

THE NETHERLANDS

The applications

1. The number of applications

According to the Central Authority for the Netherlands, they received 26 incoming return and 8 incoming access applications in 1999, making a total of 34 new incoming applications. Additionally, they made 21 outgoing return and 3 outgoing access applications in that year. Altogether, therefore, the Central Authority for the Netherlands handled 58 new applications in 1999.

2. The Contracting States which made the applications

(a) Incoming return applications

Requesting States

	Number of Applications	Percent
UK - England and Wales	5	19
Italy	3	12
Germany	2	8
Portugal	2	8
USA	2	8
Australia	1	4
Canada	1	4
Greece	1	4
Israel	1	4
Slovakia	1	4
Spain	1	4
Switzerland	1	4
Colombia	1	4
Cyprus	1	4
New Zealand	1	4
Poland	1	4
South Africa	1	4
Total	26	100

The largest proportion of applications to the Netherlands came from England and Wales, (19%). One application was recorded as having been made by Slovakia, notwithstanding that it was not a Contracting State to the Convention in 1999.

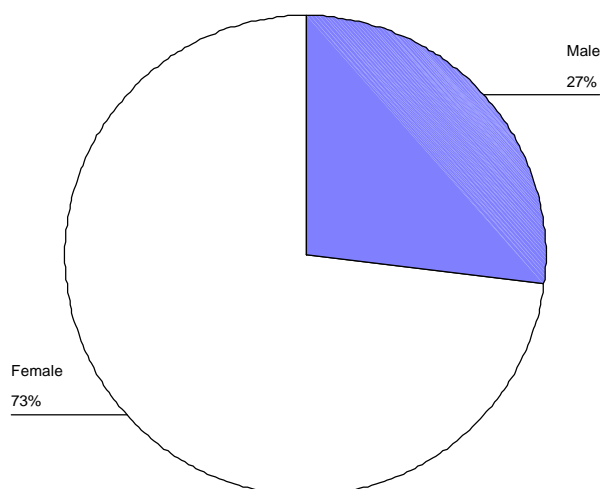
(b) Incoming access applications**Requesting States**

	Number of Applications	Percent
Australia	1	13
Canada	1	13
Finland	1	13
France	1	13
Spain	1	13
USA	1	13
Hungary	1	13
South Africa	1	13
Total	8	100

All 8 access applications were made by different States. None of the Contracting States that made more than one return application made any access applications. The pattern of access applications is therefore quite different to returns.

The taking person / respondent**3. The gender of the taking person / respondent****(a) Incoming return applications****Gender of the Taking Person**

	Number	Percent
Male	7	27
Female	19	73
Total	26	100



The chart and table above show that 73% of taking persons in applications to the Netherlands were female. This is similar to the global norm of 69%.

(b) Incoming access applications

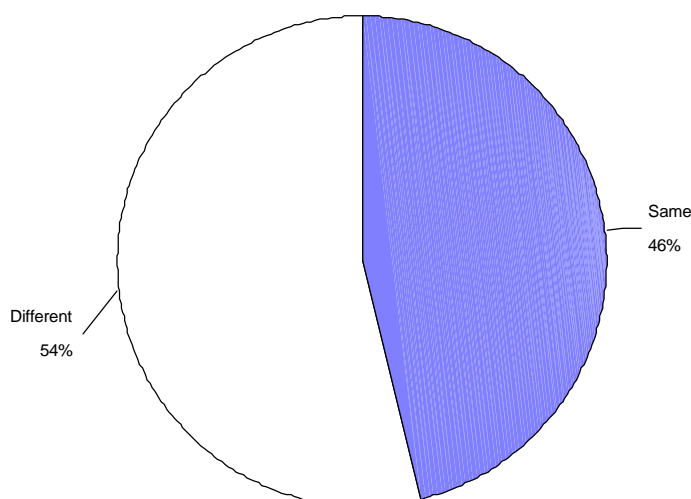
Data on gender was only available in 4 of the 8 applications. In all of these the respondent was female. This differs from the global norm where 86% of applications involved female respondents.

4. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	12	46
Different Nationality	14	54
Total	26	100



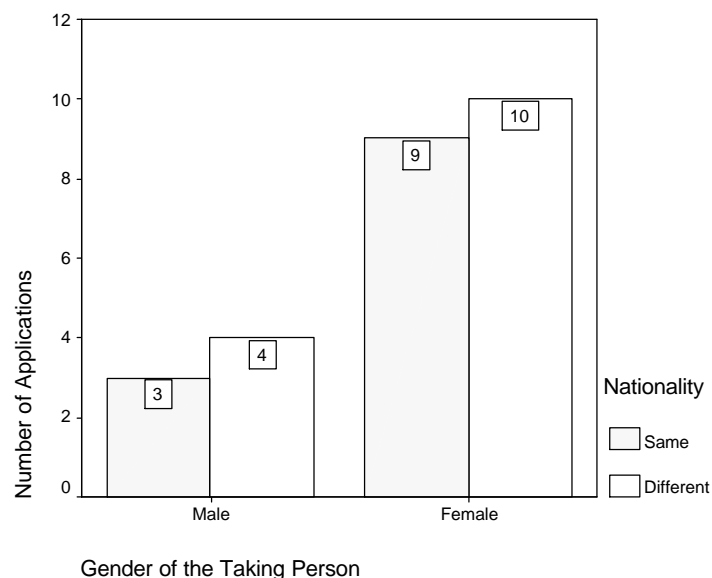
46% of taking persons in applications to the Netherlands had Dutch nationality. This is marginally lower than the global norm of 52% of taking persons having the nationality of the requested State.

(b) Incoming access applications

As with gender, data was only available regarding nationality in 4 of the 8 access applications. Only 1 of these applications involved a respondent who had Dutch nationality. Globally, 40% of respondents had the nationality of the requested State.

5. The gender and nationality of the taking person / respondent combined

(a) Incoming return applications



In applications to the Netherlands, both male and female taking persons were marginally less likely to be nationals of the requested State. This differs from the global pattern where 53% of males and 52% of females had the nationality of the requested State.

The children

6. The total number of children

There were 38 children involved in the 26 return applications and 10 children involved in the 8 access applications. Altogether, therefore, 48 children were involved in new incoming applications received by the Netherlands in 1999.

7. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	15	58
Sibling Group	11	42
Total	26	100

Number of Children

	Number	Percent
1 Child	15	58
2 Children	10	38
3 Children	1	4
Total	26	100

The proportion of single children, (58%) was lower than the global norm of 63%. There was a higher proportion of applications involving 2 children, 38% compared with a global norm of 30%.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	6	75
Sibling Group	2	25
Total	8	100

Number of Children

	Number	Percent
1 Child	6	75
2 Children	2	25
Total	8	100

Globally, 69% of applications for access involved single children. In applications to the Netherlands this proportion was slightly higher at 75%. No application involved more than 2 children.

8. The age of the children

(a) Incoming return applications

Age of the Children

	Number	Percent
0-4 years	13	34
5-9 years	17	45
10-16 years	8	21
Total	38	100

The proportion of children in each of the age categories is similar to the global norms.

(b) Incoming access applications**Age of the Children**

	Number	Percent
0-4 years	1	10
5-9 years	3	30
10-16 years	6	60
Total	10	100

Globally, the highest proportion of children were aged between 5 and 9 years old. In applications to the Netherlands, most children were over 10 years old, 60% as opposed to a global norm of 29%. Only 1 child was under the age of 5 whereas globally, 21% of the children were under 5 years old. In other words, applications to the Netherlands tended to involve older children.

9. The gender of the children**(a) Incoming return applications****Gender of the Children**

	Number	Percent
Male	22	58
Female	16	42
Total	38	100

There were proportionally more male children involved in applications to the Netherlands than the global norm of 53%.

(b) Incoming access applications**Gender of the Children**

	Number	Percent
Male	5	50
Female	5	50
Total	10	100

The proportion of male and female children involved in access applications to the Netherlands was identical to the global norms.

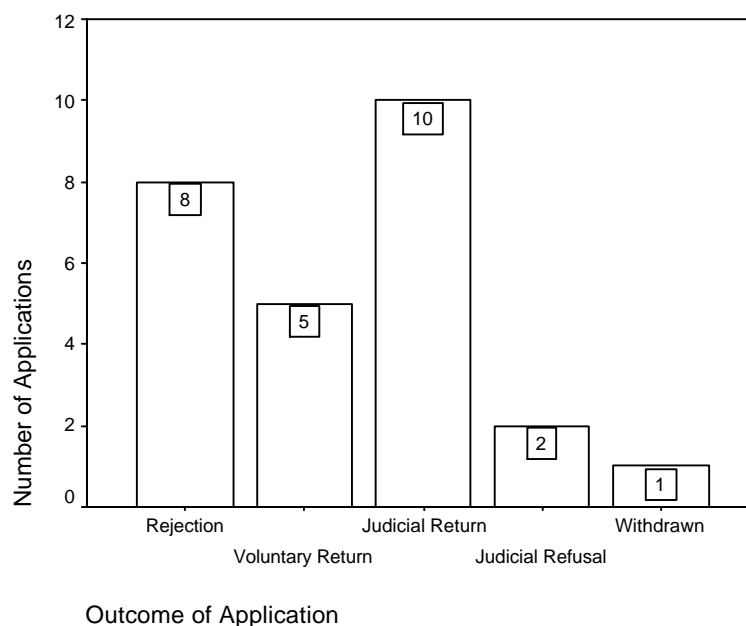
The outcomes

10. Overall outcomes

(a) Incoming return applications

Outcome of Application

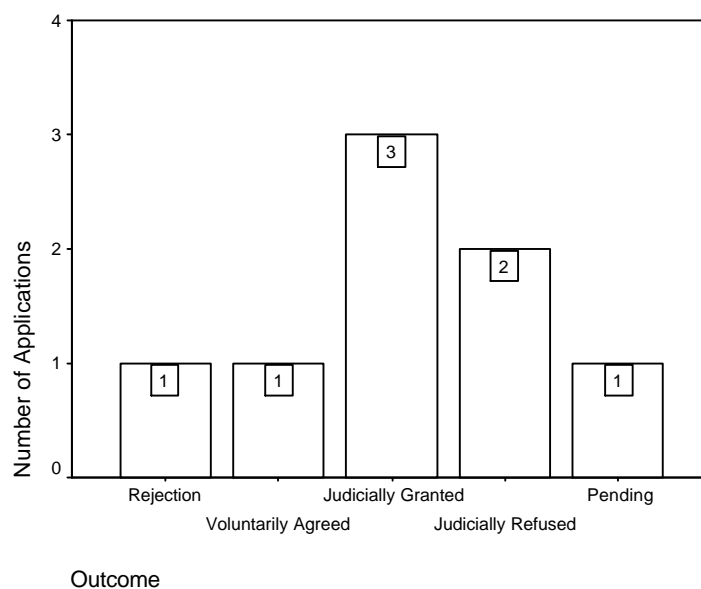
	Number	Percent
Rejection	8	31
Voluntary Return	5	19
Judicial Return	10	38
Judicial Refusal	2	8
Withdrawn	1	4
Pending	0	0
Other	0	0
Total	26	100



Proportionally, there were a high number of rejected applications, 31% as opposed to a global norm of 11%. As against this, there was a low judicial refusal rate, 8% compared with a global norm of 11%. The proportion of both judicial returns and voluntary returns was higher than the global norms, 38% as opposed to 32% and 19% as opposed to 18% respectively. Consequently, a high proportion of applications ended in return, 58% compared with a global norm of 50%. Of the 12 applications that went to court 10 resulted in a judicial order to return the child, which at 83% is higher than the global norm of 74%. Noticeably, there were no pending applications.

(b) Incoming access applications**Outcome of the Application**

	Number	Percent
Rejection by the Central Authority	1	13
Access Voluntarily Agreed	1	13
Access Judicially Granted	3	38
Access Judicially Refused	2	25
Other	0	0
Pending	1	13
Withdrawn	0	0
Total	8	100



Access was either judicially granted or voluntarily granted in 50% of cases, compared with a global norm of 43%. Access was judicially refused in two cases. There was only one case which was rejected and one case which was still pending. This case was still pending at 30th June 2001 and may consequently give pause for thought.

11. The reasons for rejection

(a) Incoming return applications

Reason for Rejection by the Central Authority

	Number	Percent
Child over 16	1	13
Child Located in Another Country	1	13
Child Not Located	4	50
Applicant Had No Rights of Custody	0	0
Other	2	25
More Than One Reason	0	0
Total	8	100

Strikingly, 4 of the 8 rejected applications were categorised as having been rejected because the child was not located. In 1 of these applications it was stated that the child was taken to another country, namely Germany.¹ One of the applications rejected under the 'other' category was because the mother had been sent away by the father in 1997. The other application in this category was rejected because the child was in Belgium.²

(b) Incoming access applications

The rejection in the access application was due to the fact that both parents were in the Netherlands.

12. The reasons for judicial refusal

(a) Incoming return applications

Two applications were judicially refused, one on the basis of Article 13 a consent, the other because of the objections of the sibling children aged between 8 and 12 years old.

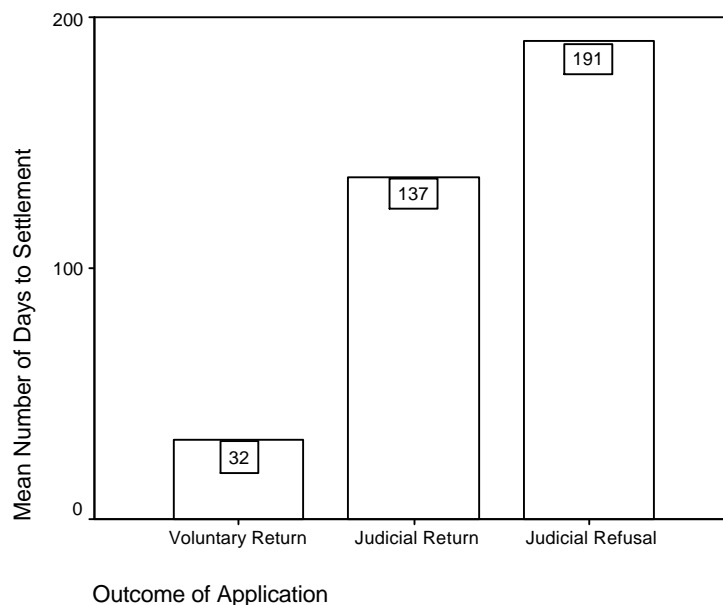
¹ Why this case was not categorised as the child having been located in another country is not clear.

² See note 1 above.

Speed

13. The time between application and outcome

(a) Incoming return applications



	Outcome of Application		
	Voluntary Return	Judicial Return	Judicial Refusal
Mean	32	137	191
Median	28	130	191
Minimum	0	75	179
Maximum	71	274	202
Number of Cases	4	10	2

Data was available on the speed of 4 of the 5 applications that ended in a voluntary return. The mean average speed, at 32 days, was well below the global norm of 84 days. The 10 judicial returns took a mean average of 137 days to be resolved, which was slower than the global norm of 107 days. The fastest decision took 75 days and the slowest 274 days. The 2 judicial refusals also took a long time being decided respectively in 179 days and 201 days as opposed to the global norm of 147 days. It is to be noted that no applications were still pending.

(b) Incoming access applications**Timing to Judicial Decision**

	Number	Percent
0-6 weeks	0	0
6-12 weeks	0	0
3-6 months	1	20
Over 6 months	4	80
Total	5	100

The access applications were noticeably slow, no judicial decision being made in less than 3 months and the vast majority taking over 6 months. It is also to be noted that one application is still pending. Conversely, the voluntary settlement was arrived at within 6 – 12 weeks of the application.

14. Appeals**(a) Incoming return applications**

Three of the judicial returns were the result of appeals. On average these cases took 158 days to be concluded. This was faster than the global mean of 208 days. There was one judicial refusal as the result of an appeal, which took 202 days to be resolved and which was slower than the global mean of 176 days. Altogether, 4 of the 12 judicial decisions were the result of appeals, at 33%, this is a high proportion compared with a global norm of 14%. The high proportion of appeals, perhaps goes some way to explaining why the mean number of days to settlement for both judicial returns and judicial refusals was relatively slow.