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**QUESTIONNAIRE CONCERNANT LES MECANISMES PRATIQUES
POUR FACILITER LA COMMUNICATION DIRECTE ENTRE AUTORITES
JUDICIAIRES DANS LE CADRE DE LA
CONVENTION DE LA HAYE DU 25 OCTOBRE 1980 SUR LES
ASPECTS CIVILS DE L'ENLEVEMENT INTERNATIONAL D'ENFANTS**

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**QUESTIONNAIRE CONCERNING PRACTICAL MECHANISMS
FOR FACILITATING DIRECT INTERNATIONAL JUDICIAL
COMMUNICATIONS IN THE CONTEXT OF THE
HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE
CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION**

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I – INTRODUCTION

The Questionnaire which appears below is addressed to Member States of the Hague Conference on Private International Law and to States Parties to the *1980 Hague Convention on the Civil Aspects of International Child Abduction*. Responses will also be sought from the international Governmental and non-Governmental Organisations invited to attend the Fourth Meeting of the Special Commission to review the operation of the 1980 Hague Convention.

It should be emphasised that respondents are also invited to identify and comment upon matters concerning direct international judicial communications, which are not addressed specifically in the Questionnaire.

The Permanent Bureau would be grateful if responses to the Questionnaire could be sent to the Permanent Bureau, if possible in electronic form, *by 1 May 2002*.

II – BACKGROUND

The creation of an international network of liaison judges was first proposed at the 1998 De Ruwenberg Seminar for Judges on the international protection of children. It was recommended that relevant authorities (e.g., court presidents or other officials, as appropriate within the different legal cultures) in the different jurisdictions designate one or more members of the judiciary to act as a channel of communication and liaison with their national Central Authorities, with other judges within their own jurisdictions and with judges within other States, in respect, at least initially, of issues relevant to the 1980 Hague Convention. It was felt that the development of such a network would facilitate at the international level communications and co-operation between judges and would assist in ensuring the effective operation of the Hague Convention.

The idea of an international judicial liaison network received further support at the two International Judicial Conferences held at De Ruwenberg in June 2000 and October 2001, and at the Common Law Judicial Conference on International Parental Child Abduction, hosted by the United States Department of State at Washington, D.C. in September 2000. Several Contracting States have subsequently nominated individual liaison judges.¹

During the Fourth Special Commission Meeting to review the practical operation of the *1980 Hague Convention on the Civil Aspects of International Child Abduction* (22-28 March 2001), the issue of the feasibility and limitations of direct judicial communications and the development of a network of liaison judges was addressed in the context of issues surrounding the safe and prompt return of the child (and the custodial parent where relevant). The following were the Recommendations and Conclusions adopted by the Special Commission, which focused on international judicial communications between judges or between judges and other authorities:

¹ Argentina, Australia, Canada, Cyprus, Denmark, New Zealand and the United Kingdom (England and Wales and Scotland).

"Direct judicial communications

5.5 *Contracting States are encouraged to consider identifying a judge or judges or other persons or authorities able to facilitate at the international level communications between judges or between a judge and another authority.*

5.6 *Contracting States should actively encourage international judicial co-operation. This takes the form of attendance of judges at judicial conferences by exchanging ideas/communications with foreign judges or by explaining the possibilities of direct communication on specific cases.*

In Contracting States in which direct judicial communications are practised, the following are commonly accepted safeguards:

- *communications to be limited to logistical issues and the exchange of information;*
- *parties to be notified in advance of the nature of proposed communication;*
- *record to be kept of communications;*
- *confirmation of any agreement reached in writing;*
- *parties or their representatives to be present in certain cases, for example via conference call facilities.*

5.7 *The Permanent Bureau should continue to explore the practical mechanisms for facilitating direct international judicial communications."*

III – THE QUESTIONS

A. The feasibility and/or desirability of the appointment of a liaison judge or authority

1. Has a nomination been made in your country of a judge or other person or authority with responsibility to facilitate at the international level communications between judges or between a judge and another authority in cases involving child abduction or access/contact?
2. If an appointment has not yet been made in your country, would such a nomination face any legal difficulties or constraints? Are there specific concerns you would like to raise regarding the feasibility and/or desirability of an appointment of a liaison judge/authority?

B. Administrative aspects

1. If a judge or authority has been nominated:
 - (a) What procedure was used in making the appointment?
 - (b) What role and functions have been attributed to the judge or authority?
 - (c) How does the judge or authority (if it is not the Central Authority) relate to the Central Authority in carrying out his/her functions?
 - (d) Have any arrangements been made with respect to possible language difficulties?

- (e) Has the appointment been communicated to the Permanent Bureau?
- (f) Has the appointment been communicated to other States?
- 2. If a judge or authority has not been nominated, please give any views you have on how the matters referred to in 1 (a), (b), (c) and (d) above might be addressed in your country.
- 3. In the case of Federal States or States with more than one system of law, are there any particular difficulties in establishing a liaison structure and how might these be addressed?

C. Practical and legal aspects

- 1. To what extent are communications at the international level at present practiced in your country? Please provide examples.
- 2. Have there been any judicial decisions in your country in which judicial communications at the international level have been discussed?
- 3. What procedural and legal safeguards should surround communications at the international level between judges or between a judge and another authority in the context of cases involving child abduction or access/contact?

Please comment in particular on:

- ?? any limits on the subject-matter of communications;
- ?? requirements concerning advance notification to parties, the presence of parties or their legal representatives (e.g. by use of conference call facilities), record keeping and confirmation in writing of the substance of the communication.

D. General

- 1. Have you any general comments or suggestions concerning the development of the international judicial liaison network?
- 2. Is your country involved in international judicial networks, including at regional level, in other areas of civil law?
- 3. Would your country support the holding of more judicial and other seminars, both national and international, on issues concerning the 1980 Hague Convention?