if applicable: N/A

Telephone: N/A

Fax: N/A

E-mail: N/A

Website:	N/A
Contact person(s) and direct contact details (please indicate language(s) of communication):	N/A
Preferred method of communication:	<input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Post <input type="checkbox"/> Other (<i>please specify</i>):

2 Language requirements

a) Does the Central Authority prefer applications, communications and other documents sent to them to be accompanied by a translation into the official language(s) of the State? <i>See Article 24</i> <i>See questions 10.3 c) and 17.2 b) below regarding any translation(s) required by the court / administrative authority</i>	<input checked="" type="checkbox"/> Yes, for all communications, applications and other documents. Please specify the official language(s) of the State: ENGLISH <input type="checkbox"/> Not for informal communications <input type="checkbox"/> No
b) Has your State made a reservation in respect of the use of French or English for communications, applications and other documents sent to the Central Authority? <i>See Article 42</i>	<input type="checkbox"/> Yes, object to English <input checked="" type="checkbox"/> Yes, object to French <input type="checkbox"/> No

3 Central Authority operations

a) What are the working days and hours of the Central Authority?	Days of the week open: Monday-Friday Opening time: 08h00 Closing time: 16h30 Shut down periods (e.g., public holidays, court closures): Public Holidays
b) Can assistance be accessed outside of working hours?	<input checked="" type="checkbox"/> Yes (<i>please specify contact details, if different from above</i>): <input checked="" type="checkbox"/> For persons in other Convention States: Adv P.I. Seabi +27 (82) 922 5445 <input checked="" type="checkbox"/> For persons in your State: Adv P.I. Seabi +27 (82) 922 5445 <input type="checkbox"/> No
c) Does the Central Authority have a dedicated staff who deals <i>only</i> with 1980 Hague Child Abduction Convention applications and related issues?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
d) Please indicate the professions represented in the Central Authority: <i>Please note that some individual staff members may fall under more than one category. This question should not be interpreted as an indication of the</i>	<input checked="" type="checkbox"/> Civil servants <input checked="" type="checkbox"/> Civil servants (legal advisors) <input type="checkbox"/> Lawyers <input checked="" type="checkbox"/> Social workers

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<i>number of staff members in the Central Authority</i>	<input checked="checked" type="checkbox"/> Mediators <input type="checkbox"/> Other (<i>please specify</i>):
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Part II: Relevant legislation

4 International Child Abduction

4.1 1980 Hague Child Abduction Convention

a) When did the 1980 Hague Child Abduction Convention enter into force in your State?	Date: 1 October 1997
b) Was implementing legislation necessary for the 1980 Hague Child Abduction Convention to enter into force in your domestic law? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> The date that the legislation entered into force: The Hague Convention on the Civil Aspects of International Child Abduction Act 72 of 1996 entry into force 1 October 1997; REPEALED BY The Children's Act 38 of 2005. Date of entry into force-1 April 2010 The legislative provision(s) or implementing legislation: The Children's Act 38 of 2005 and Regulations in terms of Government Notice R250: Regulations Relating to Children's Court and International Child Abduction <input type="checkbox"/> No
c) Whether implementing legislation was necessary in your State or not, have any (other) legislative provisions or procedural rules been enacted to assist with the effective operation of the 1980 Hague Child Abduction Convention? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> The date that the legislation or procedural rules entered into force or effect: 1 April 2010 The legislative provision(s) or procedural rules: Regulations in terms of Government Notice R250: Regulations Relating to Children's Court and International Child Abduction. <input type="checkbox"/> No

4.2 Other agreements on international child abduction

a) Is your State party to any other international agreements which relate to international child abduction?	<input type="checkbox"/> Yes: <ul style="list-style-type: none"> <input type="checkbox"/> Brussels II a Regulation (Council Regulation (EC) No 2201/2003 of 27 November 2003) <input type="checkbox"/> Inter-American Convention of 15 July 1989 on the International Return of Children <input type="checkbox"/> Bilateral agreements (<i>please specify</i>): <input type="checkbox"/> Non-binding memoranda of understanding (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>): <input checked="" type="checkbox"/> No
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5 1996 Hague Child Protection Convention

a) Is your State a Contracting State to the 1996 Hague Child Protection Convention? <i>Refer to < www.hcch.net > for the status table of the 1996 Hague Child Protection Convention</i>	<input type="checkbox"/> Yes, if so, on what date did the 1996 Hague Child Protection Convention enter into force in your State: <input checked="" type="checkbox"/> No
b) Was implementing legislation necessary for the 1996 Hague Child Protection Convention to enter into force in your domestic law? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> The date that the legislation entered into force: The legislative provision(s) or implementing legislation: <input type="checkbox"/> No

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<p>c) Whether implementing legislation was necessary in your State or not, have any (other) legislative provisions or procedural rules been enacted to assist with the effective operation of the 1996 Hague Child Protection Convention?</p> <p><i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i></p>	<p><input type="checkbox"/> Yes, please specify:</p> <ul style="list-style-type: none"> • The date that the legislation or procedural rules entered into force or effect: • The legislative provision(s) or procedural rules: <p><input type="checkbox"/> No</p>
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Part III: Applications for return

6 Applications through Central Authorities

6.1 Outgoing applications (requesting State)

a) What type of assistance is provided to applicants in your State when completing an application for return under the Convention?

See Articles 7 and 8

- ☒ Assistance from the Central Authority
☐ Assistance from another authority
☐ Referral to a legal representative
☐ Other (*please specify*):

6.2 Incoming applications (requested State)

a) What form of application does your State require for an incoming application?

- ☐ (1) Model Application Form
Available at < www.hcch.net > under "Child Abduction Section"
 Go to question c)
☒ (2) Form developed by your State
 Please specify how this form can be accessed (e.g., website) or attach a copy: www.justice.gov.za; copy attached
 Go to question c)
☐ Both (1) and (2), go to question c)
☐ The form of the requesting State is accepted, go to question c)
☐ No particular form is required, go to question b)
☐ Other, go to question b)

b) If your State does not require a particular form of application, what information or documents does your State request?

See Article 8

Please note that the only information actually required by the Convention (Art. 8) is indicated by a cross in the relevant box

- ☐ Information concerning the identity of the child:
☐ Name and previous name/s
☐ Date of birth, where available
☐ Address
☐ Telephone number
☐ Nationality / nationalities
☐ Passport number(s)
☐ Physical description (height, eye and hair colour)
☐ Photograph (as recent as possible)
☐ Information identifying the child's parents e.g., nationalities – where a parent is not the applicant or respondent to proceedings (*please specify*):
☐ Other (*please specify*):
- ☐ Information concerning the identity of the applicant:
☐ Name and previous name/s
☐ Date of birth
☐ Address
☐ Telephone number
☐ Nationality / nationalities
☐ Passport number(s)
☐ Relationship of the applicant to the child
☐ Name(s) of legal adviser, if any
☐ Other (*please specify*):

	<p><input type="checkbox"/> Information concerning the identity of the person alleged to have removed or retained the child:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Physical description (height, eye and hair colour) <input type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Relationship of the person to the child <input type="checkbox"/> Other (<i>please specify</i>): <p><input type="checkbox"/> The grounds upon which the applicant's claim for return of the child is based</p> <ul style="list-style-type: none"> <input type="checkbox"/> Evidence of the applicant's rights of custody <input type="checkbox"/> An authenticated copy of any relevant decision or agreement <input type="checkbox"/> A certificate or an affidavit emanating from the Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State <input type="checkbox"/> The alleged habitual residence of the child, with supporting information <input type="checkbox"/> Other (<i>please specify</i>): <p><input type="checkbox"/> All available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be</p> <p><input type="checkbox"/> Any other relevant document / information</p> <ul style="list-style-type: none"> <input type="checkbox"/> Concerning any child protection issues <input type="checkbox"/> Marriage certificate (if applicable) <input type="checkbox"/> Divorce decree (if applicable) <input type="checkbox"/> Civil and / or criminal proceedings in progress (if applicable) <input type="checkbox"/> Evidence of child or other relevant person's right to re-enter the State of the child's habitual residence <input type="checkbox"/> Other (<i>please specify</i>):
<p>c) Does your Central Authority accept an application and accompanying documentation transmitted by electronic means?</p>	<p><input type="checkbox"/> Yes, please specify any requirements for electronically transmitted applications / documentation:</p> <p><input checked="" type="checkbox"/> Yes, but any documentation sent electronically is not accepted by the court / administrative authority (<i>please specify</i>): only originals/certified copies of originals/sworn or notarized translations of founding/ supporting documents are accepted by the Court.</p> <p><input type="checkbox"/> No</p>

<p>d) Does the Central Authority require a written authorisation empowering it or a designated representative (e.g., <i>lawyer</i>) to act on behalf of the applicant?</p> <p><i>See Article 28</i></p>	<p><input checked="" type="checkbox"/> Yes, the authorisation should be provided:</p> <p><input checked="" type="checkbox"/> On the application form</p> <p><input type="checkbox"/> In a signed statement or declaration</p> <p><input type="checkbox"/> Other (<i>please specify</i>): the child is entitled to separate legal representation at State cost</p> <p><input type="checkbox"/> No</p>
<p>e) Does the Central Authority acknowledge receipt of the application?</p>	<p><input checked="" type="checkbox"/> Yes, acknowledgment generally is provided by:</p> <p><input checked="" type="checkbox"/> E-mail</p> <p><input type="checkbox"/> Facsimile</p> <p><input type="checkbox"/> Post</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>
<p>f) Can the Central Authority proceed with an application where the information provided is incomplete?</p>	<p><input type="checkbox"/> Yes, the Central Authority will begin processing the application and will immediately inform the requesting Central Authority of what additional information is required to complete the request</p> <p><input type="checkbox"/> No:</p> <p><input checked="" type="checkbox"/> The Central Authority will not process an application without all of the necessary supporting documentation</p> <p><input type="checkbox"/> The Central Authority is unable to process the application but will immediately inform the requesting Central Authority of what additional information is required before further action can be taken</p> <p><input type="checkbox"/> It depends upon what type of information is missing (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>g) Who does the Central Authority prefer to communicate with in incoming applications?</p>	<p><input checked="" type="checkbox"/> The requesting Central Authority</p> <p><input type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The applicant's legal representative</p> <p><input type="checkbox"/> All of the above</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>h) What measures are taken by the Central Authority (directly, or through an intermediary) to attempt to secure the voluntary return of a child allegedly wrongfully removed or retained in accordance with Article 3 of the Convention (hereinafter, simply "the child")?</p> <p><i>Please explain where necessary</i></p> <p><i>See Article 7 c) and Article 10</i></p> <p><i>See also Part V: Mediation and other forms of alternative dispute resolution below</i></p>	<p><input checked="" type="checkbox"/> Contact is made with the alleged abducting party to seek a voluntary return :Voluntary return negotiation meeting is set up as soon as possible after acceptance of application.</p> <p><input type="checkbox"/> Mediation and / or other forms of alternative dispute resolution are offered to the parties (see Part V: Mediation and other forms of alternative dispute resolution)</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Mediation in appropriate cases</p>
<p>i) How is it ensured that no undue delay results from the measures taken, or attempted, to secure the voluntary return of the child (see question h) above)?</p>	<p>Please explain: <i>Application referred to State Attorney to institute litigation immediately after unsuccessful voluntary return negotiation meeting.</i></p>

<p>j) What is the role of the Central Authority in taking or causing to be taken provisional measures to prevent further harm to the child? <i>See Article 7(2) b)</i> <i>Refer also to sections 10.5 and 11.2 below</i></p>	<p><input checked="" type="checkbox"/> Alert appropriate agencies where there are concerns that a child is at risk</p> <p><input checked="" type="checkbox"/> Apply directly to authorities for protection orders</p> <p><input type="checkbox"/> Refer parties to appropriate agencies</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>k) Can an applicant commence proceedings in your State for the return of the child under the Convention without using the Central Authority channel? <i>See Article 3 and Article 29</i></p>	<p><input checked="" type="checkbox"/> Yes, if so, please explain:</p> <ul style="list-style-type: none"> Where the applicant can obtain information about commencing proceedings: Any Family Advocate's Office (www.justice.gov.za) or Department of Social Development (www.dsd.gov.za/private) legal representative of applicant's choice. What role, if any, the Central Authority has in these proceedings: monitoring jurisprudence and obtaining statistical data for State reporting. <p><input type="checkbox"/> No</p>

7 Locating a child and preventing removal

For best practice on locating a child and preventing removal, see the Guides to Good Practice under the 1980 Hague Child Abduction Convention available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice". In particular, in relation to preventing removal, see Part III of the Guide to Good Practice on Preventive Measures.

<p>a) Can return proceedings commence before the child is located?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes, in certain circumstances (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) What evidence / information does your State require regarding the child's whereabouts to begin to assist with locating the child? <i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Evidence that the child entered your State (<i>e.g.</i>, evidence that the child boarded an aeroplane bound for your State):</p> <p><input checked="" type="checkbox"/> Information from the applicant as to why he / she believes the child is in your State:</p> <p><input type="checkbox"/> No information or evidence is required; searches for the child can begin upon request:</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>c) What mechanisms or sources of information are available in your State to discover the whereabouts of the child? <i>Please indicate in the space provided any associated costs for an applicant or any other necessary information</i> <i>See Article 7(2) a)</i></p>	<p><input checked="" type="checkbox"/> (1) Private location services: State where Central Authority is applicant, alternatively, applicant</p> <p><input checked="" type="checkbox"/> (2) Population register: South African citizens only</p> <p><input type="checkbox"/> (3) Employment register:</p> <p><input checked="" type="checkbox"/> (4) Information maintained by other government agencies (<i>e.g.</i>, <i>immigration, social welfare</i>):</p> <p><input checked="" type="checkbox"/> (5) Police:</p> <p><input checked="" type="checkbox"/> (6) INTERPOL:</p> <p><input checked="" type="checkbox"/> (7) Court orders to compel the production of information on the whereabouts of the child: where there is sufficient evidentiary material that the respondent bears such knowledge/reasonable prospects of success for such application</p> <p><input type="checkbox"/> (8) Other (<i>please specify</i>):</p>
<p>d) Please indicate who is responsible for arranging the measures listed above in question c) by inserting the relevant number next to the responsible person or authority <i>E.g.</i>, Central Authority: 2, 3 The applicant's representative: 7</p>	<p>Central Authority: 1,2,5, 6,7 The applicant: 1, 4, 5, 7 The applicant's representative: 1, 4, 5, 7 Other (<i>please specify</i>):</p>

e) Please indicate, by inserting the relevant numbers, which of the measures listed above in question c) need an order from a competent authority?	4, 5, 6
f) What measures can be taken in your State to deter the removal or re-abduction of the child? <i>Please explain where necessary</i> <i>Refer also to the Guide To Good Practice, Part III – Preventive Measures, available at < www.hcch.net >, particularly to paragraph 3.1 on barriers to international travel</i>	<input checked="" type="checkbox"/> (1) Child's passport(s) to be deposited with authorities <input checked="" type="checkbox"/> (2) Alleged abductor's passport to be deposited with authorities <input checked="" type="checkbox"/> (3) Obtain orders to prevent the removal of the child <input checked="" type="checkbox"/> (4) Issuing border and / or port alerts <input type="checkbox"/> (5) Requiring the alleged abductor to report periodically to authorities <input type="checkbox"/> (6) Requiring the alleged abductor to pay a bond / deposit <input checked="" type="checkbox"/> (7) Temporary placement of child in institutional care <input type="checkbox"/> (8) Other (<i>please specify</i>):
g) Please indicate who may apply for the measures listed above in question f) by inserting the relevant number next to the responsible person or authority	Central Authority: 1, 2, 3, 4, 7 The applicant: 1, 2, 3, 4 The applicant's representative: 1, 2, 3, 4, 7 Other (<i>please specify</i>):
h) Please indicate, by inserting the relevant numbers, which of the measures above in question f) need an order from a competent authority?	1, 2, 3, 4, 7

8 Legal representation and assistance

8.1 General

a) Has your State made a reservation to Article 26 of the Convention?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) Does the Central Authority provide legal advice regarding return applications?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No, however: <input type="checkbox"/> The Central Authority will refer the applicant to the appropriate person or authority to obtain legal advice <input type="checkbox"/> The Central Authority will provide information that is of a general nature about laws and procedures <input type="checkbox"/> Other (<i>please specify</i>):
c) Is legal representation required in return proceedings? <i>See Article 25</i> <i>Please explain where necessary</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No, but recommended

<p>d) What is the role of the Central Authority in arranging legal representation? <i>See Article 7(2) g)</i></p>	<p><input type="checkbox"/> The applicant is required to make his / her own arrangements for legal representation, but the Central Authority will:</p> <p><input type="checkbox"/> Provide the applicant with a list of lawyers</p> <p><input type="checkbox"/> Provide the applicant with a list of free or reduced rate lawyers</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Legal representation is not required. The Central Authority ensures the application is forwarded to the competent authority for action. Please provide additional information if necessary:</p> <p><input checked="" type="checkbox"/> Legal representation is arranged by the Central Authority. Representation is provided by:</p> <p><input type="checkbox"/> Central Authority lawyers</p> <p><input type="checkbox"/> Private lawyers</p> <p><input type="checkbox"/> Public prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>): the State Attorney/private practitioners at State cost</p> <p><input type="checkbox"/> Other (<i>please specify</i>): the child is entitled to separate legal representation at State cost</p>
<p>8.2 Free or reduced rate legal assistance</p>	
<p>a) Is free or reduced rate legal assistance available to an applicant in return proceedings in your State?</p>	<p><input checked="" type="checkbox"/> Yes, free legal assistance. Go to question c)</p> <p><input checked="" type="checkbox"/> Yes, reduced rate legal assistance. Go to question c)</p> <p><input type="checkbox"/> No, go to question b)</p>
<p>b) If free or reduced rate legal assistance is <u>not</u> available, in what other ways can your State assist an applicant financially?</p>	<p><input type="checkbox"/> There is a system of costs ordering the respondent to pay</p> <p><input type="checkbox"/> <i>Pro bono</i> legal assistance</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Not at all</p> <p>Go to section 9</p>
<p>c) Is the applicant required to complete an application form for free or reduced rate legal assistance?</p>	<p><input checked="" type="checkbox"/> Yes, please specify how application forms can be obtained (e.g., website) or attach a copy: www.legal-aid.co.za</p> <p><input type="checkbox"/> No</p>
<p>d) Please indicate on what basis free or reduced rate legal assistance may be available <i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Income of the applicant</p> <p><input checked="" type="checkbox"/> Assets of the applicant</p> <p><input type="checkbox"/> Country of residence of the applicant</p> <p><input type="checkbox"/> Likelihood of success of the proceedings</p> <p><input type="checkbox"/> Other (<i>please specify</i>): the Legal Aid Act prescribes a means test</p>
<p>e) Which costs are covered by free or reduced rate legal assistance? <i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> (1) Mediation in appropriate cases</p> <p><input checked="" type="checkbox"/> (2) Translation</p> <p><input type="checkbox"/> (3) Interpreters</p> <p><input checked="" type="checkbox"/> (4) Service of documents</p> <p><input checked="" type="checkbox"/> (5) Costs associated with locating the child</p> <p><input checked="" type="checkbox"/> (6) Court fees</p> <p><input type="checkbox"/> (7) Travel costs for the return of the child (see question 11.1 c))</p> <p><input type="checkbox"/> (8) Other (<i>please specify</i>):</p>

f) Please indicate which costs, if any, are covered by the Central Authority by listing the numbers set out in question e) above?	1,2,4,5,6
g) Is free or reduced rate legal assistance available for the appeal of decisions?	<input type="checkbox"/> No, go to question i) <input type="checkbox"/> Yes, free legal assistance; go to question h) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question h) <input checked="" type="checkbox"/> It depends upon an assessment of the merits of the case and / or the means of the individual concerned (<i>please specify</i>): Go to question h)
h) Is a new application for free or reduced rate legal assistance required for appeals?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i) Is free or reduced rate legal assistance available for proceedings needed to enforce a return order?	<input type="checkbox"/> No, go to question k) <input type="checkbox"/> Yes, free legal assistance; go to question j) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question j) <input checked="" type="checkbox"/> It depends upon an assessment of the merits of the case and / or the means of the individual concerned (<i>please specify</i>): Go to question j)
j) Is a new application for free or reduced rate legal assistance required for enforcement applications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
k) Is free or reduced rate legal assistance available to an alleged abducting party located in your State?	<input checked="" type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance Please specify in what circumstances and on what basis legal assistance will be granted: Means test based on income; assets,etc <input type="checkbox"/> No
l) Where a child is returned to your State, is free or reduced rate legal assistance available to all parties in the custody proceedings in your State?	<input checked="" type="checkbox"/> Yes, free legal assistance is available to all parties <input checked="" type="checkbox"/> Yes, reduced rate legal assistance is available to all parties Please specify in what circumstances and on what basis legal assistance will be granted: subject to the Means test based on income,assts,etc. <input type="checkbox"/> Free legal assistance is only available to certain persons (<i>please specify</i>): <input type="checkbox"/> Reduced rate legal assistance is only available to certain persons (<i>please specify</i>): Please specify in what circumstances and on what basis legal assistance will be granted: <input type="checkbox"/> No, free and / or reduced rate legal assistance is not available to any party <input type="checkbox"/> Other (<i>please specify</i>): the child is entitled to separate legal representation at State cost

9 Rights of custody	
9.1 Acquisition and exercise of rights of custody	
<i>See Articles 3 and 5</i>	
a) Do rights of custody arise by operation of law in your State? <i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy</i>	<input checked="" type="checkbox"/> Yes, go to question b) <input type="checkbox"/> No, go to question c)
b) To whom are rights of custody attributed by operation of law? <i>See Articles 3 and 5</i> <i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy</i>	Please explain: 'Care-giver' as described in the Children's Act, Act 38 of 2005. (www.justice.gov.za)
c) By what other methods can a person or institution acquire rights of custody?	<input checked="" type="checkbox"/> Judicial decision <input type="checkbox"/> Administrative decision <input checked="" type="checkbox"/> Agreement having legal effect <input checked="" type="checkbox"/> Other (<i>please specify</i>): Parental Responsibility and Rights Agreement/Parenting Plan registered with the Office of the Family Advocate/made an order of court (excludes Guardianship rights).
d) How, if at all, can the attribution of rights of custody be modified?	<input checked="" type="checkbox"/> By order of a judicial or administrative authority <input type="checkbox"/> By written agreement <input type="checkbox"/> It depends upon how the rights of custody were acquired (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): The Family Advocate is empowered to amend or terminate a Parental Responsibility and Rights Agreement registered with the Family Advocate
e) How, if at all, can rights of custody be terminated?	<input checked="" type="checkbox"/> By order of a judicial or administrative authority <input type="checkbox"/> By written agreement <input type="checkbox"/> It depends upon how the rights of custody were acquired (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>): By the Family Advocate as in (d) above
f) Prior to any order determining the issue, who <i>generally</i> has the right to determine the child's residence?	Please explain: Persons who have established parental responsibilities and rights

10 Proceedings for Return	
10.1 Organisation of competent authorities	
a) Does your State limit the number of judicial or administrative authorities who can hear return applications under the Convention? (i.e., has your State "concentrated jurisdiction" in respect of applications under the Convention)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) If possible, please state exactly how many courts or administrative authorities and how many judges or relevant decision-makers can hear return applications under the Convention?	Courts / administrative authorities: High Courts, Supreme Court of Appeal Judges / decision-makers: All judges of High Courts

c) Please list the judicial or administrative authorities that can make decisions in return applications under the Convention	Free State High Court, Bloemfontein; Western Cape High Court, Cape Town; Kwazulu-Natal High Court, Durban; Kwazulu-Natal High Court, Pietermaritzburg; Eastern Cape High Court, Grahamstown; Eastern Cape High Court, Port Elizabeth; Eastern Cape High Court, Mthatha; South Gauteng High Court, Johannesburg; North Gauteng High Court, Pretoria; Northern Cape High Court, Kimberley; Limpopo High Court, Thohoyandou .
d) Are the judges or administrative authorities who decide return applications in your State specialists in either family law or international child abduction? <i>See also section 22 on Training below</i>	<input type="checkbox"/> Yes, specialists in family law <input type="checkbox"/> Yes, specialists in international child abduction <input type="checkbox"/> No <input checked="" type="checkbox"/> Other (<i>please specify</i>): Judges are qualified, highly experienced experts in all areas of the law.
e) In ascertaining whether there has been a wrongful removal or retention under the Convention, do judicial or administrative authorities in your State take judicial notice of foreign law and decisions without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable in ascertaining whether there has been a wrongful removal or wrongful retention? <i>See Article 14</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other (<i>please specify</i>):
10.2 Articles 15 and 16 of the Convention	
a) In your State is it possible for a decision or other determination to be made, in accordance with Article 15 of the Convention, that the removal or retention of a child was wrongful within the meaning of Article 3? <i>See Article 3 and Article 15</i>	<input checked="" type="checkbox"/> Yes, go to question b) <input type="checkbox"/> No, go to question e)
b) Which authorities in your State can issue Article 15 decisions / determinations? <i>See Article 15</i>	Please list: Judges of the High Court
c) Who can apply for an Article 15 decision / determination?	<input checked="" type="checkbox"/> Central Authority <input checked="" type="checkbox"/> The applicant in the return proceedings <input type="checkbox"/> Other (<i>please specify</i>):
d) Are Article 15 decisions / determinations of other States accepted by the judicial or administrative authorities in your State?	<input checked="" type="checkbox"/> Yes, <i>please explain if necessary</i> : <input type="checkbox"/> No
e) Who notifies the relevant judicial or administrative bodies that a decision on the merits of rights of custody should not be made until it has been determined that the child should not be returned? <i>See Article 16</i>	<input checked="" type="checkbox"/> Central Authority <input checked="" type="checkbox"/> The applicant's legal representative <input type="checkbox"/> Other (<i>please specify</i>):
f) When does notification in accordance with Article 16 take place?	<input type="checkbox"/> Automatically upon receipt of a return application <input checked="" type="checkbox"/> Upon request of either party <input checked="" type="checkbox"/> Other (<i>please specify</i>): On request of Central Authority of the Requesting State

10.3 Procedures	
<p>a) How does the Central Authority fulfil its obligation to initiate or facilitate the initiation of proceedings in your State?</p> <p><i>See Article 7(2) f)</i></p> <p><i>See also question 8.1 d) above</i></p>	<p><input checked="" type="checkbox"/> The Central Authority itself initiates the proceedings for return</p> <p><input type="checkbox"/> The Central Authority sends the file to an appropriate lawyer</p> <p><input type="checkbox"/> The Central Authority sends the file to the Public Prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>b) Who is the formal applicant in return proceedings before the court / administrative authority in your State?</p>	<p><input type="checkbox"/> The person, institution or other body which made the application under the Convention</p> <p><input checked="" type="checkbox"/> The Central Authority</p> <p><input type="checkbox"/> The Public Prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>c) Does documentation submitted to the court / administrative authority have to be translated into the official language(s) of your State?</p> <p><i>See question 2 a) for the official language(s) of the State</i></p>	<p><input checked="" type="checkbox"/> Yes, please state who is responsible for the organisation and cost of the translation: the left-behind parent/requesting Central Authority</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> It depends upon the type of documentation submitted (<i>please specify</i>):</p>
<p>d) Have measures been taken to ensure that the judicial and administrative authorities in your State act expeditiously in return proceedings?</p> <p><i>See Article 11</i></p>	<p><input checked="" type="checkbox"/> Yes, please explain briefly what the measures are:</p> <p><input type="checkbox"/> In the implementing legislation:</p> <p><input checked="" type="checkbox"/> In procedural rules:</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Court Administration policy</p> <p>Please specify how the legislation or rules can be obtained (e.g., website) or attach a copy: www.justice.gov.za</p> <p><input type="checkbox"/> No</p>
<p>e) Generally, what is the expected time from the commencement of the proceedings for return to a final order (excluding appeals)?</p> <p><i>See Article 11</i></p>	<p><input type="checkbox"/> Up to 6 weeks</p> <p><input checked="" type="checkbox"/> 6 to 12 weeks</p> <p><input checked="" type="checkbox"/> More than 12 weeks (<i>please provide further information</i>): Opposed applications due prescribed periods attaching to exchange of pleadings</p>
<p>f) Is the applicant generally required to participate in the return proceedings?</p> <p><i>Please note that attendance in person is not required under the Convention (see paragraph 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances:</p> <p><input checked="" type="checkbox"/> No, but advisable</p> <p><input type="checkbox"/> No</p>
<p>g) Are facilities available to enable the applicant to participate in return proceedings from outside your State?</p>	<p><input checked="" type="checkbox"/> Yes:</p> <p><input type="checkbox"/> Video-conference</p> <p><input type="checkbox"/> Telephone</p> <p><input checked="" type="checkbox"/> Through a legal representative</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Filing of affidavits/sworn statements</p> <p><input type="checkbox"/> No</p>
<p>h) If the applicant does participate in return proceedings in your State, is simultaneous interpretation available, where necessary?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> It depends upon the circumstances of the case (<i>please specify</i>): Should be arranged prior to proceedings</p>

i) Where the facilities set out in question 10.3 g) and h) above are required, who is responsible for the cost of providing such facilities?	<input checked="" type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
j) Can special immigration arrangements (<i>e.g.</i> , visas) be made to enable the applicant to attend return proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes (<i>please specify</i>): Through the Embassy of the State <input type="checkbox"/> No
k) Is it possible for a return application to be decided solely on the basis of the papers <i>i.e.</i> , with no court (or administrative authority) hearing at all?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Yes, but it is unlikely <input type="checkbox"/> No, there will always be a hearing
l) Can oral evidence (<i>i.e.</i> , in-person evidence) be received in return proceedings?	<input type="checkbox"/> Yes, oral evidence will always be received in return proceedings <input checked="" type="checkbox"/> Yes, oral evidence can be received in return proceedings but in limited circumstances only (<i>please specify</i>): If required by order of the judge <input type="checkbox"/> No, oral evidence can never be received in return proceedings
10.4 Participation of the child	
a) Does the child have an opportunity to be heard in return proceedings in your State?	<input type="checkbox"/> Yes, in every case; go to question b) <input checked="" type="checkbox"/> It depends upon the particular case and is always at the discretion of the judge / authority hearing the case. <i>Please explain if necessary</i> : Depends on age and level of understanding of the child Go to question b) <input type="checkbox"/> Only where Article 13(2) is relied upon; go to question b) <input type="checkbox"/> Other (<i>please specify</i>): Go to question b) <input type="checkbox"/> No, never. Go to section 10.5
b) How is the child heard in return proceedings?	<input type="checkbox"/> Direct interview with judge <input checked="" type="checkbox"/> Report prepared for court by independent expert <input checked="" type="checkbox"/> Child's own legal representative <input type="checkbox"/> Other (<i>please specify</i>):
c) How does your State ensure that no undue delay results from hearing the child in the course of return proceedings?	<i>Please explain: Court orders a return date</i>
d) Can judicial or administrative authorities appoint a legal representative (attorney or <i>guardian ad litem</i>) to represent the child's best interests in return proceedings?	<input checked="" type="checkbox"/> Yes, please specify under what circumstances: If court deems it fit (statutory requirement) <input type="checkbox"/> No

10.5 Protective measures	
<p>a) Where there are concerns about the care being given to a child in your State, which authorities provide services for the assessment and protection of the child?</p> <p><i>Please provide additional information if necessary</i></p> <p><i>On the role of the Central Authority in this respect, see also question 6.2 j) above</i></p>	<input checked="" type="checkbox"/> Government social / welfare agency: <input type="checkbox"/> Non-governmental organisations / agencies: <input type="checkbox"/> Central Authority: Family Counsellors <input type="checkbox"/> Police: <input type="checkbox"/> Courts: <input type="checkbox"/> Other (<i>please specify</i>):
<p>b) What measures are available to ensure the protection of a child in your State (both prior to the initiation of return proceedings and whilst return proceedings are ongoing)?</p>	<input checked="" type="checkbox"/> 1. Injunctive orders can be placed on the alleged abducting party prohibiting certain forms of conduct <i>e.g.</i> , violence, drinking <i>etc.</i> <input checked="" type="checkbox"/> 2. Placement of the child in foster care <input checked="" type="checkbox"/> 3. Placement of the child in State care <input checked="" type="checkbox"/> 4. Supervision of the alleged abducting party's care of the child by a social / welfare agency <input type="checkbox"/> 5. Other (<i>please specify</i>):
<p>c) Which of the above measures require a court order? Please list the relevant numbers from question 10.5 b) above</p>	<p>1, 2, 3, 4</p>
<p>d) Who is responsible for applying for any protective measure requiring a court order? Please list next to the relevant individual or body the number of the measure from question b) above, which they are required to apply for</p> <p><i>On the role of the Central Authority in this respect, see also question 6.2 j) above</i></p>	<input checked="" type="checkbox"/> The applicant: <input type="checkbox"/> The requesting Central Authority: <input checked="" type="checkbox"/> The requested Central Authority: <input type="checkbox"/> The Public Prosecutor: <input type="checkbox"/> The judge (<i>ex officio</i>): <input type="checkbox"/> A government social / welfare agency: <input checked="" type="checkbox"/> The police: <input type="checkbox"/> Other (<i>please specify</i>):
10.6 Contact or access during return proceedings	
<p>a) Can judicial or administrative authorities take provisional or interim measures to enable an applicant to exercise contact or access in respect of the child while return proceedings are pending?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10.7 Appeals	
<p>a) Can a decision in return proceedings be appealed?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Only in certain circumstances (<i>please specify</i>): Leave for appeal to be granted If either of the boxes above are ticked, please specify how many levels of appeal exist and to which court(s) / authority(ies) an appeal may be made: High Court (full bench); Supreme Court of Appeal; Constitutional Court <input type="checkbox"/> No, go to section 11

<p>b) Is there an expedited procedure or special process of appeal for Hague return cases?</p> <p><i>Please specify the legislation and / or rules which provide for this and how they can be obtained (e.g., website) or attach a copy</i></p>	<p><input checked="" type="checkbox"/> Yes, please specify: Preferential date can be allocated on application to the Registrar</p> <p><input type="checkbox"/> No</p>
<p>c) Who can initiate the appeal process?</p>	<p><input checked="" type="checkbox"/> Either party to the proceedings</p> <p><input checked="" type="checkbox"/> Central Authority</p> <p><input type="checkbox"/> Public Prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>d) Is leave to appeal required?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> In certain circumstances (<i>please specify</i>):</p>
<p>e) If a return order is made, can it be suspended (<i>i.e.</i>, "stayed") pending an appeal?</p>	<p><input checked="" type="checkbox"/> Yes, a return order is <i>automatically</i> suspended pending an appeal</p> <p><input type="checkbox"/> Yes, a return order can be suspended pending an appeal at the request of either party</p> <p><input type="checkbox"/> Yes, a return order can be suspended pending an appeal at the request of either party <u>and</u> after determination by the judge / authority</p> <p><input type="checkbox"/> No</p>
<p>f) Is there a time limit by which an appeal must be filed in return proceedings?</p>	<p><input checked="" type="checkbox"/> Yes, please specify: The time limit: One month from day of judgement From when the time limit starts to run (<i>e.g.</i>, from the date of judgment, from the date of the order, from the date the decision was notified to the parties <i>etc.</i>): date of judgement</p> <p><input type="checkbox"/> No</p>
<p>g) Generally, what is the expected time within which appeals are filed and decided?</p>	<p><input type="checkbox"/> Up to 3 months</p> <p><input checked="" type="checkbox"/> 3 to 6 months</p> <p><input type="checkbox"/> Longer than 6 months</p>
<p>h) Is the applicant generally required to participate in the appeal proceedings?</p> <p><i>Please note that attendance in person is not required under the Convention (see para. 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances:</p> <p><input type="checkbox"/> No, but advisable</p> <p><input checked="" type="checkbox"/> No</p>
<p>i) Are facilities available to enable the applicant to attend appeal proceedings from outside your State?</p>	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p><input type="checkbox"/> Video-conference</p> <p><input type="checkbox"/> Telephone</p> <p><input checked="" type="checkbox"/> Through a legal representative</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>

j) If the applicant does participate in appeal proceedings in your State, is simultaneous interpretation available, where necessary?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
k) Where the facilities set out in questions i) and j) above are required, who is responsible for the cost of providing such facilities?	<input checked="" type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
l) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend appeal proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes (<i>please specify</i>): Through Embassy of the State <input type="checkbox"/> No

11 Return of the child

11.1 Arrangements for return and the costs of return

a) Who is responsible for making travel arrangements for the return of the child?	<input type="checkbox"/> The abducting party <input type="checkbox"/> The applicant <input type="checkbox"/> The abducting party and the applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The judicial or administrative authority will direct who is to make arrangements on a case-by-case basis. Please explain if necessary: where the left behind parent is not available to make arrangements <input type="checkbox"/> Other (<i>please specify</i>):
b) Who is responsible for the travel costs relating to the return of the child?	<input checked="" type="checkbox"/> The abducting party <input checked="" type="checkbox"/> The applicant <input checked="" type="checkbox"/> The abducting party and the applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The costs are decided by the judicial or administrative authority on a case-by-case basis. Please explain if necessary: <input type="checkbox"/> Other (<i>please specify</i>):
c) Is there financial assistance available in your State to assist with travel costs associated with the return of the child? <i>See also question 8.2 e)</i>	<input type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> No
d) Can special immigration arrangements (e.g., visas) be made, where necessary, to enable an applicant to travel to your State to collect a child (following a return order or a voluntary agreement to return the child)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain, if necessary: Through the Embassy of the requesting State

e) Can special immigration arrangements (e.g., visas) be made, where necessary, for abducting parties and children returning to your State?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain, if necessary: Through Departments of Home Affairs and International Relations and Cooperation(DIRCO)
11.2 Provisions for safe return	
<i>See also: Article 7(2) b)</i> Part VI: Direct judicial communications <i>Section 6: Applications through Central Authorities</i>	
a) Does the law in your State provide for the protection of children from domestic violence or other forms of abuse?	<input checked="" type="checkbox"/> Yes, please specify how legislation can be accessed (e.g., website) or attach a copy: Domestic Violence Act, (Act No. 116 of 1998) , Criminal Law (Sexual Offences and Related Matters Amendment Act, (Act 32 of 2007), Childrens Act, (Act 38 of 2005). www.justice.gov.za <input type="checkbox"/> No
b) Does the law in your State provide for the protection of adults from domestic violence or other forms of abuse?	<input checked="" type="checkbox"/> Yes, please specify how legislation can be accessed (e.g., website) or attach a copy: Domestic Violence Act, (Act No. 116 of 1998) , Criminal Law (Sexual Offences and Related Matters Amendment Act, (Act 32 of 2007), www.justice.gov.za www.justice.gov.za <input type="checkbox"/> No
c) Which authorities provide services for the protection, if necessary, of the child? <i>Please provide additional information if necessary</i>	<input checked="" type="checkbox"/> Government social / welfare agency: <input checked="" type="checkbox"/> Non-governmental organisations: <input type="checkbox"/> Central Authority: <input checked="" type="checkbox"/> Police: <input checked="" type="checkbox"/> Courts: Child Protection Register and National Register for Sex Offenders <input type="checkbox"/> Other (please specify):
d) What action can the Central Authority in your State take, where necessary, to ensure the safe return of the child? <i>See Article 7(2) h)</i>	Please explain: Obtain necessary court orders; facilitate placements in alternative care; arrange for safe passage of child and/or left behind parent to and from port of entry, e.g. airport.
Requested State	
e) Where a judge or administrative authority in your State is ordering the return of the child, what can the authority do to create conditions for a safe return? <i>Please explain where necessary</i> <i>Please tick all boxes which apply</i>	<input checked="" type="checkbox"/> Make a protective order or other order designed to prevent harm occurring to the child Remove child from harmful circumstances prior to return; make prohibitive/supervision orders <input type="checkbox"/> Accept undertakings from either party designed to prevent harm occurring to the child Please specify the subject-matter of, and any limitations on, the undertakings the authority can accept: <input type="checkbox"/> Other (please specify):
f) Where a judge or administrative authority in your State takes measures to create conditions for a safe return, what can the authority do to ensure compliance with those measures?	<i>Please specify:</i> Central Authority will facilitate/arrange with relevant authorities, e.g. South African Police Service, Welfare agencies to enforce or ensure compliance with the order

Requesting State	
<p>g) Can judicial or administrative authorities in your State:</p> <p>i. Recognise and enforce protective orders or other orders made in the requested State designed to prevent harm occurring to the child?</p> <p>ii. Insist upon undertakings given in the requested State being carried out?</p> <p>iii. Make any "mirror orders" necessary as a result of protective measures taken in the requested State?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain where necessary: Upon application</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> It depends upon the subject-matter of the undertakings given Please explain where necessary:</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No Please explain where necessary: subject to the best interests of the child standard.</p>
11.3 Criminal law and the return of the child	
<p>a) Is the wrongful <i>removal</i> of a child by a parent from your State a criminal offence? <i>See Article 3</i> Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> It depends upon the circumstances of the case, please specify: <input checked="" type="checkbox"/> No</p>
<p>b) Is the wrongful <i>retention</i> of a child by a parent outside your State a criminal offence? <i>See Article 3</i> Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> It depends upon the circumstances of the case, please specify: the offence created by the Children's Act relates to refusal of access or refusal to exercise parental responsibilities and rights <input checked="" type="checkbox"/> No If the answer to both question 11.3 a) and b) is "no", go to section 12</p>
<p>c) What penalties are available for the wrongful removal or wrongful retention of a child by a parent?</p>	<p><input type="checkbox"/> (1) Pecuniary measures <input type="checkbox"/> (2) Imprisonment <input type="checkbox"/> (3) Other (<i>please specify</i>): in the case of refusal of access or refusal to exercise parental responsibilities and rights the court may impose a fine or imprisonment for a period not exceeding one year</p>
<p>d) Please indicate which of the penalties listed above are mandatory</p>	
<p>e) Can criminal proceedings in your State proceed without a complaint being presented (e.g., by the applicant to the return proceedings or any other concerned person / body)?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, please specify:</p>
<p>f) Once initiated, can criminal proceedings in your State be withdrawn or suspended to facilitate the return of a child?</p>	<p><input checked="" type="checkbox"/> Yes, please specify: upon complainant's request and subject to approval by the National Prosecuting Authority <input type="checkbox"/> No, go to section 12</p>

g) Who is able to initiate the withdrawal or suspension of criminal proceedings relating to the wrongful removal or wrongful retention of a child?	<input type="checkbox"/> Prosecuting authority <input type="checkbox"/> Police <input checked="" type="checkbox"/> The person / body / institution alleging a wrongful removal or retention <input checked="" type="checkbox"/> Judicial or administrative authority <input type="checkbox"/> Other (<i>please specify</i>):
h) Who will determine whether the criminal proceedings are to be withdrawn or suspended?	<input checked="" type="checkbox"/> Prosecuting authority <input type="checkbox"/> Police <input type="checkbox"/> The person / body / institution alleging a wrongful removal or retention <input type="checkbox"/> Judicial or administrative authority <input type="checkbox"/> Other (<i>please specify</i>):
i) What assistance can the Central Authority provide regarding the suspension or withdrawal of criminal proceedings?	<input type="checkbox"/> None <input checked="" type="checkbox"/> Refer the matter to prosecuting authority <input type="checkbox"/> Other (<i>please specify</i>):

12 Enforcement of return orders

For best practice in relation to the enforcement of return orders, see the Guide to Good Practice, Part IV – Enforcement available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

a) What procedure may be used to enforce a return order?	<input checked="" type="checkbox"/> Directions by a judicial or administrative authority to make arrangements for return <input checked="" type="checkbox"/> Measures for the immediate execution of final orders <input checked="" type="checkbox"/> Issue of a warrant for the apprehension or detention of the child <input type="checkbox"/> Authority for coercive detention or use of force <input type="checkbox"/> Other (<i>please specify</i>):
b) Who is generally responsible for exercising supervision over the process of enforcement?	<input type="checkbox"/> The applicant <input checked="" type="checkbox"/> Central Authority <input type="checkbox"/> Public Prosecutor <input type="checkbox"/> The court / administrative authority <input checked="" type="checkbox"/> Police <input type="checkbox"/> No one body has general responsibility <input type="checkbox"/> Other (<i>please specify</i>):
c) Where parties do not voluntarily comply with a return order, is it necessary to commence additional proceedings to enforce the order?	<input checked="" type="checkbox"/> Yes, go to question d) <input type="checkbox"/> It depends on the circumstances (<i>please specify</i>): Go to question d) <input type="checkbox"/> No, go to Part IV: Applications relating to access
d) What is the procedure to commence enforcement proceedings?	<input checked="" type="checkbox"/> The Central Authority will apply for enforcement <input checked="" type="checkbox"/> The applicant must apply for enforcement <input type="checkbox"/> Other (<i>please specify</i>):
e) Can the merits of the proceedings for return be reviewed in enforcement proceedings?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f) What coercive measures, if any, are available to enforce a return order?	<input checked="" type="checkbox"/> Intervention by government agency (e.g., <i>police, social welfare</i>) <input checked="" type="checkbox"/> Removal of the child from the abducting party <input type="checkbox"/> Removal of the child from the State <input type="checkbox"/> Criminal charges <input type="checkbox"/> Imprisonment <input type="checkbox"/> Pecuniary measures <input checked="" type="checkbox"/> An order placing the child under supervision

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input type="checkbox"/> Other (<i>please specify</i>):
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Part IV: Applications relating to access

13 Applications through Central Authorities

13.1 Outgoing applications (requesting State)

<p>a) What assistance is available to applicants in your State in the preparation of outgoing access applications?</p> <p><i>See Articles 7 and 21</i></p>	<p><input checked="" type="checkbox"/> Assistance from the Central Authority to apply under Article 21</p> <p><input type="checkbox"/> Assistance from another authority or body to apply under Article 21</p> <p><input type="checkbox"/> Referral to a legal representative for assistance to apply under Article 21</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
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13.2 Incoming applications (requested State)

<p>a) Has your State developed a specific form for access applications under the Convention?</p>	<p><input checked="" type="checkbox"/> Yes Please specify how this form can be accessed (e.g., website) or attach a copy: Form 11 copy attached/www.justice.gov.za Go to question c)</p> <p><input type="checkbox"/> No, go to question b)</p>
<p>b) If your State does not require a particular form for access applications, what information or documents are requested?</p>	<p><input type="checkbox"/> Information concerning the identity of the child:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth, where available <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Physical description (height, eye and hair colour) <input type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Information identifying the child's parents e.g., nationalities – where a parent is not the applicant or respondent to proceedings (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>): <p><input type="checkbox"/> Information concerning the identity of the applicant:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / Nationalities <input type="checkbox"/> Passport number(s) <input type="checkbox"/> Relationship of the applicant to the child <input type="checkbox"/> Name(s) of legal adviser, if any <input type="checkbox"/> Other (<i>please specify</i>): <p><input type="checkbox"/> Information concerning the identity of the person with whom the child is presumed to be (the proposed respondent to the application):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Name and previous name/s <input type="checkbox"/> Date of birth <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Nationality / nationalities

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input type="checkbox"/> Passport number(s) <input type="checkbox"/> Physical description (height, eye and hair colour) <input type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Relationship of the person to the child <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> The grounds upon which the applicant's claim for access to the child is based <input type="checkbox"/> Evidence of the applicant's rights of access (whether obtained by operation of law, or otherwise) <input type="checkbox"/> An authenticated copy of any relevant decision or agreement <input type="checkbox"/> A certificate or an affidavit emanating from the Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> All available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be <input type="checkbox"/> Any other relevant document / information <input type="checkbox"/> Concerning any child protection issues <input type="checkbox"/> Marriage certificate (if applicable) <input type="checkbox"/> Divorce decree (if applicable) <input type="checkbox"/> Civil and / or criminal proceedings in progress (if applicable) <input type="checkbox"/> Other (<i>please specify</i>):
c) Does your Central Authority accept an application and accompanying documentation transmitted by electronic means?	<input type="checkbox"/> Yes, please specify any requirements for electronically transmitted applications / documentation: <input checked="" type="checkbox"/> Yes, but any documentation sent electronically is not accepted by the court / administrative authority (<i>please specify</i>): <input type="checkbox"/> No
d) Does the Central Authority require a written authorisation empowering it or a designated representative (e.g., <i>lawyer</i>) to act on behalf of the applicant? <i>See Article 28</i>	<input checked="" type="checkbox"/> Yes, the authorisation should be provided: <input checked="" type="checkbox"/> On the application form <input type="checkbox"/> In a signed statement or declaration <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No
e) Does the Central Authority acknowledge receipt of the application?	<input checked="" type="checkbox"/> Yes, acknowledgment generally is provided by: <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Post <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No

<p>f) Can the Central Authority proceed with an application where the information provided is incomplete?</p>	<p><input type="checkbox"/> Yes, the Central Authority will begin processing the application and will immediately inform the requesting Central Authority of what additional information is required to complete the request</p> <p><input type="checkbox"/> No:</p> <p><input checked="" type="checkbox"/> The Central Authority will not process an application without all of the necessary supporting documentation</p> <p><input type="checkbox"/> The Central Authority is unable to process the application but will immediately inform the requesting Central Authority of what additional information is required before further action can be taken</p> <p><input type="checkbox"/> It depends upon what type of information is missing (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>g) Who does the Central Authority prefer to communicate with in incoming applications?</p>	<p><input checked="" type="checkbox"/> The requesting Central Authority</p> <p><input type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The applicant's legal representative</p> <p><input type="checkbox"/> All of the above</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>h) What measures are taken by the Central Authority (directly, or through an intermediary) to attempt to secure agreement between parties in international access cases?</p> <p><i>See Article 21</i></p> <p><i>See Part V: Mediation and other forms of alternative dispute resolution</i></p>	<p><input checked="" type="checkbox"/> Contact is made with the respondent to the application</p> <p><input checked="" type="checkbox"/> Mediation and / or other forms of alternative dispute resolution are offered to the parties (see Part V: Mediation and other forms of alternative dispute resolution)</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>i) How is it ensured that no undue delay results from the measures taken, or attempted, to secure an agreement between parties in international access cases (see question h) above)?</p>	<p><i>Please explain:</i></p> <p><i>Immediate contact with Central Authority and/or respondent</i></p>
<p>j) What general assistance can be provided by the Central Authority in respect of arrangements for rights of access?</p> <p><i>See Article 21</i></p>	<p><input checked="" type="checkbox"/> The Central Authority can facilitate contact with the parties:</p> <p><input checked="" type="checkbox"/> Directly through the Central Authority</p> <p><input type="checkbox"/> Through intermediaries</p> <p><input type="checkbox"/> The Central Authority can provide information to the applicant on services available, e.g., mediation, legal services, social welfare services (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>k) Will the Central Authority's assistance depend on:</p> <p><i>See paragraph 4.6 of the General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children (available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice") recommending that Central Authorities should make their services available in all cases where cross-frontier contact rights of parents and children are in issue</i></p>	<p><input checked="" type="checkbox"/> Existence of a judicial or administrative order establishing or confirming rights of access</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>

<p>l) Can an applicant commence proceedings in your State with respect to access without using the Central Authority channel?</p>	<p><input checked="" type="checkbox"/> Yes; if so, please explain:</p> <ul style="list-style-type: none"> • Where an applicant can obtain information about commencing proceedings: Through the Family Advocate's Offices (general information) or legal practitioner of their choice • What role, if any, the Central Authority has in these proceedings: monitoring and collecting statistical data for State reporting <p><input type="checkbox"/> No</p>
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14 Locating a child and preventing removal

<p>a) Are the responses to the questions in this section the same as for applications for return (see section 7)?</p>	<p><input checked="" type="checkbox"/> Yes, go to section 15</p> <p><input type="checkbox"/> No, continue to question b)</p>
<p>b) What evidence / information does your State require regarding the child's whereabouts to begin to assist with locating the child?</p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Evidence that the child entered your State (e.g., evidence that the child boarded an aeroplane bound for your State):</p> <p><input type="checkbox"/> Information from the applicant as to why he / she believes the child is in your State:</p> <p><input type="checkbox"/> No information or evidence is required; searches for the child can begin upon request:</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>c) What mechanisms or sources of information are available in your State to discover the whereabouts of a child who is the subject of an access application?</p> <p><i>Please indicate in the space provided any associated costs for the applicant or any other necessary information</i></p>	<p><input type="checkbox"/> (1) Private location services:</p> <p><input type="checkbox"/> (2) Population register:</p> <p><input type="checkbox"/> (3) Employment register:</p> <p><input type="checkbox"/> (4) Information maintained by other government agencies (e.g., immigration, social welfare):</p> <p><input type="checkbox"/> (5) Police:</p> <p><input type="checkbox"/> (6) INTERPOL:</p> <p><input type="checkbox"/> (7) Court orders to compel the production of information on the whereabouts of the child:</p> <p><input type="checkbox"/> (8) Other (<i>please specify</i>):</p>
<p>d) Please indicate who is responsible for arranging the measures indicated above in question c) by listing the relevant number next to the responsible person or authority</p> <p><i>E.g., Central Authority: 2, 3</i> The applicant's representative: 6</p>	<p>Central Authority:</p> <p>The applicant:</p> <p>The applicant's representative:</p> <p>Other (<i>please specify</i>):</p>
<p>e) Please indicate by listing numbers which of the measures above in question c) need an order from a competent authority?</p>	

15 Legal representation and assistance

15.1 General

<p>a) Are the responses to the questions in this section the same as for applications for return (see section 8)?</p>	<p><input checked="" type="checkbox"/> Yes, go to section 15.2</p> <p><input type="checkbox"/> No, continue to question b)</p>
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b) Does the Central Authority provide legal advice regarding access applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No, however: <input type="checkbox"/> The Central Authority will refer the applicant to the appropriate person or authority to obtain legal advice <input type="checkbox"/> The Central Authority will provide information that is of a general nature about laws and procedures <input type="checkbox"/> Other (<i>please specify</i>):
c) Is legal representation needed in access proceedings? <i>Please explain where necessary</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No, but advisable <input type="checkbox"/> No
d) What is the role of the Central Authority in making arrangements to progress the application? <i>See Article 7(2) g)</i>	<input type="checkbox"/> The applicant is required to make his / her own arrangements for legal representation, but the Central Authority will: <input type="checkbox"/> Provide the applicant with a list of lawyers <input type="checkbox"/> Provide the applicant with a list of free or reduced rate lawyers <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Legal representation is not required. The Central Authority ensures the application is forwarded to the competent authority for action. Please provide additional information if necessary: <input type="checkbox"/> Legal representation is arranged by the Central Authority. Representation is provided by: <input type="checkbox"/> Central Authority lawyers <input type="checkbox"/> Private lawyers <input type="checkbox"/> Public prosecutor <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):

15.2 Free or reduced rate legal assistance

a) Are the responses to the questions in this section the same as for applications for return (see section 8.2)?	<input checked="" type="checkbox"/> Yes, go to section 16 <input type="checkbox"/> No, go to question b)
b) Is free or reduced rate legal assistance for access applications available for applicants located in another Contracting State?	<input type="checkbox"/> Yes, free legal assistance; go to question d) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question d) <input type="checkbox"/> No; go to question c)
c) If free or reduced rate legal assistance is <u>not</u> available, in what other ways can your State assist an applicant financially?	<input type="checkbox"/> There is a system of costs ordering the respondent to pay <input type="checkbox"/> <i>Pro bono</i> legal assistance <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Not at all Go to section 16
d) Is the applicant required to complete an application form for free or reduced rate legal assistance?	<input type="checkbox"/> Yes. Please specify how application forms can be obtained (<i>e.g.</i> , website) or attach a copy: <input type="checkbox"/> No

e) Please indicate on what basis free or reduced rate legal assistance may be available <i>Please explain where necessary</i>	<input type="checkbox"/> Income of the applicant <input type="checkbox"/> Assets of the applicant <input type="checkbox"/> Country of residence of the applicant <input type="checkbox"/> Likelihood of success of the proceedings <input type="checkbox"/> Other (<i>please specify</i>):
f) Which costs are covered by free or reduced rate legal assistance? <i>Please explain where necessary</i>	<input type="checkbox"/> (1) Mediation <input type="checkbox"/> (2) Translation <input type="checkbox"/> (3) Interpreters <input type="checkbox"/> (4) Service of documents <input type="checkbox"/> (5) Costs associated with locating the child <input type="checkbox"/> (6) Court fees <input type="checkbox"/> (7) Travel costs for the return of the child (see question 11.1 c)) <input type="checkbox"/> (8) Other (<i>please specify</i>):
g) Please list the corresponding numbers of the costs, if any, listed in question f) which are covered by the Central Authority?	
h) Is free or reduced rate legal assistance available for the appeal of decisions?	<input type="checkbox"/> No, go to question j) <input type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance
i) Is a new application for free or reduced rate legal assistance needed for appeals?	<input type="checkbox"/> Yes <input type="checkbox"/> No
j) Is free or reduced rate legal assistance available for proceedings needed to enforce an access order?	<input type="checkbox"/> No, go to section 16 <input type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance
k) Is a new application for free or reduced rate legal assistance needed for enforcement applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No

16 Rights of access

16.1 Determining rights of access

a) Which legislation in your State governs the establishment and exercise of rights of access? <i>See Article 5</i>	Please specify how legislation can be accessed (e.g., website) or attach a copy: Children's Act, Act 38 of 2005, www.justice.gov.za
b) Which judicial and / or administrative authorities can make decisions with respect to rights of access?	High Courts of Pretoria, Johannesburg, Cape Town, Durban, Kimberley, Pietermaritzburg, Port Elizabeth, Grahamstown, Mthatha, Bhisho, Bloemfontein, Limpopo in Thohoyandou, Mafikeng, Superior Court of Appeal in Bloemfontein.
c) In your State, who may seek rights of access in respect of a child?	<input checked="" type="checkbox"/> Parent <input checked="" type="checkbox"/> Step-parent <input checked="" type="checkbox"/> Grandparent <input checked="" type="checkbox"/> Other family member (<i>please specify</i>): Any person having an interest in the care, well-being or development of a child. <input checked="" type="checkbox"/> Other (<i>please specify</i>): Any person having an interest in the care, well-being or development of a child.

<p>d) Are the best interests of the child a primary consideration in access proceedings?</p> <p><i>See Articles 3 and 9 of the United Nations Convention on the Rights of the Child</i></p> <p><i>Please explain, if necessary</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, please specify what are the primary considerations:</p>
<p>16.2 Exercising rights of access</p>	
<p>a) Where necessary, what guarantees and safeguards do your courts or administrative authorities have to enable them to secure rights of access for children and applicants?</p>	<p><input checked="" type="checkbox"/> Surrender of passport or travel documents</p> <p><input type="checkbox"/> Applicant to regularly report to police or other authority</p> <p><input type="checkbox"/> Deposit of a monetary bond or surety</p> <p><input checked="" type="checkbox"/> Supervised contact</p> <p><input checked="" type="checkbox"/> Placing restrictions on how contact is exercised</p> <p><input type="checkbox"/> Signing an affidavit or religious oath</p> <p><input checked="" type="checkbox"/> Provision of a detailed itinerary with contact details</p> <p><input type="checkbox"/> Requesting foreign consulates / embassies should not issue new passports / travel documents for the child</p> <p><input type="checkbox"/> Other:</p>
<p>16.3 Supervised access</p>	
<p>a) Do facilities exist in your State for the exercise of rights of access in a supervised environment?</p>	<p><input checked="" type="checkbox"/> Yes, please explain if necessary: Through Social Services</p> <p><input type="checkbox"/> No, go to section 17</p>
<p>b) Under what circumstances is access supervised?</p>	<p><input checked="" type="checkbox"/> Where it is agreed between the parties</p> <p><input type="checkbox"/> Where it is requested by one party</p> <p><input type="checkbox"/> As a result of a decision by a social welfare agency</p> <p><input checked="" type="checkbox"/> By order of a judicial or administrative authority</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>c) Which authorities provide supervised access?</p>	<p><input checked="" type="checkbox"/> Government social / welfare agency:</p> <p><input checked="" type="checkbox"/> Non-government organisations:</p> <p><input checked="" type="checkbox"/> Central Authority: Family Counsellors</p> <p><input type="checkbox"/> Police:</p> <p><input type="checkbox"/> Courts:</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>d) Who will pay the costs associated with exercising supervised access?</p>	<p><input checked="" type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The person(s) with day to day care of the child</p> <p><input type="checkbox"/> The Central Authority</p> <p><input checked="" type="checkbox"/> It depends upon the order of the judicial or administrative authority</p> <p><input type="checkbox"/> Other (<i>please specify</i>): government agencies provide the service free of charge; NGO's and professionals in private practice may charge an hourly rate</p>

17 Proceedings for access / contact

17.1 Organisation of competent authorities

<p>a) Does your State limit the judicial or administrative authorities who can hear access applications under the Convention?</p> <p>(i.e., has your State "concentrated jurisdiction" in respect of access applications under the Convention?)</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>b) If possible, please state exactly how many courts or administrative authorities and how many judges or relevant decision-makers can hear access applications under the Convention?</p>	<p>Courts / administrative authorities: High Court, Divorce Court and Children's Courts</p> <p>Judges / decision-makers: All judges in above Courts</p>
<p>c) Which courts or administrative authorities can make decisions in applications relating to access under the Convention?</p>	<p>High Courts of Pretoria, Johannesburg, Cape Town, Durban, Kimberley, Pietermaritzburg, Port Elizabeth, Grahamstown, Mthatha, Bhisho, Bloemfontein, Limpopo in Thohoyandou, Mafikeng, Superior Court of Appeal in Bloemfontein.</p>
<p>d) Are the judges or administrative authorities who decide access applications in your State specialists in family law?</p> <p><i>See also section 22 on Training below</i></p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Other (<i>please specify</i>): Judges are legally qualified and highly experienced in all fields of the law</p>

17.2 Procedures

<p>a) Is a special procedure applied by judicial or administrative authorities to access applications made under Article 21 of the Convention?</p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Yes:</p> <p><input checked="" type="checkbox"/> No:</p>
<p>b) Does documentation submitted to the court / administrative authority have to be translated into the official language(s) of your State?</p> <p><i>See question 2 a) for the official language(s) of the State</i></p>	<p><input checked="" type="checkbox"/> Yes, please state who is responsible for the organisation and cost of the translation: Requesting Central Authority/ applicant</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> It depends upon the type of documentation submitted (<i>please specify</i>):</p>
<p>c) Generally, how long are proceedings relating to access from commencement to final order (excluding appeals)?</p>	<p><input type="checkbox"/> Up to 6 weeks</p> <p><input type="checkbox"/> 6 to 12 weeks</p> <p><input checked="" type="checkbox"/> 3 to 6 months</p> <p><input type="checkbox"/> Longer than 6 months</p>
<p>d) Is the applicant generally required to participate in proceedings relating to access?</p> <p><i>Please note that attendance in person is not required under the Convention (see para. 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances:</p> <p><input checked="" type="checkbox"/> No, but advisable</p> <p><input type="checkbox"/> No</p>

e) Are facilities available to enable an applicant to participate in access proceedings from outside your State?	<input checked="" type="checkbox"/> Yes, please specify: <input type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Through a legal representative <input checked="" type="checkbox"/> Other (<i>please specify</i>): filing affidavits/sworn statements <input type="checkbox"/> No
f) If the applicant does participate in access proceedings in your State, is simultaneous interpretation available, where necessary?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g) Where the facilities set out in questions e) and f) above are required, who is responsible for the cost of providing such facilities?	<input checked="" type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
h) Can special immigration arrangements (<i>e.g.</i> , visas) be made to enable the applicant to attend access proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes (<i>please specify</i>): Through Department of International Relations and Cooperation <input type="checkbox"/> No
17.3 Participation of the child	
a) Are the responses to the questions in this section the same as for applications for return (see section 10.4)?	<input checked="" type="checkbox"/> Yes, go to section 17.4 <input type="checkbox"/> No, continue to question b)
b) Does the child have an opportunity to be heard in access proceedings under the Convention in your State?	<input type="checkbox"/> Yes, always; go to question c) <input type="checkbox"/> It depends upon the particular case and is always at the discretion of the judge / authority hearing the case. <i>Please explain if necessary:</i> Go to question c) <input type="checkbox"/> Other (<i>please specify</i>): Go to question c) <input type="checkbox"/> No, never; go to section 17.4
c) How can the child be heard in access proceedings?	<input type="checkbox"/> Direct interview with judge <input type="checkbox"/> Report prepared for court by independent expert <input type="checkbox"/> Child's own legal representative <input type="checkbox"/> Other (<i>please specify</i>):
d) How does your State ensure that no undue delay results from hearing the child in the course of access proceedings?	Please explain:
e) Can judicial or administrative authorities appoint a legal representative (attorney or <i>guardian ad litem</i>) to represent the child's best interests?	<input type="checkbox"/> Yes, please specify under what circumstances: <input type="checkbox"/> No

17.4 Appeals

<p>a) Can a decision in applications relating to access be appealed?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> Only in certain circumstances (<i>please specify</i>):</p> <p>If either of the boxes above are ticked, please specify how many levels of appeal exist and to which courts / authorities an appeal may be made: On leave for appeal, Supreme Court of Appeal</p> <p><input type="checkbox"/> No, go to section 18</p>
<p>b) Is there an expedited procedure or special process of appeal for Hague access cases?</p> <p><i>Please specify the legislation and / or rules which provide for this and how they can be obtained (e.g., website) or attach a copy</i></p>	<p><input type="checkbox"/> Yes, please specify:</p> <p><input checked="" type="checkbox"/> No</p>
<p>c) Who can initiate the appeal process?</p>	<p><input checked="" type="checkbox"/> Either party to the proceedings</p> <p><input checked="" type="checkbox"/> Central Authority</p> <p><input type="checkbox"/> Public Prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>d) Is leave to appeal required?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> In certain circumstances (<i>please specify</i>):</p>
<p>e) If an access order is made, can it be suspended (<i>i.e.</i>, "stayed") pending an appeal?</p>	<p><input type="checkbox"/> Yes, an access order is <i>automatically</i> suspended pending an appeal</p> <p><input checked="" type="checkbox"/> Yes, an access order can be suspended pending an appeal at the request of either party</p> <p><input type="checkbox"/> Yes, an access order can be suspended pending an appeal at the request of either party and after determination by the relevant judge / authority</p> <p><input type="checkbox"/> No</p>
<p>f) Is there a time limit by which an appeal must be filed in access proceedings?</p>	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p>The time limit: Within 30 days from judgement</p> <p>From when the time limit starts to run (<i>e.g.</i>, from the date of judgment, from the date of the order, from the date the decision is notified to the parties <i>etc.</i>):</p> <p><input type="checkbox"/> No</p>
<p>g) Generally, what is the expected time within which appeals are filed and decided?</p>	<p><input type="checkbox"/> Up to 3 months</p> <p><input checked="" type="checkbox"/> 3 to 6 months</p> <p><input type="checkbox"/> Longer than 6 months</p>
<p>h) Is the applicant generally required to participate in appeal proceedings?</p> <p><i>Please note that attendance in person is not required under the Convention (see paragraph 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances:</p> <p><input checked="" type="checkbox"/> No</p>

i) Is the applicant able to participate in proceedings without being physically present?	<input checked="" type="checkbox"/> Yes, please specify: <input type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Through a legal representative <input type="checkbox"/> Other (please specify): <input type="checkbox"/> No
j) If the applicant does participate in appeal proceedings in your State, is simultaneous interpretation available, where necessary?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
k) Where the facilities set out in questions i) and j) above are required, who is responsible for the cost of providing such facilities?	<input checked="" type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
l) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend appeal proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes, please specify: Department of International Relations and Cooperation, (www.dirco.gov.za) <input type="checkbox"/> No

18 Enforcement of rights of access

a) Can an order relating to rights of access made in another State be registered for enforcement or be declared enforceable in your State?	<input type="checkbox"/> Yes, all orders made in another State are recognised and are enforceable. Please explain or specify how relevant legislation can be accessed (e.g., website) or attach a copy: <input type="checkbox"/> Yes, if there is an international agreement in place with the foreign State. Please specify: <input type="checkbox"/> Brussels II a (Council Regulation (EC) 2201/2003 of 27 November 2003) <input type="checkbox"/> 1996 Hague Child Protection Convention <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Yes, subject to conditions. Please explain or specify how relevant legislation can be accessed (e.g., website) or attach a copy: <input checked="" type="checkbox"/> No, however the party can seek to have "mirror orders" made by the judicial or administrative authorities <input type="checkbox"/> No
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b) Can an agreement relating to rights of access made in another State be registered for enforcement or be declared enforceable in your State?	<input type="checkbox"/> Yes, if there is an international agreement in place with the foreign State. Please specify: <input type="checkbox"/> Brussels II a (Council Regulation (EC) 2201/2003 of 27 November 2003) <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Yes, subject to conditions. Please explain: <input checked="" type="checkbox"/> No, however the party can seek to have "mirror orders" made by the judicial or administrative authorities <input type="checkbox"/> No
c) Can a party seek to have orders made in your State in respect of a decision from another State on rights of access?	<input checked="" type="checkbox"/> Yes, the party must apply to the judicial or administrative authorities <input type="checkbox"/> Yes, the Central Authority will apply to the judicial or administrative authorities on behalf of the party <input type="checkbox"/> No
d) What is the procedure for the applicant to commence enforcement proceedings?	<input type="checkbox"/> The Central Authority can apply for enforcement on behalf of the applicant <input checked="" type="checkbox"/> The applicant must seek enforcement <input type="checkbox"/> Other (<i>please specify</i>):
e) What coercive measures, if any, are available to enforce an order relating to access and contact?	<input checked="" type="checkbox"/> Intervention by government agency (e.g., <i>police, social welfare, etc.</i>) <input checked="" type="checkbox"/> Removal of the child from the custodial person(s) <input checked="" type="checkbox"/> Criminal charges <input type="checkbox"/> Imprisonment <input type="checkbox"/> Pecuniary measures <input checked="" type="checkbox"/> An order placing the child under supervision <input type="checkbox"/> Other (<i>please specify</i>):
f) Does the application of coercive measures require a separate order from judicial or administrative authorities?	<input checked="" type="checkbox"/> Yes. If so, who must apply for the order: <input checked="" type="checkbox"/> The applicant <input type="checkbox"/> Public Prosecutor <input type="checkbox"/> Police <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No

Part V: Mediation and other forms of alternative dispute resolution

19 Mediation

For best practice in relation to mediation in the context of the 1980 Hague Child Abduction Convention see the forthcoming Guide to Good Practice on Mediation under the 1980 Hague Child Abduction Convention. When published, the Guide will be available to download at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

19.1 Mediation services

<p>a) What family matters can be dealt with by mediation in your State?</p>	<p><input checked="" type="checkbox"/> Return / non-return of a child following an alleged wrongful removal / retention</p> <p><input checked="" type="checkbox"/> Custody</p> <p><input checked="" type="checkbox"/> Access / contact</p> <p><input checked="" type="checkbox"/> Relocation</p> <p><input checked="" type="checkbox"/> Child support</p> <p><input checked="" type="checkbox"/> Property disputes on relationship breakdown</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>b) What mediation services / structures exist in your State where an incoming application has been received for the return of a child?</p> <p><i>See Articles 7(2) c) and 10</i></p>	<p><input checked="" type="checkbox"/> Private mediation services / structures (<i>please specify</i>): NGO's</p> <p><input checked="" type="checkbox"/> Mediation services / structures within the judicial or administrative system (<i>please explain</i>): Department of Social Development, www.dsd.gov.za</p> <p><input type="checkbox"/> Mediation services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>): Mediation of all Family law related matters</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>): Mediation services by the Family Advocate of certain matters specified by relevant legislation</p> <p><input type="checkbox"/> There are no mediation services / structures available</p>
<p>c) What mediation services / structures exist in your State where an incoming application has been received for access / contact with a child?</p> <p><i>See Article 21</i></p>	<p><input checked="" type="checkbox"/> Private mediation services / structures (<i>please specify</i>): The South African Association of Mediators, www.saam.org.za</p> <p><input type="checkbox"/> Mediation services / structures within the judicial or administrative system (<i>please explain</i>): Department of Social Development, www.dsd.gov.za</p> <p><input checked="" type="checkbox"/> Mediation services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>):</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>): Mediation services by the Family Advocate</p> <p><input type="checkbox"/> There are no mediation services / structures available</p> <p>If you answered that there are no mediation services / structures available in your State in response to both questions b) and c) above, go to section 20</p>
<p>d) Is co-mediation (<i>i.e.</i> mediation involving two mediators – one from each State) available in your State for the mediation of international family disputes which are within the scope of the</p>	<p><input checked="" type="checkbox"/> Yes (<i>please provide brief details of any available scheme e.g., bi-national mediation programmes</i>): NGO's</p> <p><input type="checkbox"/> No</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

Convention?	
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19.2 Legislation and / or rules on mediation	
<p>a) Is mediation in family matters regulated in your State?</p> <p><i>Please tick all boxes which apply</i></p> <p><i>EU Member States, excluding Denmark, should note that Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters will apply from May 2011. EU Member States, excluding Denmark, should reference the laws, regulations and administrative provisions brought into force to comply with this Directive if known at the time of completion of this Country Profile</i></p>	<p><input type="checkbox"/> Yes, there is general legislation relating to mediation which also applies to mediation in family matters. Please specify how the legislation can be accessed (e.g., website) or attach a copy:</p> <p><input checked="" type="checkbox"/> Yes, there is specific legislation relating to mediation in family matters. Please specify how the legislation can be accessed (e.g., website) or attach a copy: Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987, and Children's Act, (Act 38 of 2005), www.justice.gov.za</p> <p><input type="checkbox"/> Yes, there is specific legislation relating to mediation in international family matters within the scope of the Convention. Please specify how the legislation can be accessed (e.g., website) or attach a copy:</p> <p><input type="checkbox"/> Yes, mediation in family matters is regulated in another way (<i>please specify</i>):</p> <p><input type="checkbox"/> No, go to section 19.3</p>
<p>b) Please indicate which matters are regulated by the legislation / rules in relation to mediation in your State</p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Formal accreditation of mediators</p> <p><input type="checkbox"/> Necessary qualifications / experience of mediators</p> <p><input type="checkbox"/> Process of mediation</p> <p><input type="checkbox"/> Confidentiality of mediation</p> <p><input type="checkbox"/> Status and enforceability of mediated agreements</p> <p><input checked="" type="checkbox"/> Taking into consideration the child's views in the mediation of disputes relating to him / her</p> <p><input type="checkbox"/> Availability of mediation in disputes involving allegations of domestic violence or other forms of abuse</p> <p><input type="checkbox"/> Other (<i>please explain</i>): circumstances under which cases can be referred for mediation</p>
19.3 Access to mediation	
<p>a) How can individuals obtain information identifying suitable mediators in your State?</p>	<p><input checked="" type="checkbox"/> Lists of mediators are available:</p> <p><input checked="" type="checkbox"/> Through the Central Authority (<i>see also question 19.3 b) below</i>)</p> <p><input checked="" type="checkbox"/> Via accrediting bodies (<i>please provide details</i>): The South African Association of Mediators, www.saam.org.za</p> <p><input type="checkbox"/> Through other sources (<i>please specify</i>):</p> <p><input type="checkbox"/> Other methods of accessing information are available (<i>please specify</i>):</p> <p><input type="checkbox"/> No general information is available. Individuals must carry out research themselves</p>
<p>b) What role, if any, does the Central Authority play in facilitating mediation where an incoming application has been received for the return of a child?</p> <p><i>See Articles 7(2) c) and 10</i></p> <p><i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Provides information about mediation to the parties</p> <p><input checked="" type="checkbox"/> Refers parties to accredited professionals to undertake mediation</p> <p><input type="checkbox"/> Seeks orders from judicial or administrative authorities for mediation between the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>

<p>c) What role, if any, does the Central Authority play in facilitating mediation where an incoming application has been received for access / contact with a child?</p> <p><i>See Article 21</i></p> <p><i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Provides information about mediation to the parties</p> <p><input checked="" type="checkbox"/> Refers parties to accredited professionals to undertake mediation</p> <p><input type="checkbox"/> Seeks orders from judicial or administrative authorities for mediation between the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>d) How are the costs of mediation met in disputes where an incoming application has been received for the return of a child?</p> <p><i>Please explain if necessary</i></p>	<p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this will <i>always</i> include the cost of mediation (see question 8.2 e) above)</p> <p><input checked="" type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this <i>may</i> cover the cost of mediation (see question 8.2 e) above) (<i>please specify</i>)</p> <p><input type="checkbox"/> The Central Authority will meet the costs associated with mediation</p> <p><input type="checkbox"/> Other sources of funding are available (<i>please specify</i>)</p> <p><input checked="" type="checkbox"/> The costs of mediation must be borne by the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>e) How are the costs of mediation met where an incoming application has been received for access / contact with a child?</p> <p><i>Please explain if necessary</i></p>	<p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this will <i>always</i> include the cost of mediation (see question 15.2 f) above)</p> <p><input checked="" type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this <i>may</i> cover the cost of mediation (see question 15.2 f) above) (<i>please specify</i>)</p> <p><input type="checkbox"/> The Central Authority will meet the costs associated with mediation</p> <p><input type="checkbox"/> Other sources of funding are available (<i>please specify</i>)</p> <p><input checked="" type="checkbox"/> The costs of mediation must be borne by the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>19.4 The mediation process</p>	
<p>a) At what stage of a return application is mediation available?</p>	<p><input checked="" type="checkbox"/> At all stages, including prior to any application and as a preventive measure where necessary (<i>provide an explanation if necessary</i>)</p> <p><input type="checkbox"/> Only before an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only after an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only before an application has been filed in the relevant court or administrative authority</p> <p><input type="checkbox"/> Only after an application has been filed in the relevant court or administrative authority</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>

b) At what stage of an access / contact application is mediation available?	<input checked="" type="checkbox"/> At all stages, including prior to any application and as a preventive measure where necessary (<i>provide an explanation if necessary</i>) <input type="checkbox"/> Only before an application has been made to the relevant Central Authority <input type="checkbox"/> Only after an application has been made to the relevant Central Authority <input type="checkbox"/> Only before an application has been filed in the relevant court or administrative authority <input type="checkbox"/> Only after an application has been filed in the relevant court or administrative authority <input type="checkbox"/> Other (<i>please explain</i>)
c) Are cases assessed to determine their suitability for mediation?	<input checked="" type="checkbox"/> Yes, always; go to question d) <input type="checkbox"/> No, never; go to question e) <input type="checkbox"/> Other (<i>please explain</i>) ; go to question d) or e) as appropriate
d) Who carries out the assessment of cases to determine whether they are suitable for mediation?	<input type="checkbox"/> Mediator(s) <input checked="" type="checkbox"/> Other (<i>please explain</i>) Social Worker, Family Advocate or State Attorney after commencement of litigation
e) Where legal proceedings have commenced, can such proceedings be suspended while mediation is undertaken?	<input checked="" type="checkbox"/> Yes, provide additional information if necessary: <input type="checkbox"/> No
f) How, if at all, are the views of the subject child(ren) taken into account in mediation in your State? <i>See also question 19.2 b) above</i>	<input type="checkbox"/> Rules / legislation require that, if the child is of a sufficient age / maturity, the child must be seen by the mediator (<i>see also question 19.2 b) above</i>) <input checked="" type="checkbox"/> Rules / legislation require that, if the child is of a sufficient age / maturity, the views of the child must be communicated to the mediator but this need not be directly (<i>see also question 19.2 b) above</i>). Please explain the method(s) used Mainly Family Counsellor's report or any appropriate ways for each individual case <input type="checkbox"/> It is within the discretion of the particular mediator <input type="checkbox"/> The child's views play no part in the mediation <input type="checkbox"/> Other (<i>please explain</i>)
g) What safeguards are available in your State where allegations of domestic violence and / or other forms of abuse are made in a dispute which goes to mediation?	<input checked="" type="checkbox"/> (1) Address and other contact details of the alleged victim are kept confidential <input type="checkbox"/> (2) Other safeguards (<i>please specify</i>) All reasonable steps will be taken, notification/request by party/requesting Central Authority
h) Please specify which, if any, of the safeguards set out in question 19.4 g) above are required by rules / legislation in your State and which safeguards are left to the discretion of the mediator? <i>See also question 19.2 b) above</i>	Required by legislation / rules of State: None Left to the discretion of the mediator: None

i) Can judicial or administrative authorities take provisional or interim measures to enable an applicant to exercise contact or access in respect of a child while mediation is ongoing?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
19.5 The enforceability of mediated agreements	
a) Are there legal restrictions on the content of mediated agreements regarding family law matters in your State?	<input type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> No
b) Which additional formalities, if any, are required in your State to make mediated agreements in a family dispute involving children enforceable?	<input type="checkbox"/> (1) Notarisation of the mediated agreement <input checked="" type="checkbox"/> (2) Court approval of the mediated agreement Please specify competent court: in Hague Convention matters High Court <input checked="" type="checkbox"/> (3) Registration of the mediated agreement with the court. Please specify competent court: <input type="checkbox"/> (4) Other (<i>please specify</i>) <input type="checkbox"/> (5) No additional formalities are required. Mediated agreements in family disputes involving children are immediately enforceable <i>without</i> any additional formalities being required If you ticked one or both of options (2) or (3) above, please go to question 19.5 c). If not, please proceed to question 19.5 d)
c) Is the mediated agreement, once approved by or registered with a court, treated as an order of that court? <i>Please explain where necessary</i>	<input checked="" type="checkbox"/> Yes, Go to question 19.5 e) <input type="checkbox"/> No, Go to question 19.5 d)
d) Is it possible to turn a mediated agreement into a court order?	<input checked="" type="checkbox"/> Yes, please briefly explain what steps are required and which court would be competent: <input type="checkbox"/> No
e) Who bears the cost of rendering the mediated agreement enforceable? Please list the number from question 19.5 b) next to the relevant answer	The parties must pay: 2, 3 The cost is covered by any free or reduced rate legal assistance provided to one / both parties: 2, 3 Central Authority: 2,3 There are no costs:
19.6 Agreements mediated in another State	
a) Can an agreement mediated in another State in a family dispute involving children be approved by a court or otherwise formalised in your State in the same manner as an agreement mediated in your State (see question 19.5 b) above)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, a different method for formalising the agreement must be used. Please specify: <input type="checkbox"/> No, it is not possible to formalise an agreement mediated in another State <input checked="" type="checkbox"/> Other (<i>please specify</i>): agreement will be subjected to the best interests of the child test

20 Other forms of alternative dispute resolution ("ADR")

<p>a) What other forms of ADR are available in your State for the resolution of international family disputes falling within the scope of the Convention?</p> <p><i>See Articles 7(2) c) and 10</i></p>	<p><input type="checkbox"/> (1) In-court conciliation</p> <p><input checked="" type="checkbox"/> (2) Out-of-court conciliation</p> <p><input type="checkbox"/> (3) Collaborative law</p> <p><input type="checkbox"/> (4) Early Neutral Evaluation</p> <p><input type="checkbox"/> (5) Other (<i>please specify</i>):</p> <p><input type="checkbox"/> (6) No other forms of ADR are available, go to Part VI: Direct judicial communications</p>
<p>b) What services / structures exist in respect of the other forms of ADR available in your State? Please list the relevant number(s) from question 20 a) above next to the service / structure which is available in respect of that method of ADR</p>	<p>Private ADR services / structures (<i>please specify</i>): private practitioners in psychology and related fields</p> <p>ADR services / structures within the judicial or administrative system (<i>please explain</i>):</p> <p>ADR services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>):</p> <p>Other (<i>please explain</i>):</p>
<p>c) In relation to:</p> <ul style="list-style-type: none"> • legislation on ADR • access to ADR • the ADR process • the enforceability of agreements reached as a result of ADR; and • the enforceability of agreements reached as a result of ADR in another State <p>are the responses the same as for the section on mediation above – see sections 19.2 to 19.6?</p>	<p><input type="checkbox"/> Yes, go to Part VI: Direct judicial communications</p> <p><input type="checkbox"/> Some of the responses are the same, go to question d)</p> <p><input type="checkbox"/> No, go to question d)</p>
<p>d) Please briefly specify in what way the answers to the questions in sections 19.2 to 19.6 above are different in relation to other forms of ADR in your State</p>	

Part VI: Direct judicial communications

21 Direct judicial communications	
<p>a) Has a member of the International Hague Network of Judges been designated for your State?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "Judicial Communications"</p>	<p><input checked="" type="checkbox"/> Yes</p> <p>Name/s: Appeal Judge; Madam Justice B. Van Heerden</p> <p><i>Please do not list the contact details of the judge(s) here. Instead, please ensure that the name, position, court and contact details have been provided to the Permanent Bureau</i></p> <p><input type="checkbox"/> No</p>
<p>b) Is there a legislative basis upon which judges in your State can engage in direct judicial communications?</p>	<p><input type="checkbox"/> Yes, please specify how the legislation can be accessed (e.g., website) or attach a copy: Go to Part VII: Other information</p> <p><input checked="" type="checkbox"/> No, go to question c)</p>
<p>c) In the absence of legislation, can judges in your State engage in direct judicial communications?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>

Part VII: Other information

22 Training	
<p>a) What measures are being taken to ensure that persons responsible for implementing the Convention (e.g., judges, lawyers and Central Authority personnel) have received appropriate information and training?</p> <p><i>Please contact the Permanent Bureau for information in relation to forms of assistance which may be available for this purpose</i></p>	<p><input checked="" type="checkbox"/> Training as required for Central Authority staff</p> <p><input type="checkbox"/> Training as required for responsible authorities</p> <p><input type="checkbox"/> Updates as required on legal developments related to the Convention provided to staff responsible for its implementation</p> <p><input checked="" type="checkbox"/> Training as required for lawyers</p> <p><input type="checkbox"/> Training as required for law enforcement</p> <p><input type="checkbox"/> Other (please specify):</p> <p>Specifically in respect of judges:</p> <p><input type="checkbox"/> Sending a basic package of information on the 1980 Convention to judges</p> <p><input type="checkbox"/> Training through a dedicated judicial studies board</p> <p><input checked="" type="checkbox"/> Participation in judicial training seminars</p> <p><input type="checkbox"/> Participation in the International Hague Network of Judges</p> <p><input type="checkbox"/> Accessing <i>The Judges' Newsletter on International Child Protection</i> (available at < www.hcch.net > under "Child Abduction Section" then "Judges' Newsletter on International Child Protection")</p> <p><input type="checkbox"/> Other (please specify):</p>
<p>b) Is your Central Authority willing to participate in a "twinning arrangement" with another Central Authority?</p> <p><i>A "twinning arrangement" is where two Central Authorities engage in discussions and / or visits to exchange information with the view to improving operations in both Central Authorities</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

23 Other implementing measures	
<p>a) Does your State use iChild?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "iChild"</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) Does your State use another electronic case management system other than iChild?</p>	<p><input type="checkbox"/> Yes, please specify:</p> <p><input checked="" type="checkbox"/> No</p>
<p>c) Does your State use INCASTAT?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "INCASTAT"</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>d) Does your State use INCADAT?</p> <p>For more information, go to < www.incadat.com ></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

e) Are statistics related to applications under the Convention in your State publicly available?	<input type="checkbox"/> Yes, please specify how the statistics can be accessed (e.g., <i>website, annual report</i>): <input checked="" type="checkbox"/> No
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24 Other services

a) What general services / resources are available in your State to assist those involved in international child abduction cases? <i>Please indicate, where available, contact details, websites and costs for such services</i>	<input checked="" type="checkbox"/> International Social Service (ISS) (<i>please provide contact information</i>): www.iss-ssi.org <input type="checkbox"/> Specific NGOs dealing with child abduction: <input type="checkbox"/> Financial assistance: <input checked="" type="checkbox"/> Social / welfare assistance: Department of Social Development, www.dsd.gov.za <input checked="" type="checkbox"/> Immigration services: Department of International Relations and Cooperation, www.dirco.gov.za <input type="checkbox"/> Other (<i>please specify</i>):
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