

**First meeting of the Special Commission on the practical operation of the
 2000 Protection of Adults Convention - June 2022 (tentative)**

Document	Preliminary Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	No 1 of July 2019
Title	Questionnaire to assess the need to convene a possible meeting of the Special Commission in 2022 to review the practical operation of the <i>Convention of 13 January 2000 on the International Protection of Adults</i>	
Author	Permanent Bureau	
Agenda item	TBD	
Mandate(s)	C&R No 34 of the March 2019 meeting of the Council on General Affairs and Policy	
Objective	-To assess the need for a possible meeting of the Special Commission to review the practical operation of the 2000 Convention; and - To identify the topics to be discussed at this meeting	
Action to be taken	For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input type="checkbox"/> For Action <input checked="" type="checkbox"/>	
Annexes	Annex 1: C&R of the EC-HCCH Joint Conference on the Cross-border Protection of Vulnerable Adults, Brussels, 5-7 December 2018	
Related documents	n.a	

Objectives of the Questionnaire

At its March 2019 meeting, the Council on General Affairs and Policy (Council) of the Hague Conference on Private International Law (HCCH)¹ “mandated the Permanent Bureau [(PB)] to prepare for a first meeting of the Special Commission to review the practical operation of the 2000 Adults Convention in the first half of 2022” as suggested in Preliminary Document No 25 of January 2019, “Planning for a possible meeting of the Special Commission to review the practical operation of the *Convention of 13 January 2000 on the International Protection of Adults*” for the attention of the March 2019 Meeting of the Council on General Affairs and Policy of the HCCH.

Scope of the Questionnaire

The purpose of this short questionnaire addressed to Members of the HCCH, Contracting Parties and non-Contracting Parties to the *Convention of 13 January 2000 on the International Protection of Adults* (hereinafter, the “2000 Convention”), is to assess the need for a possible meeting of the Special Commission to review the practical operation of the 2000 Convention and to identify the topics to be discussed at this meeting. The PB will report to Council on the results at its 2020 meeting.

A number of questions are drawn from the Conclusions and Recommendations adopted by consensus at the “European Commission-HCCH Joint Conference on the Cross-border Protection of Vulnerable Adults” which took place in Brussels, Belgium, from 5 to 7 December 2018 (see Annex 1).

Instructions for completion

The Questionnaire is being sent to Central Authorities as well as National and Contact Organs of the HCCH. Central Authorities are asked to coordinate as appropriate between themselves and other competent authorities. For Contracting Parties to the Convention, Central Authorities are ultimately responsible for submitting the completed Questionnaire to the PB.

In order to allow the PB to extract parts of the Questionnaire for a compilation and analysis of the responses, please use **this Word Version** of the document, and please **do not return a PDF version** of the completed Questionnaire.

We kindly request that replies to the Questionnaire be sent to the PB by e-mail to < secretariat@hcch.net > **no later than 31 October 2019 5.00 p.m. CET**, with the following subject matter captioned in the subject line: “[name of State] Response to the 2000 Convention Questionnaire – possible 2022 Special Commission”. Any questions concerning the Questionnaire may be directed to < secretariat@hcch.net >.

We intend, except where expressly asked not to do so, to place all replies to the Questionnaire on the HCCH website (www.hcch.net). Please therefore clearly identify any responses which you do not want to be publicly available.

Thank you for your kind cooperation as the PB prepares for a possible Special Commission meeting in 2022.

¹ General information concerning the HCCH can be found at < www.hcch.net > including a [video](#) available at the following address: < https://www.youtube.com/watch?v=Bu4UK_XD4mc >.

**QUESTIONNAIRE TO ASSESS THE NEED TO CONVENE A POSSIBLE
MEETING OF THE SPECIAL COMMISSION IN 2022 TO REVIEW THE PRACTICAL OPERATION
OF THE CONVENTION OF 13 JANUARY 2000 ON THE INTERNATIONAL PROTECTION OF ADULTS**

Wherever your replies to this Questionnaire refer to domestic legislation, rules, guidance or case-law relating to the practical operation of the 2000 Convention, **please provide a copy of the referenced documentation** in (a) the original language and, (b) wherever possible, accompanied by a translation into English and / or French.

Identification for follow-up purposes:	
NAME of STATE or territorial unit:	MALTA
Name of contact person:	Jonathan Silvio
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1. Interest for specific topics to be addressed by the Special Commission to review the practical operation of the 2000 Convention

Whether your State is a Contracting Party or a non-Contracting Party to the 2000 Convention, please identify which of the following topics you would like the meeting of the Special Commission to address. For each topic please indicate whether your State is interested and, if so, the priority level (*i.e.*, low, medium or high) your State would give to this topic. This priority level will assist the PB making a recommendation to the 2020 Meeting of the Council on General Affairs and Policy of HCCH as to whether to start organising a meeting of the Special Commission to review the practical operation of the 2000 Convention and, if so, the topics that could be retained on a priority basis in a draft agenda.

1.1. Discussion of specific topics in relation to the 2000 Convention

	Interest to discuss specific topics in relation to the 2000 Convention	No	Yes	Priority Level		
				Low	Med.	High
1.1.1.	Scope of application of the 2000 Convention	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.2.	Jurisdiction issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.3.	Applicable law issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.4.	Recognition and enforcement and cross border transportability of measures of protection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.5.	Central Authority cooperation (enforcement of measures, communication of information, placement in another Contracting Party, etc.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.6.	Delivery of certificates for protection measures and confirmed powers of representation as provided for in Art. 38	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.7.	Use of existing model forms	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

1.1.8.	Protection and / or supportive measures that can be taken in Contracting Parties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.9.	National measures and rules adopted in Contracting Parties to assist with the implementation of the 2000 Convention	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.1.10.	Complementarity of the 2000 Convention and the United Nations Convention of 13 December 2006 on the Rights of Persons with Disabilities (2006 UNCRPD)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

1.2. Discussion of possible future implementation tools and services in relation to the 2000 Convention

	Interest to discuss possible future implementation tools and services in relation to the 2000 Convention	No	Yes	Priority Level		
				Low	Med.	High
1.2.1.	Developing an implementation checklist ² to assist future and existing Contracting Parties to identify the steps and legislative norms that need to be taken / adopted in order for the 2000 Convention to be operational within a national legal framework	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.2.	Collecting information on possible legislative reforms that are to be considered by Contracting Parties when implementing the 2000 Convention, and sharing experiences with reforming their legislative national frameworks, including making available “support [...] in exercising [...] legal capacity” ³	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.3.	Developing a Country Profile ⁴ or a similar tool, to be published on the HCCH website, with information about the nature and the substantive and formal requirements of the measures available under national law, the conditions of their coming into effect, the competent authorities making decisions concerning such measures and the services available in relation to the scope of the 2000 Convention	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

² For an example of an implementation checklist see the [Implementation Checklist under the 2007 Child Support Convention](https://assets.hcch.net/docs/231f2415-e12b-4bd6-8f85-9f1fc25d2658.pdf) available at the following address: < <https://assets.hcch.net/docs/231f2415-e12b-4bd6-8f85-9f1fc25d2658.pdf> >.

³ See, 2006 UNCRPD, Art. 12(3).

⁴ For an example of a Country Profile see the [Country Profile under the 2007 Child Support Convention](https://assets.hcch.net/docs/7a6a8da3-4a7f-4367-89d6-f96e1e32c299.pdf) available at the following address: < <https://assets.hcch.net/docs/7a6a8da3-4a7f-4367-89d6-f96e1e32c299.pdf> >. Completed Country Profiles under the 2007 Child Support Convention are available under the [e-Country Profiles](http://hcch.cloudapp.net/smartlets/sfjsp?interviewID=hcchcp2012) webpage for that Convention at the following address: < <http://hcch.cloudapp.net/smartlets/sfjsp?interviewID=hcchcp2012> >.

1.2.4.	Identifying and promoting good practices ⁵ under the 2000 Convention	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.2.5.	Beginning work on the preparation of a practical handbook ⁶ on the operation of the 2000 Convention which would: a) provide advice on the factors to be considered in the process of implementing the Convention into national law which would include an implementation checklist and examples of possible legislative reforms, and b) assist in explaining the practical application of the Convention with reference to practical examples and good practices	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.6.	Developing standard forms ⁷ and models of certificates for the application of the 2000 Convention to facilitate the recognition and enforcement of protective measures and confirmed powers of representation in States other than the State of origin	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.7.	Collecting information on the development and the use of electronic registries to verify the authenticity and integrity of powers of representation and their coming into effect	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.8.	Developing tools necessary to organise direct judicial communications ⁸ in matters falling within the scope of the 2000 Convention (<i>e.g.</i> , the creation of a judicial network)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.9.	Collecting statistical data ⁹	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.10.	Developing promotional tools that the PB could use to facilitate the implementation of the 2000 Convention within the civil society, especially non-governmental organisations and practitioners providing assistance to vulnerable adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

1.3. Discussion of other possible topics your State would like to identify

⁵ For examples of Guides to Good Practice see the [Brochures, Handbooks and Guides to Good Practice](https://www.hcch.net/en/publications-and-studies/publications2/guides-to-good-practice) page of the HCCH website at the following address: < <https://www.hcch.net/en/publications-and-studies/publications2/guides-to-good-practice> >.

⁶ For an example of a practical handbook see the [Practical Handbook on the Operation of the 1996 Hague Child Protection Convention](https://assets.hcch.net/docs/eca03d40-29c6-4cc4-ae52-edad337b6b86.pdf) available at the following address: < <https://assets.hcch.net/docs/eca03d40-29c6-4cc4-ae52-edad337b6b86.pdf> >.

⁷ For examples of standard and model forms see the [Recommended Forms developed under the 2007 Child Support Convention](https://assets.hcch.net/docs/7b1c5829-81a6-46f5-902e-d59b572dff8a.pdf) available at the following address: < <https://assets.hcch.net/docs/7b1c5829-81a6-46f5-902e-d59b572dff8a.pdf> >.

⁸ For examples of tools concerning direct judicial communications see the “Judicial Communications” sub-section of the “Child Abduction Section” of the HCCH website, in particular, the [“Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for Direct Judicial Communications in specific cases, within the context of the International Hague Network of Judges”](https://assets.hcch.net/docs/62d073ca-eda0-494e-af66-2ddd368b7379.pdf) available at the following address: < <https://assets.hcch.net/docs/62d073ca-eda0-494e-af66-2ddd368b7379.pdf> >.

⁹ For examples of statistical reports see the [statistical reports under the 1980 Child Abduction Convention](https://www.hcch.net/en/instruments/conventions/publications1/?dtid=32&cid=24) available at the following address: < <https://www.hcch.net/en/instruments/conventions/publications1/?dtid=32&cid=24> >.

- 1.3.1. Other possible topic. Please identify:
[Please insert text here](#)
Please specify: Low priority, Medium priority, High priority.
- 1.3.2. Other possible topic. Please identify:
[Please insert text here](#)
Please specify: Low priority, Medium priority, High priority.
- 1.3.3. Other possible topic. Please identify:
[Please insert text here](#)
Please specify: Low priority, Medium priority, High priority.

2. Interest in attending a meeting of the Special Commission

2.1. Is your State interested in attending a possible meeting of the Special Commission to review the practical operation of the 2000 Convention to take place in the first half of 2022?

Yes

No, please explain:

[Please insert text here](#)

2.2. If your State is interested in attending a possible meeting of the Special Commission, would it be interested in attending, prior to the meeting, a half-day information session for new States Parties, States interested in becoming Party to the 2000 Convention or States that have not yet attended a meeting of a Special Commission to review the practical operation of a Convention?

Yes

No

2.3. Is your State a Contracting Party to the 2000 Convention?

Yes

No, please explain:

[Malta is currently in the process of tabling necessary legislation before Parliament, in order to both accede to the Convention, and also regulate the Convention's interplay with relevant domestic legislation, and with Malta's obligations pursuant to its ratification of the UNCRPD](#)

2.4. If your State is not a Contracting party, is it currently considering joining the 2000 Convention?

Yes

No, please explain why:

[Please insert text here](#)

ANNEX



**EC-HCCH Joint Conference on the
Cross-border Protection of Vulnerable Adults**
Brussels, 5-7 December 2018

Conclusions and Recommendations

From 5 to 7 December 2018, at a conference organised jointly by the European Commission and the Hague Conference on Private International Law (HCCH), experts from Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Chile, China (Hong Kong SAR), Cyprus, the Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, the Netherlands, Poland, Portugal, Romania, Saudi Arabia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States of America, Zambia, the AGE Platform Europe, Alzheimer's Disease International, the *Conseil Supérieur du Notariat*, the Council of Bars and Law Societies of Europe (CCBE), the Council of Europe (CoE), the General Secretariat of the Council of the European Union, Dementia Alliance International, the European Commission, the European Disability Forum, the European Law Institute, the European Parliament, Notaries of Europe (CNUE), the *Union Internationale du Notariat* (UINL), STEP as well as the Permanent Bureau of the HCCH, met in Brussels, Belgium, to discuss the cross-border protection of vulnerable adults.

The joint conference reached the following Conclusions and Recommendations:

1. States that are not yet Contracting Parties to the *Convention of 13 January 2000 on the International Protection of Adults* (2000 HCCH Adults Convention) are invited to assess the possibility and benefits of joining the Convention.
2. The 2000 HCCH Adults Convention and the *Convention of 13 December 2006 on the Rights of Persons with Disabilities* (2006 UNCRPD) are complementary. As stated in its preamble, the 2000 HCCH Adults Convention affirms that the interests of the adult and respect for his or her dignity and autonomy are to be primary considerations.
3. United Nations institutions concerned with the 2006 UNCRPD, the CoE, the European Union, as well as the HCCH are invited to co-operate, along with interested non-governmental organisations and practitioners, with a view to raising awareness of, and promote, the 2000 HCCH Adults Convention and their respective work to support the implementation and operation of that Convention.
4. It was noted that the implementation of the 2000 HCCH Adults Convention can be undertaken on the basis of reasonable efforts and resources. States having implemented the Convention are invited to share their experience with other interested States.
5. A number of States have shared their valuable experiences in reforming their legislative frameworks in relation to vulnerable adults; these legislative reforms were often carried out in parallel with the implementation of the 2000 HCCH Adults Convention.
6. While stressing the practical usefulness of the 2000 HCCH Adults Convention in general, some Contracting Parties also mentioned that further practical improvements, in particular in relation to the

enforceability of measures, would be welcome (*e.g.*, guides to good practice, model forms and direct judicial communications).

7. It was noted that a number of States have put in place guardianship or curatorship institutions based on “supported decision-making” mechanisms.

8. Cross-border measures that the State of enforcement considers not to be in conformity with the 2006 UNCPRD could be subject to adaptation under the law of that State (Arts 13 and 14 of the 2000 HCCH Adults Convention) to ensure that international situations are treated in a manner similar to domestic ones.

9. The cross-border transportability of measures under the 2000 HCCH Adults Convention would be improved by the development of a public Country Profile for each Contracting Party providing, for example, information on the nature, substantive and formal requirements of such measures as well as their conditions for coming into effect.

10. The development of a public Country Profile under the 2000 HCCH Adults Convention would also contribute to the building of mutual trust and confidence between actors, including competent authorities from different Contracting Parties.

11. The cross-border transportability of measures and confirmed powers of representation under the 2000 HCCH Adults Convention can be facilitated by using the recommended Certificate under Article 38 indicating the capacity in which the person entrusted by the vulnerable adult is entitled to act and the powers conferred.

12. The cross-border transportability of powers of representation could be enhanced, for example, by the development and use of model forms (or model provisions), model certificates of powers of representation and access to electronic registries to verify their authenticity and integrity as provided by competent authorities. It was noted that a number of model certificates of powers of representation have been developed over the years.

13. It was further noted that electronic registry systems have been developed with a view to assisting third parties, such as financial, insurance and medical institutions, with the verification of the authenticity and integrity of powers of representation as well as, in certain cases, their coming into effect.

14. The potential of direct judicial communications in the context of vulnerable adults has been underlined.

15. The possibility to develop complementary legal norms, for example in relation to party autonomy, was discussed with the understanding that it should bring real added value and should support the operation of the 2000 HCCH Adults Convention.

16. Support was expressed for the Permanent Bureau’s (*i.e.*, the Secretariat of the HCCH) plan to seek the approval of its governing body, the Council on General Affairs and Policy, to start planning and organising a first meeting of a Special Commission to review the practical operation of the 2000 HCCH Adults Convention, for example by developing a questionnaire addressed to both Contracting Parties and non-Contracting Parties.

17. A wish was conveyed to hold meetings similar to the current one on a regular basis in the future.