

# Questionnaire concerning the Practical Operation of the 1996 Child Protection Convention

Wherever your replies to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 1996 Child Protection 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.

Name of State or territorial unit: <sup>2</sup>	Ukraine
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## PART I – FOR CONTRACTING PARTIES

### 1. Recent developments in your State

1. Have there been any significant developments in your State regarding the **legislation** or **procedural rules** applicable in cases of international child protection? Where possible, please state the reason for the development and the results achieved in practice.

- No  
 Yes

Please specify:

Since the last Special Commission meeting in 2017 the Ukrainian legislation was amended with a number of changes in the area of child protections.

According to the Cabinet of Ministers of Ukraine decision the National Social Service of Ukraine was created and started its work since January 1, 2021. The National Social Service of Ukraine is the central body of the executive power, which implements a State policy in the field of social protection of the population, protection of children's rights, and a State control over compliance with the requirements of legislation during provision of social support and compliance with children's rights.

From the January 01, 2023, the National Social Service of Ukraine is designated to be a new Central Authority of Ukraine for the purposes of the 1996 Hague Child Protection Convention replacing the Ministry of Justice of Ukraine.

Apart from this it should be mentioned that a lot of amendments to the different regulations were adopted in regard to the issues of protection of children rights regarding the children, who were displaced within Ukraine or from Ukraine to abroad because of war, protection of the children`s rights and their return to Ukraine. It is most relevant the children orphans and children, deprived of parental care. These children were placed in Ukraine in different institutions and family forms of placement.

2. Please provide the three most **significant decisions concerning the interpretation and application of the 1996 Convention** recently rendered by the relevant authorities<sup>3</sup> in your State.

Case Name	Court Name	Court Level	Brief summary of the ruling
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<sup>2</sup> The term "State" in this Questionnaire includes a territorial unit, where relevant.

<sup>3</sup> The term "relevant authorities" is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1996 Convention. Whilst in the majority of Contracting Parties such "authorities" will be courts (*i.e.*, judicial), in some Contracting Parties administrative authorities remain responsible for decision-making in Convention cases.

<p>Ruling of 10.09.2021 case № 761/33136/19; N 61-6050cB21</p>	<p>Supreme Court</p>	<p>Court of cassation</p>	<p>The Ruling concerns the decisions of the courts on determining the place of residence of the children. The court of first and second instances decided the case on the merits and determined the place of residence of the children with the mother in Ukraine. The defendant claimed that the courts in Ukraine had no jurisdiction to decide the case, especially bearing in mind the pending return case under the 1980 Child Abduction Convention. The Cassation Court by its Ruling decided that the conclusions of the courts about the new place of habitual residence in Ukraine were correct, bearing in mind that the children resided in Ukraine for more than 2 years and the jurisdiction had the courts in Ukraine. The Court recognized as well that the issues in regard of parental responsibility, its delegation, custody rights, including the right to take care of the child and, in particular, the right to determine the child's place of residence, as well as contact rights, including the right to take the child for a limited period to a place other than the child's habitual place of residence are covered by the scope of the 1996 Child Protection Convention. The Court confirms the jurisdictional rules foreseen by Article 5 and 7 of the Convention.</p>
<p>Ruling of 17.08.2022 case № 613/1185/19; N 61-2286cB21</p>	<p>Supreme Court</p>	<p>Court of cassation</p>	<p>The claimant applied to the courts of Ukraine with the claim on return of the children from the Republic of Armenia to Ukraine. He substantiated his claims by the fact that he lived together with the defendant as one family without registering the marriage. The claimant gave his consent for the children`s travel abroad together with the mother for a period of one year. After the expiration of the granted permit, the respondent did not return to Ukraine with the children, there was no contact with them. The plaintiff claimed that the removal was wrongful and the children must be returned to the father at his place of residence as soon as possible. As legal grounds for the claim, the claimant referred to the provisions of Article 11 of the 1980 Child Abduction Convention. The first instance court refused to satisfy the</p>

		<p>claim. The Appeal court delivered the new decision and also refused to satisfy the claim on return of the children based on the inappropriate methods of protecting the violated right chosen by the claimant. The Supreme Court considered the cassation complaint on the decisions of the courts of the first and second instances on return of the children in accordance with the 1980 Child Abduction Convention.</p> <p>By its Ruling the Court decided to cancel the decision of the Appeal court because of incorrect application of the norms of substantive and procedural law.</p> <p>The Court decided that the application of the claimant to the court corresponds to the provisions of the 1980 Child Abduction Convention. Also in its Ruling the Court considered the issues of Jurisdiction under 1996 Convention.</p> <p>In its ruling the Supreme Court, in particular, indicates that the 1996 Child Protection Convention complements and strengthens the 1980 Child Abduction Convention by establishing clear boundaries for the exercise of jurisdiction, including in exceptional cases where the return of the child is refused or not requested. The court mentioned that the 1996 Child Convention reinforces the 1980 Child Abduction Convention by emphasizing the primary role of the authorities of the Contracting State of the child's habitual residence in deciding on the measures that may be necessary for the long-term protection of the child.</p> <p>The Court pointed that under the rules of the 1996 Convention, in case of abduction, the State where the child habitually resided before the removal or retention retains jurisdiction under Article 5, subject to certain conditions under Article 7 of the 1996 Convention. The court mentioned that Article 7 of the 1996 Convention establishes the form of retention of jurisdiction of the state in which the child had his/her habitual residence before the removal or retention. The rules of Article 6 of the 1996 Convention are applicable in cases</p>
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			<p>where it is impossible to establish the place of habitual residence of the child.</p> <p>The rules on jurisdiction enshrined in the 1996 Convention introduce a general approach to the determination of jurisdiction that provides certainty for the parties and can thus help to prevent attempts to find a "court of convenience" for international child abduction. The rule of Article 5 of the 1996 Convention defines the place of habitual residence of the child as the primary basis for determining jurisdiction, and encourages parents to apply to the authorities for custody, access/contact and relocation in those Contracting States where their child resides, instead of removing the child to other jurisdictions for solving such issues.</p> <p>Instead, Article 7 of the 1996 Convention provides a special rule regarding jurisdiction in cases of international child abduction. This rule aims to maintain a balance between the two ideas. First, that a person who unlawfully removes or retains a child should not benefit from a change of the authority that has jurisdiction to consider custody or access/contact case. Secondly, that the change of the child's place of residence, if a new place of residence is maintained, is a factor which cannot be ignored to such an extent as to deprive the authorities of the new State of residence of jurisdiction for an indefinite period. Therefore, depending on the establishment of certain circumstances of the case, in particular the habitual place of residence of the children, the court must apply one of the rules defined by the 1996 Convention on the jurisdiction. The jurisdiction is based on the binding of the permanent place of residence of the child and is resolved in each specific dispute depending on the established factual circumstances of the case.</p>
<p>Ruling of 27.02.2019 case № 752/25543/17-ц;</p>	<p>Supreme Court</p>	<p>Court of cassation</p>	<p>Court of first and appeal instances decided the case on the merits and determined the place of residence of the child with his mother in Ukraine. The claimant believed that since her son has been living with her in Kyiv</p>

<p>N 61-28641св18</p>			<p>since April 2016, the claim can be filed on the territory of Ukraine. The defendant claimed that the place of habitual residence of the child was in France and jurisdiction to decide the dispute on the merits belonged the court in that State. The Court by its Ruling in particular decided that the conclusions of the court about the new place of habitual residence in Ukraine were correct and the jurisdiction belongs to the Ukrainian courts. In this regard, the Court recognized that the issues in regard of parental responsibility, as well as its delegation, custody rights, including the right to take care of the child and, in particular, the right to determine the child's place of residence, as well as contact rights, including the right to take the child for a limited period to a place other than the child's habitual place of residence are covered by the scope of the 1996 Hague Child Protection Convention. The Court mentioned that according to Article 5 of the 1996 Child Protection Convention, jurisdiction in the cases of the protection of the child belongs to the judicial or administrative authorities of the Contracting State of the child's habitual residence; taking into account Article 7, in case of change of the habitual residence of the child to another Contracting State, the authorities of the State of the new habitual residence obtain jurisdiction.</p>
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3. Please provide a brief summary of **any other significant developments** in your State relating to international child protection, including any regional instruments or bilateral agreements that have been negotiated or which your State has signed and ratified or acceded to (e.g., Memorandum of Understanding on the placement of children abroad):

On April 11, 2022 the Agreement between the Ministry of Social Security and Labour of the Republic of Lithuania and the Ministry of Social Policy of Ukraine on cooperation in the field of protection of children affected by the war in Ukraine due to the Russian Federation's armed aggression was concluded. The agreement provides for mechanisms and tools to support children who have been forced to leave for Lithuania, as well as to ensure their return to Ukraine after the end of active hostilities.

The Ministry of Social Policy of Ukraine is been negotiation with the EU countries as well as other countries which hosted the children from Ukraine the possibility of concluding the bilateral agreements on exchange of information concerning the unaccompanied and separated children and guarantees of their return to Ukraine after end of martial law.

## 2. Scope of application (Arts 2, 3 and 4, and C&R No 29 of 2017 SC)

4. Have competent authorities in your State experienced any challenges, or have questions arisen, in determining the scope of the 1996 Convention (e.g., which measures of protection fall within the scope of the 1996 Convention)?

- No  
 Yes

Please specify:  
 Please insert text here

## 3. Jurisdiction to take measures of protection

### Habitual residence (Art. 5 and C&R No 31 of 2017 SC)

5. Have competent authorities in your State experienced any challenges when determining the habitual residence of the child in cases falling within the scope of the 1996 Convention?

- No  
 Yes

Please specify:  
 Please insert text here

### International child abduction (Arts 7 and 50)

6. Have competent authorities in your State experienced any challenges, or have questions arisen, in **making a determination whether to exercise jurisdiction** in cases of wrongful removal or retention of the child?

- No  
 Yes

Please specify:  
 Please insert text here

### Pending divorce or legal separation of the child's parents (Art. 10)

7. Have competent authorities in your State experienced any challenges, or have questions arisen, in making a determination whether to exercise **jurisdiction** in cases where there is a pending divorce or legal separation of the child's parents (**Art. 10**)?

- No  
 Yes

Please specify:  
 not available

### Transfer of jurisdiction (Arts 8 and 9)

8. How often have competent authorities in your State experienced cases of transfer of jurisdiction under **Articles 8 and / or 9** of the 1996 Convention?

- Do not know  
 Never

- Rarely
- Sometimes
- Very often
- Always

If possible, please provide supplementary information:

The requests on transfer of jurisdiction arrive rarely (approximately 2-3 times per year). Some of cases are not related to the competence of courts. The Guardianship Authorities have competence to decide certain cases, in particular on custody, on access (in internal cases), on determining the child`s place of residence under the provisions of the Family Code of Ukraine when there is no dispute. Thus, not all requests on transfer of jurisdiction are transferred to the court. Some requests were send to the Guardianship Authorities for consideration and making decisions.

9. Has your State developed any **good practices, procedures, guidelines or protocols** to facilitate the transfer of jurisdiction?

- Yes

Please specify and provide the links to relevant documents whenever possible:

The draft Law of Ukraine on amendments of the Ukrainian legislation on the issues of the international judicial cooperation was developed by the Ministry of Justice of Ukraine (registration number 4428). The draft Law, in particular contains changes concerning the issue of transfer of jurisdiction. The draft Law determines the order of application with the request to the foreign court on transfer the jurisdiction as well as the procedure of consideration requests of foreign courts on transfer the jurisdiction. The draft Law is under the consideration of the Parliament (Verhovna Rada of Ukraine). The draft was adopted in the first reading in February, 2022, and is waiting for adoption as the Law.

- No

Please specify any reasons:  
Please insert text here

#### 4. Special types of measures of protection

##### Urgent measures of protection (Art. 11)

10. Have competent authorities in your State experienced any challenges, or have questions arisen, with respect to the application of **Article 11** (e.g., the definition of "urgency"; scope, nature and duration of measures)?

- No

- Yes, in cases of international child abduction.

If possible, please provide more details about the experience of your State using Article 11 in cases of international child abduction:

Please insert text here

- Yes, in other situations.

Please describe in which other situations a competent authority in your jurisdiction has applied Article 11:

Please insert text here

##### Provisional measures (Art. 12)

11. Have competent authorities in your State experienced any challenges, or have questions arisen, in applying **Article 12** (e.g., definition as to what may constitute a "provisional character"; scope, nature and duration of measures)?

- No  
 Yes  
 Please describe:  
[Please insert text here](#)

## 5. Applicable law (Chap. III)

12. Have competent authorities in your State experienced any challenges, or have questions arisen, in relation to the applicable law rules provided by **Articles 15, 16 and 17** of the 1996 Convention?

- No  
 Yes  
 Please describe:  
[Please insert text here](#)

## 6. Recognition and enforcement

13. Have competent authorities in your State experienced any challenges, or have questions arisen, in relation to the **recognition of measures of protection**, from the perspective of the requested State?

- No  
 Yes  
 Please describe:  
[No information is available](#)

### Advance recognition (Art. 24)

14. How often have competent authorities in your State experienced cases of requests for **advance recognition**?

- Do not know  
 Never  
 Rarely  
 Sometimes  
 Very often  
 Always

If possible, please provide supplementary information:  
[Please insert text here](#)

15. Have **judicial or administrative procedures, guidelines, or protocols** been adopted in your State to facilitate the application of Article 24?

- Yes, but there have been no changes since the last SC meeting  
 Yes, with changes since the last SC meeting.  
 Please specify:  
[Please insert text here](#)  
 No

### Declaration of enforceability or registration for the purpose of enforcement (Arts 26, 27 and 28)

16. In relation to the **simple and rapid procedure** for declaring enforceable or registering for the purpose of enforcement of measures of protection taken in another Contracting Party (Art. 26), what is the practice in your State?



- a) Which authority declares enforceable or registers a measure of protection taken in another Contracting Party? Please specify:

Courts of general jurisdiction of Ukraine may declare enforceable the foreign court decision.

The local Office on Children Issues may recognize the decision delivered by the foreign authority on children issues (except court decisions) without special procedure and in the sense of Article 5 of the 1996 Convention accepts jurisdiction to take their own measures directed to the protection the person or property of a child.

- b) What time frames are applied to ensure that the procedure is rapid? Please explain:

The Civil Procedural Code of Ukraine establishes the general principle on reasonableness of the terms of consideration of the case by the court. The Civil Procedural Code of Ukraine does not determine the special terms of consideration the cases on recognition of the foreign court decision.

Articles 120-121 of the Civil Procedural Code establish that the period for performance of procedural actions shall be established by law, and if such period is not determined by a law, it shall be established by the court. The court shall set reasonable period for implementing the procedural actions.

A period shall be reasonable if it provides for the sufficient time, taking into account the circumstances of the case, to implement the procedural action, and corresponds to the task of civil proceedings.

Pursuant to Article 210 of the Civil Procedural Code of Ukraine the court shall begin consideration of the case on the merits no later than sixty days from the date of opening the proceedings, and in case of extension of the period of preparatory proceedings, the court shall begin consideration no later than the next day from the date of expiration of such period. The court shall consider the case on the merits within thirty days from the date of commencement of the hearing on the merits.

The Ruling on recognition and enforcement can be challenged in a way and terms as for the ordinary court Rulings (in appeal and in the Supreme court in order and terms which are established by the Civil Procedural Code of Ukraine).

- c) Is legal representation required? Please explain:

The legal representation is not obligatory but is preferable.

17. Are you aware of any challenges, or have questions arisen, in applying **Articles 26, 27 and / or 28** in your State?

- No  
 Yes

Please describe:

## 7. Cooperation (Chap. V)

### Central Authority practice

18. Are you aware of any challenges, or have questions arisen, in applying **Article 30** in your State (e.g., in relation to the timeliness of responses to requests)?

- No

- Yes  
Please describe:  
Please insert text here

**Services available**

19. If your State answered the 2016 Questionnaire, please indicate whether since then there have been any changes in relation to the services provided by your Central Authority:

- No. Please proceed to question No 22
- Yes. Please continue answering the following questions

20. With the understanding that services provided by Central Authorities under the 1996 Convention may vary, does your Central Authority provide assistance to **individuals habitually resident in your State** who request it in connection with the following matters? If so, please specify the nature of the assistance provided.

Matter	Service(s) provided
a) A request to organise or secure effective exercise of <b>rights of access</b> in another Contracting Party (requested State) <sup>4</sup>	<input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input type="checkbox"/> 7. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 8. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input type="checkbox"/> 9. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 10. Provision of regular updates on the progress of the application <input type="checkbox"/> 11. Other, please specify: Please insert text here
b) A request to secure the return to your State of a child subject to <b>international abduction</b> where the 1980 Convention is <u>not</u> applicable	<input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in discovering the whereabouts of a child who has been wrongfully removed or retained <input type="checkbox"/> 7. Assistance in taking provisional / urgent measures of protection to prevent further harm to the child

<sup>4</sup> See in this context, e.g., the Practical Handbook on the Operation of the 1996 Child Protection Convention, sections 11(E)(d) and 13(B) (2014).

	<ul style="list-style-type: none"> <li><input type="checkbox"/> 8. Assistance in securing the voluntary return of the child or in bringing about an amicable resolution of the issue</li> <li><input type="checkbox"/> 9. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child</li> <li><input type="checkbox"/> 10. Assistance in providing or facilitating the provision of legal aid and advice</li> <li><input type="checkbox"/> 11. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child</li> <li><input type="checkbox"/> 12. Assistance in obtaining private legal counsel or mediation services</li> <li><input type="checkbox"/> 13. Referral to other governmental and/or non-governmental organisations for assistance</li> <li><input type="checkbox"/> 14. Regular updates on the progress of the application</li> <li><input type="checkbox"/> 15. Other, please specify: Please insert text here</li> </ul>
<p>c) A request to secure the return to your State of a <b>runaway child</b> (see <b>Art. 31(c)</b>)</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1. None</li> <li><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</li> <li><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</li> <li><input type="checkbox"/> 4. Establishment of contact with the Central Authority and/or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</li> <li><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</li> <li><input type="checkbox"/> 6. Assistance in discovering the whereabouts of a runaway child</li> <li><input type="checkbox"/> 7. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child</li> <li><input type="checkbox"/> 8. Assistance in providing or facilitating the provision of legal aid and advice</li> <li><input type="checkbox"/> 9. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child</li> <li><input type="checkbox"/> 10. Assistance in obtaining private legal counsel</li> <li><input type="checkbox"/> 11. Referral to other governmental and/or non-governmental organisations for assistance</li> <li><input type="checkbox"/> 12. Regular updates on the progress of the application</li> <li><input type="checkbox"/> 13. Other, please specify: Please insert text here</li> </ul>
<p>d) A request for a <b>report on the situation of a child</b> habitually resident in another Contracting Party (e.g., a child returned as a result of child abduction proceedings or a child who has moved as a result of a relocation) (see <b>Art. 32(a)</b>)</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1. None</li> <li><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</li> <li><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</li> <li><input type="checkbox"/> 4. Establishment of contact with the Central Authority and/or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</li> <li><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</li> <li><input type="checkbox"/> 6. Other, please specify: Please insert text here</li> </ul>
<p>e) A request that the competent authorities of another Contracting Party decide on the</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1. None</li> <li><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</li> <li><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</li> </ul>

<p><b>recognition or non-recognition</b> of a measure taken in your State (see <b>Art. 24</b>)</p>	<p><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</p> <p><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</p> <p><input type="checkbox"/> 6. Assistance in obtaining private legal counsel</p> <p><input type="checkbox"/> 7. Regular updates on the progress of the request</p> <p><input type="checkbox"/> 8. Other, please specify: Please insert text here</p>
<p>f) A request that the competent authorities of another State Party <b>declare enforceable or register for the purpose of enforcement</b> measures taken in your State (see <b>Art. 26</b>)</p>	<p><input type="checkbox"/> 1. None</p> <p><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</p> <p><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</p> <p><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</p> <p><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</p> <p><input type="checkbox"/> 6. Assistance in obtaining private legal counsel</p> <p><input type="checkbox"/> 7. Regular updates on the progress of the request</p> <p><input type="checkbox"/> 8. Other, please specify: Please insert text here</p>

21. With the understanding that services provided by Central Authorities under the 1996 Convention may vary, if your Central Authority were to receive a request of assistance from **another Central Authority** on behalf of an individual residing abroad, in connection with the following matters, please specify the nature of the assistance that your Central Authority provides or would provide if the situation were to arise.

Matter	Service(s) provided
<p>a) A request to organise or secure effective exercise <b>of rights of access</b> in another Contracting Party (requested State)<sup>5</sup></p>	<p><input type="checkbox"/> 1. None</p> <p><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</p> <p><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</p> <p><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</p> <p><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</p> <p><input type="checkbox"/> 6. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access</p> <p><input type="checkbox"/> 7. Assistance in providing or facilitating the provision of legal aid and advice</p> <p><input type="checkbox"/> 8. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State</p> <p><input type="checkbox"/> 9. Referral to other governmental and / or non-governmental organisations for assistance</p> <p><input type="checkbox"/> 10. Provision of regular updates on the progress of the application</p> <p><input type="checkbox"/> 11. Other, please specify: Please insert text here</p>

<sup>5</sup> See in this context, e.g., the [Practical Handbook](#) on the Operation of the 1996 Child Protection Convention, sections 11(E)(d) and 13(B) (2014).

<p>b) A request to secure the return to your State of a child subject to <b>international abduction</b> where the 1980 Convention is <u>not</u> applicable</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1. None</li> <li><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</li> <li><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</li> <li><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</li> <li><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</li> <li><input type="checkbox"/> 6. Assistance in discovering the whereabouts of a child who has been wrongfully removed or retained</li> <li><input type="checkbox"/> 7. Assistance in taking provisional / urgent measures of protection to prevent further harm to the child</li> <li><input type="checkbox"/> 8. Assistance in securing the voluntary return of the child or in bringing about an amicable resolution of the issue</li> <li><input type="checkbox"/> 9. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child</li> <li><input type="checkbox"/> 10. Assistance in providing or facilitating the provision of legal aid and advice</li> <li><input type="checkbox"/> 11. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child</li> <li><input type="checkbox"/> 12. Assistance in obtaining private legal counsel or mediation services</li> <li><input type="checkbox"/> 13. Referral to other governmental and / or non-governmental organisations for assistance</li> <li><input type="checkbox"/> 14. Regular updates on the progress of the application</li> <li><input type="checkbox"/> 15. Other, please specify: <a href="#">Please insert text here</a></li> </ul>
<p>c) A request to secure the return to your State of a <b>runaway child</b> (see <b>Art. 31(c)</b>)</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1. None</li> <li><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</li> <li><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</li> <li><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</li> <li><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</li> <li><input type="checkbox"/> 6. Assistance in discovering the whereabouts of a runaway child</li> <li><input type="checkbox"/> 7. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child</li> <li><input type="checkbox"/> 8. Assistance in providing or facilitating the provision of legal aid and advice</li> <li><input type="checkbox"/> 9. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child</li> <li><input type="checkbox"/> 10. Assistance in obtaining private legal counsel</li> <li><input type="checkbox"/> 11. Referral to other governmental and / or non-governmental organisations for assistance</li> <li><input type="checkbox"/> 12. Regular updates on the progress of the application</li> <li><input type="checkbox"/> 13. Other, please specify: <a href="#">Please insert text here</a></li> </ul>
<p>d) A request for a <b>report on the situation of a child</b> habitually resident in another</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1. None</li> <li><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</li> <li><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</li> </ul>

<p>Contracting Party (e.g., a child returned as a result of child abduction proceedings or a child who has moved as a result of a relocation) (see <b>Art. 32(a)</b>)</p>	<p><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</p> <p><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</p> <p><input type="checkbox"/> 6. Other, please specify: Please insert text here</p>
<p>e) A request that the competent authorities of another Contracting Party decide on the <b>recognition or non-recognition</b> of a measure taken in your State (see <b>Art. 24</b>)</p>	<p><input type="checkbox"/> 1. None</p> <p><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</p> <p><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</p> <p><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</p> <p><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</p> <p><input type="checkbox"/> 6. Assistance in obtaining private legal counsel</p> <p><input type="checkbox"/> 7. Regular updates on the progress of the request</p> <p><input type="checkbox"/> 8. Other, please specify: Please insert text here</p>
<p>f) A request that the competent authorities of another Contracting Party <b>declare enforceable or register for the purpose of enforcement</b> measures taken in your State (see <b>Art. 26</b>)</p>	<p><input type="checkbox"/> 1. None</p> <p><input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention</p> <p><input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State</p> <p><input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide</p> <p><input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State</p> <p><input type="checkbox"/> 6. Assistance in obtaining private legal counsel</p> <p><input type="checkbox"/> 7. Regular updates on the progress of the request</p> <p><input type="checkbox"/> 8. Other, please specify: Please insert text here</p>

**Mediation, conciliation or similar methods (Art. 31(b))**

22. How does your Central Authority (either directly or through public authorities or other bodies) take appropriate steps under **Article 31(b)** to facilitate, by mediation, conciliation or similar means, agreed solutions for the protection of the person or property of the child in situations to which the 1996 Convention applies?

Please explain:

The Ministry of Justice of Ukraine as the Central authority did not receive requests to take appropriate steps to facilitate by mediation, conciliation or similar means agreed solutions for protection of the person or property of the child to which the 1996 Convention applies. The Law “On Mediation” was adopted on November 16, 2021.

**Placement and provision of care abroad (Art. 33)**

23. Have authorities in your State experienced any challenges, or have questions arisen, in relation to:

- a)  the **scope of application of Article 33** (e.g., in case of placement with relatives, migrant children)  
Please provide further details, if possible:  
[Please insert text here](#)
- b)  **time frames** of consultations under Article 33  
Please provide further details, if possible:  
[Please insert text here](#)
- c)  the availability of **equivalent measures** of protection in the other Contracting Party or differences in the applicable domestic legislation  
Please provide further details, if possible:  
[Please insert text here](#)
- d)  **financial costs** involved in the placement / provision of care abroad  
Please provide further details, if possible:  
[Please insert text here](#)
- e)  other **practical issues** arising from the placement / provision of care abroad (e.g., documentation, immigration matters)  
Please provide further details, if possible:  
[Please insert text here](#)
- f)  other issues relating to Article 33.  
Please specify:  
[The Ministry of Justice of Ukraine as the Central authority did not receive the requests under Article 33 of the 1996 Convention.](#)

24. Have **judicial or administrative procedures, guidelines, or protocols** been adopted in your State to deal with the placement procedure under Article 33?

- No  
 Yes  
Please describe and also provide a link or attach any relevant documents, preferably translated into English or French:  
[Please insert text here](#)

25. After the placement of the child abroad to another Contracting Party, does your State seek **follow up information on the situation** of that child?

- No  
 Yes  
Please describe:  
[Please insert text here](#)

### Reports (Arts 32, 33 and 34)

26. Have authorities in your State experienced any challenges, or have questions arisen, in providing or obtaining reports or information under **Article 32, 33 or 34**?

- No  
 Yes  
Please describe:  
[Please insert text here](#)

27. Do authorities in your State use a standard template when providing a report on the (situation of the) child under Article 32 or 33?

- No  
 Yes

Please attach the template to your response (preferably translated into English or French):

A template of the certificate on investigation of the living conditions is approved by the Resolutions of the Cabinet of Ministers of Ukraine of 24.09.2008 No866 “Issues of Activities of the Guardianship Authorities related to the Child’s Rights Protection” (is available in Ukrainian language). A template of the certificate on evaluation of the needs of the family is approved by the Order of the Ministry of Social Policy of Ukraine № 1005 of July 13, 2018 (is available in Ukrainian language).

### Assistance from the authorities of another Contracting Party

28. Have competent authorities in your State experienced any challenges, or have questions arisen, in applying **Article 35**?

- No  
 Yes

Please describe:

Please insert text here

29. Have judges in your State used direct judicial communications in cases falling under the 1996 Convention?

- No  
 Yes

Please specify in relation to which specific matters (e.g., transfer of jurisdiction, placement of a child)::

There are 2 judges in the Hague Network of Judges, they have contact with their colleagues from the States Parties of the 1996 Convention on different issues.

## 8. General provisions

### Article 40 Certificates

30. How often have competent authorities in your State issued **Article 40 certificates** indicating the capacity in which a person having parental responsibility or entrusted with the protection of the child's person or property is entitled to act and the powers conferred upon him or her?

- Do not know  
 Never  
 Rarely  
 Sometimes  
 Very often  
 Always

31. Has your State experienced any challenges, or have questions arisen, in relation to **requests under Article 40**?

- No  
 Yes

Please describe:

Please insert text here



## Issues in relation to the property of the child (Arts 55 and 60)

32. How often have competent authorities in your State dealt with **measures for the protection of the property of the child by using the framework of the Convention?**

- Do not know
- Never
- Rarely
- Sometimes
- Very often
- Always

If possible, please provide supplementary information:  
Please insert text here

## 9. Special topics

### International family relocation

33. Has your State adopted specific procedures for international family relocation?

- Yes  
Please describe such procedures, if possible:  
Please insert text here
- No  
Please describe how the authorities deal with international family relocation cases, if possible:  
This information is not available.

34. Are you aware of any use being made of Article 24, which provides for advance recognition, in lieu of or in connection with international family relocation?

- No
- Yes  
Please explain:  
Please insert text here

35. Are you aware of any use being made of other provisions of the 1996 Convention in cases where a parent wishes to relocate with his or her child to another State?

- No
- Yes  
Please explain:  
Please insert text here

### Children subject to international abduction

36. Have authorities in your State experienced any challenges, or have questions arisen, in relation to the application of the 1996 Convention (e.g., Art. 50) in cases of child abduction where the 1980 Convention was not applicable (see Questions 20(b) and 21(b) above)?

- No
- Yes  
Please describe:

Please insert text here

37. In cases of child abduction where both the 1980 Convention and the 1996 Convention were applicable, have authorities in your State made use of provisions under the 1996 Convention (e.g., Art. 50) in addition to or instead of provisions of the 1980 Convention?

- No  
 Yes

Please specify the provisions and explain:

The Courts in their decisions sometimes refer to the provisions of both Conventions in the motivational part of the decision.

38. In cases of child abduction, whether or not the 1980 Convention is applicable, have authorities in your State used the cooperation provisions in Chapter V of the 1996 Convention to determine whether adequate measures of protection are available in the State of the habitual residence of the child (e.g., to facilitate the safe return of the child)?

- No  
 Yes

Please explain:

Please insert text here

39. In cases of child abduction, have competent authorities in your State taken measures of protection under Article 11, as an alternative to measures of protection in the form of mirror orders or undertakings, to facilitate the safe return of the child?

- No  
 Yes

Please explain:

Please insert text here

#### Unaccompanied and separated children<sup>6</sup> and emergency situations (Art. 6)

40. How often have competent authorities in your State dealt with **cases involving refugee children, internationally displaced children, or children whose habitual residence cannot be established** by using the framework of the 1996 Convention?

- Do not know  
 Never  
 Rarely  
 Sometimes  
 Very often  
 Always

If possible, please provide supplementary information:

This information is not available. There are more than 1 thousand Services on Children Issues which were created in each territorial community on the territory of Ukraine. It is obvious that periodically they deal with such categories of children, but as the Central authority we did not obtain any information about how often and on the territory of which territorial community such case took place.

<sup>6</sup> In relation to this section of the Questionnaire, see [Prel. Doc. No 7 of February 2020](#), “The application of the 1996 Child Protection Convention to unaccompanied and separated children”.

41. Where the **habitual residence of a child present in your State could not be established**, have authorities in your State used any of the cooperation provisions of the 1996 Convention in determining the child's place of habitual residence?

- No  
 Yes

Please specify:

The Central authority did not receive such requests.

42. Have competent authorities in your State had experience with providing assistance to **discover the whereabouts of children** that went missing due to disturbances occurring in their State of habitual residence by using the framework provided by the 1996 Convention?

- No  
 Yes

Please specify:

The Central authority received requests on establishing the child`s whereabouts, especially during the last year. Because of the war launched by russia a lot of children left the territory of Ukraine. In some cases the measures of protection of the children were taken by the competent authorities of the State of their location. Late some of these children returned to Ukraine. In some cases their whereabouts in Ukraine were unknown. The competent foreign authorities applied to the CA with the requests about confirming the children`s arrival to Ukraine, establishing their whereabouts and taking the measures of protection in case of necessity. The Central Authority took measures to establish the children`s whereabouts in Ukraine

In case, the information provided is not enough or the child is supposed to be relocated from the territories where hostilities were taking place or the territory temporary occupied the information of the addressof registration of a child may be requested from the Register of the Internally Displaced Persons.

43. Have **procedures, guidelines, or protocols** been adopted in your State to deal with the protection of unaccompanied or separated children in the context of the 1996 Convention?

- No  
 Yes

Please describe and also provide a link or attach any relevant documents, preferably translated into English or French:

Please insert text here

44. In emergency situations, such as a humanitarian crisis, have authorities in your State experienced any challenges, or have questions arisen, in regard to the **exchange of information** among authorities of the Contracting Parties, in particular taking into account Articles 36 and 37 of the 1996 Convention?

Because of war, thousands of Ukrainian children were transferred to different states of the world, mostly to the European states. They become the seekers for protection in the hosting States. It should be taken into account that some of them travelled with the parents (one of the parents), relatives or legal representatives and some of them appeared abroad without their legal representatives from Ukraine or were separated with them due to the different reasons.

In this regard for the competent Ukrainian authorities is extremely important to be aware about all children abroad, all cases of the separation with the legal representative or placement to the child care institutions in the host states. This information is requested with the aim to take the measures of protection of the child, taking into account each particular case. The issue of obtaining information about all Ukrainian children abroad as well as their safe return after the end of

the protection period is one of the most important topics for discussion on the all levels with the participation of the representatives of different competent authorities and bodies, including Ministry of Justice of Ukraine, Ministry for Foreign Affairs, Ministry of Social Police of Ukraine, National Social Service of Ukraine, etc. The provisions of the 1996 Convention became the legal ground for co-operation of the Ukrainian competent Offices on Children Issues with the Child Protection Services in different Contracting States of the 1996 Convention as regard obtaining information on the situation of the children, measures of protection that were taken or recognition of the measures of protection that had already been taken in Ukraine in particular cases.

In November 2022 the Ministry of Justice of Ukraine acting as the Central authority based on the application on the National Social Service of Ukraine had applied with the request to the Central authorities in Europe in order to obtain information about all known cases involving the children from Ukraine, which were separated with their legal representatives from Ukraine, due to the different reasons, including the cases of placement of the children in the institutions because of separation with the accompanied person, etc.

Only several States provided information, some of them gave only the general information about the situation with the accompanied children, some States (Latvia, Lithuania, and Switzerland) provided the full list of all known Ukrainian children. A number of Contracting states of the 1996 Convention informed that they could not provide the requested information. The main ground for refusal was the legislation on personal data protection.

45. Are you aware of whether **Preliminary Document No 7 of February 2020, “The application of the 1996 Child Protection Convention to unaccompanied and separated children”**, has been brought to the attention of the competent authorities in your State?

- No  
 Yes

Please specify:

Please insert text here

### International access / contact cases involving children

46. Should your State also be a Contracting Party to the 1980 Convention, are you aware of any use being made of provisions of the 1996 Convention, including those under **Chapter V**, in lieu of or in connection with an application under **Article 21** of the 1980 Convention?<sup>7</sup>

- No  
 Yes

Please explain:

Please insert text here

### Practical Handbook

47. Do you have any observations or comments to share concerning the **Practical Handbook** on the Operation of the 1996 Child Protection Convention?

- No  
 Yes

Please specify:

Please insert text here

<sup>7</sup> The Explanatory Report (Lagarde) on the 1996 Convention notes that cooperation under Art. 35(1) between authorities of States Parties with respect to rights of access “serves in a certain way to complete and reinforce the co-operation, which is not always effective, provided for the same purpose between Central Authorities” under Art. 21 of the 1980 Convention. Explanatory Report, para. 146 (1997).

### Agenda items for the next SC meeting

48. Are there any **particular issues** that your State would like the SC meeting to discuss in relation to the 1996 Convention? Please specify and list in order of priority:

The scope of Article 6 of the 1996 Convention and its applicability in cases where the authorities of the State of the permanent residence of a refugee child are functioning and issue its decisions or issued before the displacement of a child. Whether Article 6 is applicable when a child is displaced but received the permanent protection and not a refugee status.

Application of Article 11 of the 1996 Convention.

Elaboration and implementation of the template forms of response on the requests concerning the child`s whereabouts, living conditions and report on the social situation of the child.

Protection of personal data and enforcement of the 1996 Convention.

## PART II – FOR NON-CONTRACTING PARTIES

49. Is your State currently considering **signing and ratifying or acceding to the 1996 Child Protection Convention**?

- Yes  
If possible, please provide further information:  
[Please insert text here](#)
- No  
If possible, please provide further information:  
[Please insert text here](#)

50. In considering how your State would **implement the 1996 Child Protection Convention**, have you encountered any **issues of concern**?

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

51. Are there any **particular issues** that your State would like the SC meeting to discuss in relation to the 1996 Child Protection Convention?

- No
- Yes  
Please specify and list in order of priority:  
[Please insert text here](#)

52. Do you have any observations or comments to share concerning the **Practical Handbook** on the Operation of the 1996 Child Protection Convention?

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