

**The Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention – October 2017**

<b>Document</b>	Preliminary Document <input type="checkbox"/> Procedural Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	No 1 of October 2017
<b>Title</b>	Draft agenda	
<b>Author</b>	Permanent Bureau	
<b>Agenda item</b>		
<b>Mandate(s)</b>		
<b>Objective</b>		
<b>Action to be taken</b>	For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input checked="" type="checkbox"/>	
<b>Annexes</b>		
<b>Related documents</b>		

## DRAFT AGENDA

Sessions start at 9.30 a.m. and end at 6.00 p.m. Lunch breaks will be from 1.00-2.30 p.m. Refreshment breaks will normally be from 11.00-11.15 a.m., and 4.00-4.15 p.m.

*The draft agenda will be treated with some flexibility and may need to be modified in the light of how discussions progress during the meeting.*

A drafting committee will be established early on in the meeting to assist in preparing draft Conclusions & Recommendations, which will be submitted for discussion and adoption in the final session. It is expected that this group will meet on different occasions during the meeting, including on Sunday 15 October 2017.

### **Tuesday 10 October 2017**

#### **Morning session**

#### **1. OPENING OF THE SPECIAL COMMISSION**

9.30 a.m. – Opening of the meeting by Mr Paul Vlas, President of the Netherlands  
1.00 p.m. Standing Government Committee on Private International Law

Election of the Co-chairs of the Special Commission

Welcome by Dr Christophe Bernasconi, Secretary General

Introduction to the draft agenda and documentation by Mr Philippe Lortie,  
First Secretary

Adoption of the agenda

#### **2. EVALUATING AND TAKING STOCK OF THE 1980 CONVENTION**

Status of the 1980 Convention since the Sixth Meeting of the Special Commission

Delegations are invited to report on progress made towards accession to the 1980 Convention and acceptance of accessions (*Prel. Doc. No 6, Items 9-13*)

Presentation of key findings from the 2017 Child Abduction Questionnaire (*Prel. Doc. No 2*)

Introduction to the statistical survey of 2015 cases under the 1980 Convention – Mr Nigel Lowe, Professor of Law at Cardiff Law School, University of Wales (*Prel. Docs Nos 11 A, 11 B and 11 C*)

#### **3. ADDRESSING DELAYS UNDER THE 1980 CONVENTION**

Presentation of Preliminary Documents Nos 10 A, 10 B and 10 C – Recognition that delays in the return process are still considerable, and the need to reduce such delays (*Info. Doc. No 5*)

The obligation of Contracting States to the 1980 Convention to take all appropriate measures to secure the objects of the 1980 Convention (*Guide to Good Practice under the 1980 Convention: Part II – Implementing Measures, and Prel. Doc. No 6, Items 1-8*)

Review of existing procedures and possible improvements in the:

- Central Authority phase (*Prel. Doc. No 6, Items 14-18 and 55*)
- Judicial phase (*Prel. Doc. No 6, Items 56-64*)

- Enforcement phase (*Prel. Doc. No 6, Items 71-73*)
- Mediation phase (*Guide to Good Practice under the 1980 Convention: Mediation, and Prel. Doc. No 6, Items 122-128*)

Consideration of whether a new tool – e.g., a compilation of good practices – would assist Contracting States in reducing delays or if Preliminary Document Nos 10 A, 10 B and 10 C are sufficient

1.00 p.m. Group photo

### **Afternoon session**

#### **4. ARTICLE 15 OF THE 1980 CONVENTION**

2.30 p.m. – Discussion paper on the operation of Article 15 (*Prel. Doc. No 9*)

6.00 p.m.

- Encouraging better employment of available mechanisms
- Encouraging discretion in the use of Article 15 requests, and more systematic use of Articles 8(3)(f) and 14, and the use of direct judicial communications and the IHNJ, where appropriate
- Improving Central Authority and judicial practice
- Enhancing the Country Profile under the 1980 Convention in relation to Article 15
- Drafting of a possible Article 15 Model Request Form
- Drafting of a possible Information Document on Article 15

#### **5. JUDICIAL NETWORKING AND DIRECT JUDICIAL COMMUNICATIONS**

Development of the International Hague Network of Judges (IHNJ) since the Sixth Meeting of the Special Commission

Value of judicial communications (*Prel. Doc. No 6, Items 106-128 and Info. Doc. Nos 1, 2 (Items 15-17) and 3*)

Draft document to inform lawyers and judges about direct judicial communications (DJC), in specific cases, within the context of the IHNJ (*Prel. Doc. No 5, Info. Doc. No 1, Items 10-16 and Info. Doc. No 3, Items 13-17*)

- Review of the draft document to inform lawyers and judges about DJC
- Follow-up
- Form in which the document is to be published
- Updating the document

Briefing note: legal basis for direct judicial communications within the context of the International Hague Network of Judges (IHNJ) (*Prel. Doc. No 8, Info. Doc. No 1, Items 17-19 and Info. Doc. No 3, Items 18-19*)

- Review of the Briefing note
- Follow-up
- Form in which the Briefing note is to be published
- Updating the Briefing note

Use of IT to support networking and communications (*Info. Doc. No 1, Items 28-31 and Info. Doc. No 3, Item 24*)

Judicial conferences and meetings (*Prel. Doc. No 6, Items 108, 111, 112 and 119, Prel. Doc. No 13 and Info. Docs Nos 1-6*)

6.00 p.m. Welcome drinks offered by the Permanent Bureau, Academy Building

**Wednesday 11 October 2017**

**Morning session**

**6. CO-OPERATION AMONG CENTRAL AUTHORITIES UNDER THE 1980 CONVENTION**

9.30 a.m. – Co-operation and communication including meeting and networking (*Prel. Doc. No 6, Items 19-31*)  
1.00 p.m.

Applications for return and Access – Revised Form for return and Access applications (*Prel. Doc. No 12 and Prel. Doc. No 6, Items 34-38 and 129-132*)

Language and translation (*Prel. Doc. No 6, Items 32-33*)

**7. PROCESSING OF APPLICATIONS FOR RETURN UNDER THE 1980 CONVENTION**

Procedures (*Guide to Good Practice under the 1980 Convention: Part I – Central Authority Practice, and Prel. Doc. No 6, Items 55-64*)

Preventive measures (*Guide to Good Practice under the 1980 Convention: Part III – Preventive Measures*)

Locating the child (*Prel. Doc. No 6, Items 48-50*)

Legal aid and representation (*Prel. Doc. No 6, Items 39-47*)

Promoting agreement (mediation) – Securing the voluntary return of the child (*Guide to Good Practice under the 1980 Convention: Mediation, Prel. Doc. No 6, Items 52-54 and 122-128*)

Travel to the State of habitual residence (*Prel. Doc. No 6, Items 74-76*)

Safe return, including protective measures (*Prel. Doc. No 6, Items 77-85*) (see agenda Item 20)

Facilitating judicial communications (see agenda Item 4)

Enforcement (*Guide to Good Practice under the 1980 Convention: Part IV – Enforcement*)

**8. ENFORCEMENT OF RETURN DECISIONS UNDER THE 1980 CONVENTION**

(*Guide to Good Practice under the 1980 Convention: Part IV – Enforcement*)

**Afternoon session**

**9. THE MALTA PROCESS – UPDATE**

2.30 p.m. – Update on the Malta Process

6.00 p.m. Malta IV, May 2016 including recent results (*Info. Doc. No 4*)

The Working Party on Mediation within the context of the Malta Process (*Info. Doc. No 8*)

Ways forward

**10. EUROPEAN COURT OF HUMAN RIGHTS CASE LAW**

Case law at the time of the Sixth Meeting of the Special Commission (*Prel. Doc. No 6, Items 154-156*)

Case law update: *X v. Latvia* (possible Conclusion and Recommendation to be added to Prel. Doc. No 6)

## **11. RIGHTS OF CUSTODY, ACCESS / CONTACT UNDER THE 1980 CONVENTION**

Rights of custody (*Prel. Doc. No 6, Items 86-90*)

Access / contact (*General Principles and Guide to Good Practice: Transfrontier Contact Concerning Children, and Prel. Doc. No 6, Items 92-99 and 158*)

Applicant contact with the child during return proceedings (*Prel. Doc. No 6, Item 51*)

International family relocation (*Prel. Doc. No 6, Items 100-105*)

(See agenda Item 13 for benefits and use of the 1996 Convention in relation to the 1980 Convention)

### **Thursday 12 October 2017**

#### **Morning session**

## **12. EVALUATING AND TAKING STOCK OF THE 1996 CONVENTION**

9.30 a.m. – Status of the 1996 Convention since the Sixth Meeting of the Special  
1.00 p.m. Commission

Delegations are invited to report on progress made towards accession to the 1996 Convention (*Prel. Doc. No 6, Items 157-158*)

Presentation of key findings from the 2016 Child Protection Questionnaire (*Prel. Doc. No 1*)

## **13. BENEFITS AND USE OF THE 1996 CONVENTION IN RELATION TO THE 1980 CONVENTION**

Presentation of the subject (*Prel. Doc. No 1, Questions 36 and 37, Info. Doc. No 2, Items 11-13, and Practical Handbook on the 1996 Convention – Paras 13.1-13.14*)

Habitual residence (Art. 16, 1980 Convention and Art. 7, 1996 Convention)

Rights of custody (Arts 3 and 5, 1980 Convention and Art. 3, 1996 Convention) (see agenda Item 11) (*Prel. Doc. No 1, Questions 25 and 40*)

Rules on applicable law – Parental responsibility (Arts 16-18, 1996 Convention) (*Prel. Doc. No 1, Question 11 and Practical Handbook on the 1996 Convention – Chapter 9*)

Access / contact (Art. 21, 1980 Convention and Arts 23 and 35, 1996 Convention) (see agenda Item 11)

Mediation (Art. 7(c)), 1980 Convention and Art. 31(b), 1996 Convention) (*Guide to Good Practice under the 1980 Convention: Mediation*)

Urgent measures of protection, including to facilitate safe return (Art. 11, 1996 Convention) (*Prel. Doc. No 1, Questions 8 and 38 and Practical Handbook on the 1996 Convention – Chapter 6*)

Recognition and enforcement of measures of protection including in the case of return and relocation (Arts 23, 24 and 26, 1996 Convention) (*Prel. Doc. No 1, Question 39* and *Practical Handbook on the 1996 Convention – Chapter 10*) (see agenda Item 11)

Transfer of jurisdiction (Arts 8-9, 1996 Convention) (*Prel. Doc. No 1, Question 6* and *Practical Handbook on the 1996 Convention – Chapter 5*)

Central Authority post-return assistance (*Prel. Doc. No 1, Questions 28-29*)

#### **14. SCOPE (*RATIONE MATERIAE*) OF THE 1996 CONVENTION**

(*Prel. Doc. No 1, Question 4* and *Practical Handbook on the 1996 Convention – Chapter 3*)

#### **Afternoon session**

#### **15. APPLICATION OF THE 1996 CONVENTION TO UNACCOMPANIED AND SEPARATED CHILDREN**

2.30 p.m. – Presentation of the subject (*Prel. Doc. No 1, Question 41, Prel. Doc. No 7*  
6.00 p.m. and *Info. Doc. No 2, Item 14*)

States' experience

Views of international organisations

Way forward

#### **16. CO-OPERATION AMONG CENTRAL AUTHORITIES UNDER THE 1996 CONVENTION**

General duty to co-operate (Art. 30) (Delays, language barriers) (*Prel. Doc. No 1, Questions 19, 28 and 29* and *Practical Handbook on the 1996 Convention – Chapter 11*)

Access applications (*Prel. Doc. No 1, Questions 28 a) and 29 a)*)

Cross-border placement of a child (Art. 33) (Decisions made before consultation or without consultation, immigration issues not resolved before placement, bearing of costs, incomplete requests) (*Prel. Doc. No 1, Question 22*)

### **Friday 13 October 2017**

#### **Morning session**

#### **16. CO-OPERATION AMONG CENTRAL AUTHORITIES UNDER THE 1996 CONVENTION (cont.)**

9.30 a.m. – Requests submitted under Articles 32, 34 and 35 (Different reporting  
1.00 p.m. standards, interpretation issues, interplay with the 1970 Evidence Convention) (*Prel. Doc. No 1, Question 23 and 25*)

Country Profile under the 1996 Convention (*Prel. Doc. No 1, Questions 20, 28 and 29*)

Certificates (Art. 40) (Development of a model certificate, designation of a competent authority to issue certificates)

**Afternoon session****17. JUDICIAL MATTERS UNDER THE 1996 CONVENTION**

2.30 p.m. – Jurisdiction (Arts 5-7 and 10) (Change of habitual residence during the proceedings) (*Prel. Doc. No 1, Question 5* and *Practical Handbook on the 1996 Convention – Chapter 4*)  
 6.00 p.m.

Transfer of jurisdiction (Arts 8 and 9) (Lack of procedures for the operation of such transfers) (*Prel. Doc. No 1, Question 6* and *Practical Handbook on the 1996 Convention – Chapter 5*) (see agenda Item 11)

Recognition by operation of law and / or enforcement of a measure of protection (Art. 26) (Different standards for the process of registering / declaring enforceable measures of protection) (*Prel. Doc. No 1, Question 17* and *Practical Handbook on the 1996 Convention – Chapter 10*)

**18. RECOGNITION AND ENFORCEMENT OF AGREEMENTS IN FAMILY MATTERS**

Presentation of the status of the project (*Info. Doc. No 7*)

Adoption of possible Conclusions and Recommendations to advance the project (*Work. Doc. No 1 (not yet available)*)

**Saturday 14 October 2017 (at the Permanent Bureau)****Morning**

Bilateral meetings

Meeting of members of the Article 13(1)(b) Working Group

**Afternoon**

Bilateral meetings (cont.)

Meeting of the International Hague Network of Judges (IHNJ)

**Sunday 15 October 2017 (at the Permanent Bureau)****Morning**

Bilateral meetings (cont.)

Meeting of the Conclusions & Recommendations Drafting Committee

**Afternoon**

Bilateral meetings (cont.)

Meeting of the Conclusions & Recommendations Drafting Committee (cont.)

**Monday 16 October 2017**

**Morning session**

**19. DRAFT GUIDE TO GOOD PRACTICE ON ARTICLE 13(1)(b) OF THE 1980 CONVENTION**

9.30 a.m. – Introduction from the Chair of the Working Group, Chief Justice Diana Bryant (Australia) (*Prel. Doc. No 3 and Info. Doc. No 6*)

1.00 p.m.

Chapter-by-chapter review

Follow-up

Form in which the Guide to Good Practice is to be published

Updating the Guide to Good Practice

**Afternoon session**

**20. RECOGNITION AND ENFORCEMENT OF PROTECTION ORDERS**

2.30 p.m. – Presentation of the status of the project (*Info. Doc. No 6, Items 19-24*)

6.00 p.m.

Adoption of possible Conclusions and Recommendations to advance the project

**21. MODEL CONSENT TO TRAVEL FORM**

Introduction – The value of a model consent to travel form (*Prel. Doc. No 4*)

Option 1 – Harmonisation of the authentication requirement (witnessed or notarised)

Option 2 – Development of several model consent to travel forms meeting the various authentication requirements of different States

Follow-up

**22. PERMANENT BUREAU SERVICES**

Introduction to Permanent Bureau services (*Prel. Doc. No 13*)

INCADAT, including its possible expansion to include 1996 Convention cases (*Prel. Doc. No 6, Items 137-140*)

[The Judges' Newsletter on International Child Protection](#) (*Prel. Doc. No 6, Items 108, 117-118, Info. Doc. No 1, Items 25-26 and Info. Doc. No 3, Items 26-27 and Info. Doc. No 6, Item 28*)

Other publications of the Hague Conference (*Guides to Good Practice and Practical Handbooks and Prel. Doc. No 6, Item 145*)

INCASTAT (*Prel. Doc. No 6, Items 134-136*)

Development of an electronic Country Profile for the 1980 Convention (*Prel. Doc. No 6, Items 141-144*)

Post-Convention assistance, including training and twinning arrangements under both the 1980 and 1996 Conventions



**Tuesday 17 October 2017**

***Morning session***

- 23. PERMANENT BUREAU SERVICES (cont.)**
- 24. TIMING OF THE NEXT SPECIAL COMMISSION**
- 25. OTHER MATTERS**
- 26. CONCLUSIONS & RECOMMENDATIONS**

Discussion and adoption of Conclusions & Recommendations

***Afternoon session***

- 27. CONCLUSIONS & RECOMMENDATIONS (cont.)**

*End of the Special Commission meeting – the meeting will end at 6.00 p.m. at the latest*