

**QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF  
THE 1980 CONVENTION**

Wherever your replies to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 1980 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.

<b>Name of State or territorial unit:<sup>1</sup></b>	<b>TURKEY</b>
<i>For follow-up purposes</i>	
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**PART I: RECENT DEVELOPMENTS<sup>2</sup>**

**1. Recent developments in your State**

1.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding the legislation or procedural rules applicable in cases of international child abduction. Where possible, please state the reason for the development in the legislation / rules, and, where possible, the results achieved in practice (e.g., reducing the time required to decide cases).

- No  
 Yes, please specify:

On July 20, 2016 the Turkish legal system entered into a new period as the Regional Courts of Justice (RCJ) have started to function. The new system will replace the singular appellate review system in Turkey, based on the review of the Court of Cassation (CoA), with a two-tier appellate review system where the RCJs will work as intermediate appellate courts. In this new system, RCJs will have jurisdiction to retry the cases heard by the original trial court as a court of first instance (CFI).

With the introduction of this new system, the workload of the CoA will definitely decrease and the RCJs and the CoA will work with greater efficiency thanks to the division of jurisdiction between them. In this regard, it will shorten proceedings.

1.2 Please provide a brief summary of any significant decisions concerning the interpretation and application of the 1980 Convention rendered since the 2011 / 2012 Special Commission by the relevant authorities<sup>3</sup> in your State including in the context of the 20 November 1989 United Nations Convention on the Rights of the Child and relevant regional instruments.

With its decision under the docket number 2014/108 the 6th Family Court of İstanbul

<sup>1</sup> The term "State" in this Questionnaire includes a territorial unit, where relevant.

<sup>2</sup> This Part of the Questionnaire is intended to deal primarily with the developments in law and practice relating to international child abduction and international child protection which have occurred in your State since the Sixth 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 *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* (1-10 June 2011 and 25-31 January 2012) (hereinafter "the 2011 / 2012 Special Commission"). However, if there are important matters which you consider should be raised from *prior* to the 2011 / 2012 Special Commission, please provide such information here.

<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 1980 Convention. Whilst in the majority of States Parties such "authorities" will be courts (*i.e.*, judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

rejected the application for return of the child to the UK referring to the article 12 of the 1989 United Nation Convention on the Rights of the Child. At the hearing dated June 10th, 2014 ten years old child stated that her mother and her step-father mistreated her and she was beaten by them. She also implied that she didn't want to return to London

Once again with its decision dated September 19th, 2013, the 2th Family Court of Eskişehir under the docket number 2013/435 declined the return of the children. On that mentioned decision the court also refer to article 12 of the 1989 United Nation Convention on the Rights of the Child.

1.3 Please provide a brief summary of any other significant developments in your State since the 2011 / 2012 Special Commission relating to international child abduction.

Turkey became party to the CONVENTION ON JURISDICTION, APPLICABLE LAW, RECOGNITION, ENFORCEMENT AND CO-OPERATION IN RESPECT OF PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF CHILDREN (1996 Hague Convention) which came into force on February 1st, 2017.

## 2. Issues of compliance

2.1 Are there any States Parties to the 1980 Convention with whom you are having particular challenges in achieving successful co-operation? Please specify the challenges you have encountered and, in particular, whether the problems appear to be systemic.

- No  
 Yes, please specify:  
 Please insert text here

Although the central authorities shall use the most expeditious procedures available in the implementation of the 1980 Convention, we face difficulties in communication with Moldavian Central Authority. In some cases, we have not received any reply to our letters for a long time. Therefore, we have had to use diplomatic channels in order to get information about the outcome of our requests. In general we are not able receive replies from the Moldavian Central Authority to our e-mails. Therefore, we assume that the mentioned Central Authority prefer to use regular mail instead of e-mail or fax in communication. We also have challenges in cooperation with the mentioned Authority. We have experienced that Moldavia has not aligned its legislation with the 1980 Convention.

We also face communication difficulties with Belarus Central Authority in particular in the case which we are acting as the Requesting State. In one case, we have not received any reply to our letters for a long time although we have reminded them repeatedly to the Belarus Central Authority. As we have not received any response to our letters for a long time, we have had to use diplomatic channels in order to get information about the outcome of our requests. However, on another case which the Belarus Central Authority was the Requesting and Turkey was the Requested State, we experienced that Belarus Central Authority successfully and promptly communicated with our Central Authority.

Another challenge with Belarus Central Authority regarding achieving successful co-operation is related with the implementation of the Convention. This challenge was arisen at the same case which we acted as the Requesting State. In this case which the left behind parent requested for the return of the child to Turkey, the Belarus Central Authority has informed our Central Authority that the application had been evaluated by a Belarus Court. Then, we received a document enclosed a letter of Belarus Central Authority in Russian (or Belarus) language with the application documents. And the Central Authority informed us at the same letter that "proceeding for protection of the return of the children is out of the competence of Belarus Ministry of Justice" and "according to the legislation of Republic of Belarus, the questions of residence of the children are decided only by court in action proceedings".

With regard to the above mentioned letter of Belarus Central Authority, we ask to provide us brief information about the document written in Russian but we could not get any response to our this request. We also reminded the responsibilities of the Central Authorities regulated under article 7 of the 1980 Hague Convention and ask for the cooperation again for taking necessary steps as soon as possible about the return application.

Then the left behind parent sent return applications two times more via our

Central Authority. But, the Belarus Central Authority sent back the application documents with the same reason: "The application had been evaluated by Court of Borikovskiy District of Minskiy Region. In order to evaluate the situation about the settlement of the child, an independent law suit should be filed in Belarus Courts."

At last, we learned from the left behind parent that the taking parent filed a law suit in Belarus for determining the residence of the child. In this context, we asked for the subject and outcomes of the case. It was understood from the response of the Belarus Central Authority that although the mentioned case was not filed by the taking parent under 1980 Hague Convention, the Belarus Court considered some of the articles of the 1980 Hague Convention. We asked for the clarification on this matter and also some points which we consider that Belarus Court wrongfully interpreted. However, we also have not received any response on this matter.

Lastly after the return decision of the Turkish Court, the mother complied with the decision and handed over the child to the father in the US. During return proceedings our Central Authority worked in cooperation with the US Central Authority and the Turkish judicial authorities acted promptly in accordance with the Hague Convention. However since the arrival of the child to the US, the mother could not be able to see her child again.

Therefore the mother applied for exercise of rights of access to the minor, we submitted an application to the Central Authority of US on February 2012. After ten months passed a pro-bono lawyer agreed to take the applicant mother's Hague Convention access case and the first hearing of the case was held on December 14th, 2013. So, it took 1,5 year from the application date to the first hearing date.

During this process, by our letter dated September 6th, 2013, we referred to article 11/2 of the Hague Convention, and requested from US Central Authority to contact with the Court and asked them whether they can set an earlier hearing date for this case because of the expeditious character of these proceedings.

However, the mother couldn't exercise her access rights due to lengthy of legal proceedings, which have already taken more than 5 years and have not been completed yet by the US Courts. Undoubtedly, this situation gives irrevocable harms against the best interests of the child as he could not contact with his mother.

2.2 Are you aware of situations / circumstances in which there has been avoidance / evasion of the 1980 Convention?

- No  
 Yes, please specify:  
 Please insert text here

## PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION

### 3. The role and functions of Central Authorities designated under the 1980 Convention<sup>4</sup>

*In general*

3.1 Have any challenges arisen in practice in achieving effective communication or co-operation with other Central Authorities?

- No  
 Yes, please specify:

We face difficulties in communication with Moldavian Central Authority. In some cases, we have not received any reply to our letters for a long time. Therefore, we have had to use diplomatic channels in order to get information about the outcome of our requests. In general we are not able receive replies from the Moldavian Central Authority to our e-mails. Therefore, we assume that the mentioned Central Authority prefer to use regular mail instead of e-mail or fax in communication.

We also face communication difficulties with Belarus Central Authority in

<sup>4</sup> See also Section 5 below on "Ensuring the safe return of children" which involves the role and functions of Central Authorities.

particular in the case which we are acting as the Requesting State. We have stated these communication challenges under the question 2.1

3.2 Have any of the duties of Central Authorities, as set out in **Article 7** of the 1980 Convention, raised any particular problems in practice either in your State, or in States Parties with whom you have co-operated?

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

3.3 Has your Central Authority encountered any challenges with the application of any of the 1980 Convention provisions? If so, please specify.

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

#### *Legal aid and representation*

3.4 Do the measures your Central Authority takes to provide or facilitate the provision of legal aid, legal advice and representation in return proceedings under the 1980 Convention (**Art. 7(2)-(g)**) result in delays in proceedings either in your own State, or, where cases originate in your State, in any of the requested States you have dealt with?

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

3.5 Are you aware of any other challenges in your State, or, where cases originate in your State, in any of the requested States you have dealt with, regarding the obtaining of legal aid, advice and / or representation for either left-behind parents or taking parents?<sup>5</sup>

- No  
 Yes, please specify:

[The obtaining of legal aid, advice and representation for left-behind parents from the US, the Netherlands and Germany is very challenging due to their complicated and long proceedings. Therefore in many cases the process of obtaining legal aid, advice and representation are not finalized.](#)

#### *Locating the child*

3.6 Has your Central Authority encountered any challenges with locating children in cases involving the 1980 Convention, either as a requesting or requested State?

- No  
 Yes, please specify the challenges encountered and what steps were taken or are considered to be taken to overcome these challenges:

[According to the article 7 \(a\) of the Convention Central Authorities are obliged to take appropriate steps to help locate the child. On the other hand, the requesting central authority has an obligation to provide all relevant information concerning the child. The requesting central authority is reliant on the applicant to provide the information.](#)

[ID or passport numbers of the abductor parent and the child are vital important in order to check the border records to find out whether the child has entered the country.](#)

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<sup>5</sup> See paras 1.1.4 to 1.1.6 of the "Conclusions and Recommendations of 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) (hereinafter referred to as the "[Conclusions and Recommendations of the 2006 Special Commission](#)") and paragraphs 32 to 34 of the [Conclusions and Recommendations of the Special Commission to review the operation of the Hague Convention of 19 October 1980 on Jurisdiction, Applicable law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children \(1-10 June 2011 and 25-31 January 2012\)](#) (hereinafter the "C&R of the 2011/2012 Special Commission") (available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Special Commission meetings").

Information about the location of the child, especially where and with whom the child is living or possibly hiding is also required to locate the child. If it is not possible for the applicant to provide the required information, locating the abducted child may take a considerable time.

3.7 Has your Central Authority worked with any external agencies to discover the whereabouts of a child wrongfully removed to or retained within your State (e.g., the police, Interpol, private location services)?

- No  
 Yes, please share any good practice on this matter:

When the Public Prosecution Office receives the return documents from the Central Authority, it initiates the procedures in order to locate the child via the assistance of the law enforcement agencies. In case of difficulty in locating the child, our central authority acts in coordination with the Ministry of Interior.

#### *Information exchange, training and networking of Central Authorities*

3.8 Has your Central Authority shared its expertise with another Central Authority or benefited from another Central Authority sharing its expertise with your Central Authority, in accordance with the Guide to Good Practice – Part I on Central Authority Practice?<sup>6</sup>

- No  
 Yes, please specify:

The Turkish Central Authority organized a two-day TAIEX seminar on 22-23 February 2013 on the 1980 Hague Convention on Child Abduction and Its Application. This seminar has brought the experts of the Turkish Central Authority, academicians, lawyers and judges of Turkey with Hague Conference experts, foreign academicians, a judge from Court of Appeal in Berlin as well as experts from German Central Authority. Presentations made in the Seminar has been published as a booklet, disseminated to the relevant public institutions and made available on line on our website.

On the other hand, the Turkish Central Authority conducted a study visit in Germany on 1-4 July 2013, in order to benefit from the experiences of the German Central Authority in the implementation of the 1980 Hague Convention. This visit has provided the opportunity to exchange knowledge and experience as well as to enhance the cooperation between our central authorities.

3.9 Has your Central Authority organised or participated in any other networking initiatives between Central Authorities such as regional meetings via conference call or videoconference?

- No  
 Yes, please specify:  
 Please insert text here

#### *Statistics<sup>7</sup>*

3.10 If your Central Authority does not submit statistics through the web-based INCASTAT database, please explain why.

Please insert text here

We provide the statistics through INCASTAT.

#### *Prompt handling of cases*

<sup>6</sup> Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice". See, in particular, Chapter 6.5 on twinning arrangements.

<sup>7</sup> See paras 1.1.16 to 1.1.21 of the Conclusions and Recommendations of the 2006 Special Commission (*supra*. note 5).

3.11 Does your Central Authority have mechanisms in place to ensure the prompt handling of cases?

- No  
 Yes, please specify:

The regulation stated in the article 9 of the Law on Civil Aspects and Scope of International Child Abduction" numbered 5717 is as follows:

Judicial Proceedings

(1) On the day of the trial, parties are notified of the court case.

(2) All the law suits and proceedings related the implementation of this Law shall be handled promptly and with priority.

3.12 If your Central Authority is experiencing delays in handling cases please specify the main reasons for these delays:

As a Central Authority, we act promptly for handling applications under 1980 Hague Convention. So, we do not experience any delays.

#### 4. **Court proceedings & promptness**

4.1 Has your State limited the number of judicial or administrative authorities who can hear return applications under the 1980 Convention (*i.e.*, concentration of jurisdiction")?<sup>8</sup>

- Yes  
 No, please indicate if such arrangements are being contemplated:

In Turkey there is no concentration of jurisdiction. However, according to the Law on the Establishment, Tasks and Procedures of Family Courts (came into force on January 18, 2003) family courts are competent to decide matters related to family law. Family courts have been established as first instance courts with a single judge to take protective, educational and social measures for families including financial protection of the family. Establishment of family courts is an important step in the implementation of the 1980 Child Abduction Convention, as it expedites the judicial proceedings.

4.2 Does your State have mechanisms in place to handle return decisions within six weeks (*e.g.*, production of summary evidence, limitation of appeals, swift enforcement)?

- No  
 Yes, please explain:  
 Please insert text here

4.3 If your response to the previous question is No, does your State contemplate implementing mechanisms to meet the requirement of prompt return under the 1980 Convention (*e.g.*, procedures, bench-books, guidelines, protocols)?

- No, please explain:  
 Please insert text here

As it was explained under the question 1.1, on July 20, 2016 the Turkish legal system entered into a new period as the Regional Courts of Justice (RCJ) have started to function. The new system will replace the singular appellate review system in Turkey, based on the review of the Court of Cassation, with a two-tier appellate review system where the RCJs will work as intermediate appellate courts.

With the introduction of this new system, the workload of the CoA will definitely decrease and the RCJs and the CoA will work with greater efficiency thanks to the division of jurisdiction between them. In this regard, as it will shorten proceedings, it also supports to meet the requirement of the prompt return under the 1980 Convention.

- Yes, please explain:  
 Please insert text here

<sup>8</sup> See, *The Judges' Newsletter* on International Child Protection – [Vol. XX / Summer-Autumn 2013](#) the special focus of which was "Concentration of jurisdiction under the *Hague Convention of 25 October 1980 on the civil aspects of International Child Abduction* and other international child protection instruments".

4.4 If your State is experiencing delays in handling return decisions please specify the main reasons for these delays:

The workload of the first instance courts and Court of Cassation sometimes causes delays in handling the returns decisions.

4.5 Do your courts regularly order immediate protective measures when initiating the return procedure, so as to prevent a new removal and minimize the harm to the child (e.g., prohibit removal of the child from the jurisdiction, retain documentation, grant provisional access rights to the left-behind parent)?

- No, please explain:  
Please insert text here
- Yes, please explain:

Article 24 of the Law numbered 5717 on The Legal Aspects and Scope of International Child Abduction is as follows;

"Not Changing the Place of the Child

Article 24: (1) Until the decision regarding the return of the child and access rights is finalized, upon a request or upon its own initiative, the court can make one or more of the below decisions, as a provisional protection measure, in order to track the place of residence of the child:

- a) to stop the child from leaving the country temporarily .
- b) to stop the issuance or renewal of a passport to the child.
- c) to stop the procedure of changing or moving the school, registration or local records of the child.
- d) to confiscate the passport and identification records of the child while the lawsuit is in process.
- e) to check the child's welfare and whereabouts by the entitled authorities at the times allocated.
- f) to take all other necessary measures related to this issue."

In this context, in practice the Courts usually decide one or more provisional protective measures written on the above written article at the beginning of the case. While deciding one of these measures, the Courts consider the concrete conditions of each case.

4.6 Do your courts make use of direct judicial communications to ensure prompt proceedings?

- Yes
- No, please explain:

4.7 If your State has not designated a sitting judge to the International Hague Network of Judges does your State intend to do so in the near future?

- Yes
- No, please explain:  
Please insert text here

4.8 Please comment upon any cases (whether your State was the requesting or requested State), in which the judge (or decision-maker) has, before determining an application for return, communicated with a judge or other authority in the requesting State regarding the issue of the child's safe return. What was the specific purpose of the communication? What was the outcome?

We have not faced with such a case while we are acting as the Requesting or Requested State.

## 5. **Ensuring the safe return of children**<sup>9</sup>

*Methods for ensuring the safe return of children*<sup>10</sup>

5.1 What measures has your Central Authority taken to ensure that the recommendations of the 2006 and 2011 / 2012 Special Commission meetings<sup>11</sup> regarding the safe return of children are implemented?

The regulation stated in the article 24 of The "Law on Civil Aspects and Scope of International Child Abduction" numbered 5717

Not Changing the Place of the Child

Article 24:

(1) Until the decision regarding the return of the child and access rights is finalized, upon a request or upon its own initiative, the court can make one or more of the below decisions, as a provisional protection measure, in order to track the place of residence of the child:

a) to stop the child from leaving the country temporarily .

b) to stop the issuance or renewal of a passport to the child.

c) to stop the procedure of changing or moving the school, registration or local records of the child.

d) to confiscate the passport and identification records of the child while the lawsuit is in process.

e) to check the child's welfare and whereabouts by the entitled authorities at the times allocated.

f) to take all other necessary measures related to this issue

5.2 In particular, in a case where the safety of a child is in issue and where a return order has been made in your State, how does your Central Authority ensure that the appropriate child protection bodies in the *requesting* State are alerted so that they may act to protect the welfare of a child upon return (until the appropriate court in the requesting State has been effectively seised)?

In these cases, not only the Central Authorities of the Requested States, but also the Requesting States shall take necessary steps to ensure the safe return and safety of the child. In this context, our Central Authority contacts with the Central Authority of the Requesting State and ask for the options determined on their legal system for granting the safety of the child after return. Then requests from the Central Authority of the Requesting State to take necessary steps in the Requesting State to ensure the safety and safe return of the child. When we receive the information about these steps for the safety of the child, then we proceed with the return of the child.

5.3 Where there are concerns in the requested State regarding possible risks for a child following a return, what conditions or requirements can the relevant authority in your State put in place to minimise or eliminate those concerns?

There are various protective measures in our Child Protection Law numbered 5395. Our relevant authorities may apply to the Courts for these measures when there are concerns with regard to the safety of the child subject to the return.

*Use of the 1996 Convention to ensure a safe return*

5.4 If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**), in providing for their recognition by operation of law (**Art. 23**), and in communicating information relevant to the protection of the child (**Art. 34**)?

<sup>9</sup> See **Art. 7(2) h** of the 1980 Convention.

<sup>10</sup> Where relevant, please make reference to the use of undertakings, mirror orders and safe harbour orders and other such measures in your State.

<sup>11</sup> See the [Conclusions and Recommendations](#) of the Special Commission of 2006 (*supra.* note 5) at paras 1.1.12 and 1.8.1 to 1.8.2 and 1.8.4 to 1.8.5 and the Appendix to the Conclusions and Recommendations and the Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra.* note 5).at paras 39-43.



- No  
 Yes, please explain:  
 Please insert text here

#### *Protection of primary carer*

5.5 Are you aware of cases in your State where a primary carer taking parent, for reasons of personal security (e.g., domestic or family violence, intimidation, harassment, etc.) or others, has refused or has not been in a position to return with the child to the requesting State? How are such cases dealt with in your State? Please explain and provide case examples where possible.

Some of the cases in Turkey, the taking parent refuses to return the Requesting State with the child and claims that s/he will face with domestic or family violence.

In such cases Turkish Courts take into consideration the best interest of the child.

The Court requests information from the Central Authority of the Requesting State via our Central Authority about the claims of the taking parent. After receiving the information, the Court provides expert evidence in order to find out the best interest of the child.

The expert evidence, including social expert report and psychological report for the child, focuses several facts such as the social background of the child, comparative analysis of the psychological and physical conditions of the child in both States, the dependence of the child to the taking parent (or the left behind parent or both).

Also if the child has attained an age and degree of maturity at which it is appropriate to take account of its views, the Court would also prefer to hear the child before deciding to return or non-return.

5.6 In particular, would your authorities consider putting in place measures to protect the primary carer upon return in the requesting State as a mean to secure the safe return of the child? Please explain and provide case examples where possible.

When the taking parent claimed that s/he removed with her or his child from the Requesting State due to the fact that s/he has faced with domestic or family violence etc., our authorities would research whether the taking parent has applied to all possible measures in the Requesting State to be protected.

When it is found that all possible measures for the protection have not been taken before the removal with the child from the Requesting State, it is possible for our authorities to ask from Requesting State authorities to take measures for protection of the taking parent while ordering for the return.

#### *Post-return information*

5.7 In cases where measures are put in place in your State to ensure the safety of a child upon return, does your State (through the Central Authority, or otherwise) attempt to monitor the effectiveness of those measures upon the child's return? Would you support a recommendation that States Parties should co-operate to provide each other with follow-up information on such matters, insofar as is possible?

Our Central Authority may ask to the foreign relevant authorities for the current status of the measures and safety of the child.

We would support a recommendation that States parties should co-operate to provide each other with follow-up information on such matter, insofar as is possible.

5.8 If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for requesting a report on the situation of the child upon return to the State of habitual residence (**Art. 32-(a)**)?

- No  
 Yes, please explain:  
 Please insert text here

## **6. Voluntary agreements and mediation**

6.1 How does your Central Authority (either directly or through any intermediary) take, or is it considering taking, appropriate steps under **Article 7-(c)** to secure the voluntary return of the child or to bring about an amicable resolution of the issues? Please explain:

When the local authority receives the application form and the other return documents it initiates the procedures in order to locate the child. After that, the local authority take the statement of the respondent and ask her/him if she or he has an reconciliation proposal to make an amicable solution or not. If the respondent does not accept voluntary return of the minor therefore, we ask to the requested Authority to contact the applicant and inform us about his counter declarations to the statement of the respondent and let us know how to proceed with the case.

6.2 In what ways have you used the "Guide to Good Practice on Mediation"<sup>12</sup> for the purpose of implementing the 1980 Convention in your State? Please explain:

Within the context of the project on "The Development of Mediation Practices in Civil Disputes in Turkey" funded by the Swedish International Development Cooperation Agency (SIDA) and the Republic of Turkey, "Guide the Good Practice on Mediation" has been translated into Turkish. The Turkish translation has been sent to the Turkish Ministry of Foreign Affairs in order to be submitted to the Hague Conference on Private International Law through diplomatic channel.

6.3 Has your State considered or is it in the process of considering the establishment of a Central Contact Point for international family mediation to facilitate access to information on available mediation services and related issues for cross-border family disputes involving children, or has this task been entrusted to the Central Authority?<sup>13</sup>

- No, please explain:  
Please insert text here
- Yes, please explain:  
Please insert text here

## 7. Preventive measures

7.1 Has your State taken steps to advance the development of a travel form under the auspices of the International Civil Aviation Organisation?<sup>14</sup>

- No
- Yes, please describe:  
Please insert text here

7.2 Regardless of whether the International Civil Aviation Organisation adds the development of a travel form to its work programme, would your State support the development of a non-mandatory model travel form under the auspices of the Hague Conference?

- Yes
- No, please explain:  
Please insert text here

## 8. The Guide to Good Practice under the 1980 Convention

8.1 In what ways have you used the Parts of the Guide to Good Practice<sup>15</sup> to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State?

- a. Part I on Central Authority Practice. Please explain:

<sup>12</sup> Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

<sup>13</sup> As it has been encouraged in the Guide to Good Practice on Mediation, Chapter 4, on "Access to Mediation". par. 114-117. See also Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra*. note 5) at par. 61.

<sup>14</sup> See the Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra*. note 5) at par. 92.

<sup>15</sup> All Parts of the Guide to Good Practice under the 1980 Convention are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

We are using this Part of Guide to Good Practice as a consultation and supporting document. This Guide helps us to check whether we are acting in the direction of international standards.

- b. Part II on Implementing Measures. Please explain:

We have used this Part of Guide to Good Practice to monitor our legal system and review our own practices by considering the standards mentioned on the Guide.

- c. Part III on Preventive Measures. Please explain:

We have used this Part of Guide to Good Practice to monitor our legal system and review our own practices by considering the standards mentioned on the Guide.

- d. Part IV on Enforcement. Please explain:

This Part of the Guide particularly helps us to find solution ways when we and/or our judicial authorities face with the problems regarding the safe return.

8.2 How have you ensured that the relevant authorities in your State have been made aware of, and have had access to, the Guide to Good Practice?

Please insert text here

Our Central Authority refers to Hague Conference web site on its own web site. Furthermore, our Circular on Judicial Scope and Interpretation of International Child Abduction handles the issues with the same direction of the Guide to Good Practice. Finally, while we are sending informative letters to the relevant authorities with regard to implementation of the 1980 Hague Convention, we refer to the Guide to Good Practice.

8.3 Do you have any other comments about any Part of the Guide to Good Practice?

No, we have no comments.

## **9. Publicity and debate concerning the 1980 Convention**

9.1 Has the 1980 Convention given rise to (a) any publicity (positive or negative) in your State, or (b) any debate or discussion in your national parliament or its equivalent?

No

Yes, please indicate the outcome of this debate or discussion, if any:

Please insert text here

9.2 By what methods does your State disseminate information to the public about the 1980 Convention?

The Turkish Central Authority has its own website "www.uhdigm.adalet.gov.tr" which is open to public. On this website, people can get brief information regarding the implementation of the 1980 Hague Convention and access to the text of the Convention, the Circular issued by the Ministry of Justice on the implementation of the Convention, list of state parties, application form and power of attorney.

<b>PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION</b>
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## **10. Transfrontier access / contact<sup>16</sup>**

<sup>16</sup> See the [Conclusions and Recommendations](#) of the 2006 Special Commission (*supra*. note 5) at paras 1.7.1 to 1.7.3.

10.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding Central Authority practices, legislation, procedural rules or case law applicable in cases of transfrontier contact / access?

- No  
 Yes, please explain:  
 Please insert text here

10.2 Please indicate any important developments in your State, since the 2011 / 2012 Special Commission, in the interpretation of **Article 21** of the 1980 Convention.

We have not any important developments on this matter since the 2011/2012 Special Commission.

10.3 What problems have you experienced, if any, as regards co-operation with other States in respect of:

- a. the granting or maintaining of access rights;

The access right should not be limited with vis a vis communication. Sometimes, Requested States rejects the access requests due to the fact that the child does not intend to meet with his or her parent (applicant). In this situation, the applicant usually claims that the parent who the child lives with impresses the child. Therefore, the divergency between the parents becomes evident, and reaching to an agreement becomes impossible.

Therefore, in order to granting the best interest of the child, the authorities of the Requested State should consider other options for access such as telephone, video call, social media tools etc.

We face with the similar problems that we encounter as the Requesting State for return of the child such as lengthy of proceedings, difficulty of obtaining legal aid and representation in the Requested State.

- b. the effective exercise of rights of access; and

Regarding the applications for organizing or securing the effective exercise of right of access, the applicants may experience difficulty in obtaining an entrance visa. In fact, in some cases it is not possible for the applicant parent to have contact with his/her child in the Requested State. The mentioned problem violates not only the rights of the child but also the applicant parent.

- c. the restriction or termination of access rights.

Please provide case examples where possible.

10.4 In what ways have you used the "General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children"<sup>17</sup> to assist in transfrontier contact / access cases in your State? Can you suggest any further principles of good practice?

As a Central Authority, we take into considerations the Good Practice on Guidance while informing the parents about the necessities for an access application under 1980 Hague Convention.

On the other hand, on our informative documents or letters, we intend to inform the competent local authorities on transfrontier access about the principle stressed on the Guide as "Legal restrictions on contact between parents and children should be no more than are necessary to protect the interests of the child."

Furthermore, we take into attention to the parents and the local authorities for the importance of the agreement or agreed somutions between parents on transfrontier access.

Finally, our Central Authority recognizes and gives importance to the special functions of the Central Authorities on transfrontier contact issued on the Guide.

## 11. International family relocation<sup>18</sup>

<sup>17</sup> Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

11.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding the legislation, procedural rules or case law applicable to international family relocation? Where possible, please explain these developments in the legislation, procedural rules or case law:

[Please insert text here](#)

<b>PART V: NON-CONVENTION CASES AND NON-CONVENTION STATES</b>
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## **12. Non-Convention cases and non-Convention States**

12.1 Are there any States that you would particularly like to see become a State Party to the 1980 Convention? If so, what steps would you suggest could be taken to promote the Convention and encourage ratification of, or accession to, the Convention in those States? Please explain:

[Please insert text here](#)

12.2 Are there any States which are not Parties to the 1980 Convention or not Members of the Hague Conference that you would like to see invited to the Special Commission meeting in 2017?

[Please insert text here](#)

*The "Malta Process"*<sup>19</sup>

12.2 In relation to the "Malta Process":

- a. Do you have any comment to make on the "Principles for the Establishment of Mediation Structures in the context of the Malta Process" and the accompanying Explanatory Memorandum?<sup>20</sup>

[Please insert text here](#)

- b. Have any steps been taken towards the implementation of the Malta Principles in your State and the designation of a Central Contact Point, in order to better address cross-border family disputes over children involving States that are not a Party to the 1980 and 1996 Hague Conventions?

No

Yes, please explain:

[Please insert text here](#)

- c. What is your view as to the future of the "Malta Process"?

[Please insert text here](#)

<sup>18</sup> See the Conclusions and Recommendations of the 2006 Special Commission meeting at paras 1.7.4 to 1.7.5: "1.7.4 The Special Commission concludes that parents, before they move with their children from one country to another, should be encouraged not to take unilateral action by unlawfully removing a child but to make appropriate arrangements for access and contact preferably by agreement, particularly where one parent intends to remain behind after the move.

1.7.5 The Special Commission encourages all attempts to seek to resolve differences among the legal systems so as to arrive as far as possible at a common approach and common standards as regards relocation."

<sup>19</sup> The "Malta Process" is a dialogue between certain States Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and addressing the problems posed by international abduction between the States concerned. For further information see the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

<sup>20</sup> The Principles and Explanatory Memorandum were circulated to all Hague Conference Member States and all States participating in the Malta Process in November 2010. They are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

**PART VI: TRAINING AND EDUCATION AND  
THE TOOLS, SERVICES AND SUPPORT PROVIDED  
BY THE PERMANENT BUREAU**

**13. Training and education**

13.1 Can you give details of any training sessions / conferences organised in your State to support the effective functioning of the 1980 Convention, and the influence that such sessions / conferences have had?

The Turkish Central Authority organized a two-day TAIEX seminar on 22-23 February 2013 on the 1980 Hague Convention on Child Abduction and Its Application. This seminar has brought the experts of the Turkish Central Authority, academicians, lawyers and judges of Turkey with Hague Conference experts, foreign academicians, a judge from Court of Appeal in Berlin as well as experts from German Central Authority. Presentations made in the Seminar has been published as a booklet, disseminated to the relevant public institutions and made available on-line on our website.

On the other hand, the Turkish Central Authority conducted a study visit in Germany on 1-4 July 2013, in order to benefit from the experiences of the German Central Authority in the implementation of the 1980 Hague Convention. This visit has provided the opportunity to exchange knowledge and experience as well as to enhance the cooperation between our central authorities.

Furthermore, the Turkish Central Authority organized a seminar on February 11, 2016 on the implementation of the 1980 Hague Convention on Child Abduction with the participation of the experts from the Central Authority and other public institutions. In these seminar participants have discussed the implementation of the Convention in Turkey and challenges faced with a view to find better solutions.

**14. The tools, services and support provided by the Permanent Bureau**

*In general*

14.1 Please comment or state your reflections on the specific tools, services and support provided by the Permanent Bureau to assist with the practical operation of the 1980 and 1996 Conventions, including:

- a. The Country Profile available under the Child Abduction Section.

The implementation of mentioned Hague Conventions differs from country to country. Besides most of the parties also have domestic laws. Therefore country profiles provide opportunity to have knowledge about countries implementation and their law system.

- b. INCADAT (the international child abduction database, available at < [www.incadat.com](http://www.incadat.com) >).

It provides opportunity to observe the practical operation of the Convention.

- c. *The Judges' Newsletter* on International Child Protection - the publication of the Hague Conference on Private International Law which is available online for free;<sup>21</sup>

It is beneficial to exchange information.

- d. The specialised "Child Abduction Section" of the Hague Conference website (< [www.hcch.net](http://www.hcch.net) >);

It is essential for gaining information about the operation of the 1980 Hague Convention.

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<sup>21</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" and "Judges' Newsletter on International Child Protection". For some volumes of *The Judges' Newsletter*, it is possible to download individual articles as required.

- e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);<sup>22</sup>

It presents a possibility to the States to monitor the actions and effectiveness for the implementation of the Conventions, and compare the results of the statistics of other State with your implementation.

- f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.<sup>23</sup> Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;

It is also a fruitful application for the experts of the States Parties which provides opportunity to share their experiences and good practices. It may also serve to improve the communication between the experts.

- g. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);<sup>24</sup>

It would facilitate to ensure the integrity (unity) between the States, and develop and widen the standards for the implementation and enforcement international child abduction matters.

- h. Supporting communications between Central Authorities, including maintaining their contact details updated on the HCCH website;

It would provide successful and prompt communication between States Parties. Therefore, the implementation of the Conventions and the international protection of the children would be more effective in the States.

- i. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges

It would facilitate communications and co-operation between judges at the international level on international child abduction matters and would assist in ensuring the effective operation of the 1980 Hague Convention.

#### *Other*

#### 14.2 What other measures or mechanisms would you recommend:

- a. To improve the monitoring of the operation of the Conventions;  
Please insert text here
- b. To assist States in meeting their Convention obligations; and  
Please insert text here
- c. To evaluate whether serious violations of Convention obligations have occurred?  
Please insert text here

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<sup>22</sup> Further information is available via the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "INCASTAT".

<sup>23</sup> Such technical assistance may be provided to judges, Central Authority personnel and / or other professionals involved with the practical operation of the Convention(s).

<sup>24</sup> Which again may involve State delegates and others visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences.

<b>PART VII: PRIORITIES AND RECOMMENDATIONS FOR THE SPECIAL COMMISSION AND ANY OTHER MATTERS</b>
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**15. Views on priorities and recommendations for the Special Commission**

15.1 Which matters does your State think ought to be accorded particular priority on the agenda for the Special Commission? Please provide a brief explanation supporting your response.

The Special Commission ought to deal with the strict visa regime implemented in some States, which prevents the applicant parents to exercise rights of access in the Requested State. In some return cases, this regime also prevents the abductor parent to return to the Requested State with the child. Furthermore, in some return cases, because of this regime applicants are not able to attend the court hearings in the Requested State, which we consider as a violation of right to a fair trial.

15.2 States are invited to make proposals concerning any particular recommendations they think ought to be made by the Special Commission.

[Please insert text here](#)

**16. Any other matters**

16.1 States are invited to comment on any other matters which they may wish to raise concerning the practical operation of the 1980 Convention.

[Please insert text here](#)