

Title	1996 Child Protection Convention: Country Profile and 25th anniversary
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Agenda Item	Item IV.1.a
Mandate(s)	C&R No 45 of the 2017 SC meeting
Objective	To report to CGAP on the next steps in the development of the Country Profile for the HCCH 1996 Child Protection Convention, and in celebration of the 25 th anniversary of the Convention
Action to be Taken	For Decision <input type="checkbox"/> For Approval <input checked="" type="checkbox"/> For Discussion <input type="checkbox"/> For Action/Completion <input type="checkbox"/> For Information <input type="checkbox"/>
Annexes	N/A
Related Documents	<u>Conclusions and Recommendations of the Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention</u>

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1996 Child Protection Convention: Country Profile and 25th anniversary

I. Introduction

- 1 At its Seventh Meeting, in 2017, the Special Commission (SC) on the Practical Operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention recommended “with a high degree of priority, the development of a Country Profile by the Permanent Bureau in consultation with Contracting States to the 1996 Convention and Members of the Organisation”.¹ The SC emphasised that, “[s]ubject to available resources, this Country Profile should be developed with a view to be implemented in an electronic environment”.²
- 2 In March 2018, the Council on General Affairs and Policy (CGAP) approved the Conclusions and Recommendations adopted at the Seventh Meeting of the SC and mandated the Permanent Bureau (PB) to implement such recommendations, including the development of a Country Profile under the 1996 Convention.³
- 3 In advance of the next SC meeting, which is tentatively scheduled to take place in 2023, the PB plans to circulate a draft of the Country Profile questionnaire. This current Preliminary Document is a report to CGAP of the next steps being taken towards the development of the Country Profile, including a summary of the main characteristics and possible features to be included.
- 4 Moreover, as 2021 will mark the 25th anniversary of the 1996 Child Protection Convention, this Preliminary Document also provides a short update on the PB’s initiatives to commemorate this occasion.

II. Country Profile for the 1996 Child Protection Convention

- 5 The primary purpose of the Country Profile is to provide information on each Contracting Party’s domestic framework in connection with the application of the Convention. The information provided in the Country Profile eliminates obstacles to obtaining information concerning the operation of the Convention. Furthermore, by providing such information in English and / or French on the HCCH website⁴ Country Profiles also promote the Convention and assist future Contracting Parties in their preparations to accede to the Convention.
- 6 The PB has analysed the feedback received from Members in the past on the challenges they faced in gathering and presenting information for Country Profiles of other family law and child protection Conventions. This feedback is being considered in light of the wide scope of the 1996 Child Protection Convention, which will require each Contracting Party’s Country Profile to contain more information, and be of a broader scope, in order for the Country Profiles to be useful as compared

¹ C&R No 45 of the Seventh Meeting of the SC (these C&R, as well as the C&R mentioned below from previous SC meetings, are available on the HCCH website < www.hcch.net > under “Protection of Children” then “Special Commission meetings”).

² *Ibid.*

³ C&R Nos 18 and 19 of CGAP 2018, available on the HCCH website < www.hcch.net > under “Governance” then “Council on General Affairs and Policy” then “Archive (2000-2020)”.

⁴ In the Report of the Fifth Meeting of the SC, an expert from Canada proposed the development of forms with a view to creating country profiles, because even though there was a Recommendation of the SC of 2001 to Central Authorities to publish information about their legal systems on their websites (see item 2.2, C&R Fourth Meeting of the SC, 2001), it was difficult to find “the relevant information quickly in order to respond to specific questions”(see para. 55, “Report on the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (30 October – 9 November 2006)”, March 2007, available on the HCCH website < www.hcch.net > under “Protection of Children” then “Special Commission meetings”). The idea was that “the country profile would constitute a ‘one-stop shop’ where it would be possible to consolidate all relevant information in one place” (para. 55, *ibid.*).

to the Country Profiles for a more subject-specific Convention such as the 1980 Child Abduction Convention. The PB is also coordinating in order to ensure that both the Country Profile for the 1996 Child Protection Convention and the Country Profile being developed for the 2000 Protection of Adults Convention are consistent.

- 7 The primary audience of the 1996 Child Protection Convention Country Profiles will be the Contracting Parties, which will use them to obtain and exchange information.⁵ Both the administrative and judicial authorities of Contracting Parties, as well as legal practitioners within the jurisdictions of Contracting Parties, are part of this audience. Persons involved in cases falling within the scope of the Convention may also find the Country Profiles helpful. In addition, personnel of non-governmental organisations working in child protection may also need to rely on the information provided in the Country Profiles. The Country Profile should be designed and presented in a user-friendly, electronic format in order to best address the needs of these users in an inclusive, accessible manner. Aside from being accessible in a searchable format on the HCCH website, other modes of delivery are also being considered, including via digital distribution platforms such as mobile applications.
- 8 In order to ensure that Contracting Parties can easily provide and update the information collected for the Country Profiles, the questionnaire will be made available in an electronic format that is easy to edit and share remotely (possibly in a mobile format) among the relevant domestic teams.
- 9 In the course of preparing the questionnaire, the PB is collating a list of types of information that may be helpful if they were to be included in the Country Profile. Subject to further feedback, the list includes general information concerning Central Authorities (including degrees of assistance that they may provide, both to individuals within their own State and to foreign Central Authorities on behalf of an individual residing abroad)⁶, relevant domestic legislation (including implementing legislation, relevant procedural rules, other international agreements), competent authorities to take measures under the Convention, information on the domestic private international law rules, and on the domestic system of law. More specific information to be collected for the Country Profile could include: the legislation and corresponding measures that fall under the scope of the Convention (including on parental responsibility, rights of custody and access, guardianship, alternative care, *kafala*), the way in which the domestic system responsible for child protection and for preparing reports and assessments functions, the participation of the child in the corresponding proceedings, alternative dispute resolution services available for disputes involving children and children's property, and challenges in relation to their enforcement.

III. 25th anniversary of the Child Protection Convention

- 10 The PB has initiated a project to mark the 25th anniversary of the Child Protection Convention, as outlined below. The main objective of this project is to take stock of the current practices under the Convention with a view to reporting at the next meeting of the SC and to promoting wider ratification. The Convention currently has 53 Contracting Parties. Although this shows a great acceptance of the Convention, there are many Contracting Parties to the 1980 Child Abduction Convention which are not Party to the 1996 Convention. Interestingly, all the Contracting Parties to the 1996 Convention are Parties to the 1980 Child Abduction Convention. The PB wishes to reinforce how these two Conventions work in tandem for the protection of children in international situations.

⁵ In the C&R of the Sixth Meeting of the SC, the SC reminded of the valuable role of the Country Profile for the 1980 Convention in "enabling States to exchange information on the requirements for making an application in the requested State". There was also special reference to the fact that the Country Profile helps to determine the law of the State of the child's habitual residence (para. 46).

⁶ Following on the C&R No 40 of the 7th meeting of the SC in 2017.

- 11 Since the publication of the *Practical Handbook on the Operation of the 1996 Hague Child Protection Convention* (Practical Handbook) in 2014, the PB has been monitoring developments related to the Child Protection Convention. The PB will assess these developments to determine whether a second edition of the Practical Handbook is necessary and, if this is the case, will seek the endorsement of CGAP for the preparation of such a second edition in 2022 in the lead up to the next meeting of the SC currently envisaged for 2023.
- 12 The 25th anniversary of the Convention also provides a timely opportunity to highlight recent developments in relation to the practical operation of the Convention. A topic of particular urgency relates to children on the move, in particular in the context of relocation. The PB notes that 2020 marks the 10th anniversary of the Washington Declaration on International Family Relocation. Further work on this topic, which feeds into the preparations for the meeting of the next SC, could be explored also in the context of a commemorative seminar on the occasion of the 25th anniversary of the Convention. Along with other training sessions and seminars potentially to take place in 2021, this would allow the PB to take stock of the current practices under the Convention, and provide an opportunity to further raise awareness of the utility of the Convention in the context of relocations.
- 13 As some events in commemoration of the 40th anniversary of the 1980 Child Abduction Convention were postponed to 2021 due to the measures taken in response to the COVID-19 pandemic, another possibility is to run seminars, discussion panels or training sessions on the 1996 Child Protection Convention on the sidelines of these postponed events. In this context, one area of overlapping interest between the two Conventions are the issues arising from *kafala* and alternative care arrangements, the former of which may also be addressed in the context of the work relating to the Malta Process and the Working Party on Mediation.

IV. Proposal to CGAP

- 14 The PB invites CGAP to approve the suggested workplan related to the Country Profile for the 1996 Child Protection Convention with a view, as emphasised by previous SCs, to implementing it in an electronic environment. The PB further invites CGAP to take note of the initiatives undertaken in light of the 25th anniversary of the Child Protection Convention in 2021.