

**Council on General Affairs and Policy of the Conference – March 2018**

<b>Document</b>	Preliminary Document <input checked="" type="checkbox"/> Procedural Document <input type="checkbox"/> Information Document <input type="checkbox"/>	No 9 of January 2018
<b>Title</b>	Conclusions & Recommendations (C&R) of the meeting of the Special Commission on the 1980 Child Abduction and 1996 Child Protection Conventions – <i>October 2017</i>	
<b>Author</b>	Permanent Bureau	
<b>Agenda item</b>	[To be determined]	
<b>Mandate(s)</b>	C&R No 25 of the 2016 Council on General Affairs and Policy	
<b>Objective</b>	<p>To report on the Conclusions and Recommendations adopted at the meeting of the Special Commission.</p> <p>The Council is invited to take note of the C&amp;R of the meeting and to consider in particular C&amp;R Nos 9, 34, 45, 54 and 77 with a view to establishing priorities in the work of the Permanent Bureau.</p>	
<b>Action to be taken</b>	For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input checked="" type="checkbox"/>	
<b>Annexes</b>		
<b>Related documents</b>		

From 10 to 17 October 2017, 292 participants took part in the Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, representing 62 Member States and one REIO, six non-Member Contracting States, four invited non-Member non-Contracting States and observers from 14 IGO / NGOs.<sup>1</sup>

Participants unanimously reaffirmed the Conclusions and Recommendations from previous Meetings of the Special Commission set out in Preliminary Document No 6 of July 2017, "Table of Conclusions and Recommendations of previous Meetings of the Special Commission (SC) on the 1980 Child Abduction Convention and the 1996 Child Protection Convention (1989 (1st SC), 1993 (2nd SC), 1997 (3rd SC), 2001 (4th SC), 2002 (follow-up SC), 2006 (5th SC), 2011-2012 (6th SC))".<sup>2</sup>

Furthermore, participants unanimously approved the following new Conclusions and Recommendations:

### **New Contracting States to the 1980 Convention**

1. The Special Commission welcomes the 14 new Contracting States to the 1980 Convention for which the Convention entered into force since the June 2011 Sixth Meeting of the Special Commission (Part I) namely, Andorra, Bolivia, Guinea, Iraq, Jamaica, Japan, Kazakhstan, Republic of Korea, Lesotho, Pakistan, Philippines, Russian Federation, Tunisia and Zambia, bringing the total number of States bound by the Convention to 98.

### **Evaluating and taking stock of the 1980 Convention**

2. The Special Commission reaffirms the utility of accurate statistics for the effective evaluation of the 1980 Convention's operation, and welcomes the statistical survey of cases under the Convention for the year 2015 (Prel. Docs Nos 11 A, 11 B and 11 C) compiled by Nigel Lowe and Victoria Stephens, based on data collected for the first time using INCASTAT (the International Child Abduction Statistical Database). To this end, the Special Commission noted the slightly increased number of decisions ordering return and the decrease in the number of refusals, as well as a modest decrease in the average number of days taken to reach a final outcome in cases, compared with the results of the 2008 statistical survey. The Special Commission expresses its thanks to ICMEC for funding the 2015 statistical survey.

### **Addressing delays under the 1980 Convention**

3. The Special Commission acknowledges that globally there is still a severe problem of delays that affect the efficient operation of the Convention.

4. The Special Commission acknowledges that some States have made progress in reducing delays and encourages States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / ADR phases) in order to identify

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<sup>1</sup> These included the following Members of the Hague Conference on Private International Law: Andorra, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, People's Republic of China, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, European Union, Finland, France, Germany, Georgia, Hungary, India, Iceland, Ireland, Israel, Italy, Japan, Republic of Korea, Latvia, Lithuania, Malta, Mexico, Morocco, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela and Viet Nam; the following non-Member Contracting States: Bahamas, Bolivia, Colombia, Dominican Republic, El Salvador, Thailand; the following invited non-Member non-Contracting States: Algeria, Indonesia, Iran, Qatar; the following intergovernmental organisation: United Nations Committee on the Rights of the Child (UNCRC); the following non-governmental organisations (NGOs): *Asociación Americana de Derecho Internacional Privado* (ASADIP), International Society of Family Law (ISFL), International Association of Youth and Family Judges and Magistrates (IAYFJM), *Association Internationale Francophone des Intervenants auprès des Familles Séparées* (AIFI), Association of International Family Judges (AIFJ), International Academy of Family Lawyers (IAFL), International Association of Women Judges (IAWJ), International Association of Child Law Researchers (IACLaR), International Centre For Missing And Exploited Children (ICMEC), Lawyers In Europe On Parental Child Abduction (LEPCA), Missing Children Europe, International Social Service (ISS), United States - Mexico Bar Association (USMBA).

<sup>2</sup> Prel. Doc. No 6 for the attention of the Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, available on the HCCH website < [www.hcch.net](http://www.hcch.net) >, under "Child Abduction" and "Seventh Special Commission meeting".

possible sources of delay and implement the adjustments needed to secure shorter time frames consistent with Articles 2 and 11 of the Convention.

5. The Special Commission welcomes Preliminary Documents Nos 10 A, 10 B and 10 C, which present procedures that have been implemented by States to reduce delays. It invites the Permanent Bureau to complete and amend them in the light of the comments agreed upon at the Meeting. The final version of these documents should be uploaded on the HCCH website and recommended as helpful tools for consultation by State authorities that are reviewing their implementing measures.

#### **Article 15 of the 1980 Convention**

6. The Special Commission encourages discretion in the use of the Article 15 mechanism and due consideration of other procedures which obviate the need for an Article 15 request, such as the use of Articles 8(2)(f) and 14, and direct judicial communications, where appropriate. The Special Commission invites Contracting States to ensure expeditious and effective practices and procedures, including through legislation, for any Article 15 decision or determination, where such mechanisms are available.

7. The Special Commission recommends amending the Country Profile for the 1980 Convention to include more detailed information on the Article 15 procedure. It is further recommended that an Information Document on the use of Article 15 be considered with, if necessary, the assistance of a small Working Group.

#### **Co-operation among Central Authorities under the 1980 Convention**

##### *Applications for return and access – revised form for return and access applications*

8. The Special Commission welcomes the work undertaken to modernise the recommended request for return form and to develop a non-mandatory standardised access / contact application form under the 1980 Convention.

9. The Special Commission invites the finalisation of the proposed forms in the light of comments provided by States with, if necessary, the assistance of a small Working Group. States are invited to share as soon as possible further comments on Preliminary Document No 12 with the Permanent Bureau. The Special Commission recommends that a high degree of priority be given to this work.

#### **Processing of applications for return under the 1980 Convention**

##### *Mediation*

10. The Special Commission welcomes the widespread use of the Guide to Good Practice on Mediation, and the increasing use of mediation in international child abduction cases.

11. The Special Commission welcomes the designation of new Central Contact Points for International Family Mediation under the Malta Process, and invites States that have not yet done so to consider establishing Central Contact Points (or designating their Central Authority as a Central Contact Point).

12. Structures for cross-border family mediation, including those developed in the framework of the Malta Process, are relevant for cross-border family disputes falling within the scope of the 1980 Convention and the 1996 Convention.

#### **Enforcement of return decisions under the 1980 Convention**

13. The Special Commission reaffirms the obligation of States to provide mechanisms, including, as appropriate, through legislation, written procedures or protocols, to ensure that orders for return are enforced in an effective and expeditious manner.

14. The Special Commission recommends that, to ensure compliance and avoid delays, a court order for return should be as detailed as possible, including, for example, the manner and timing of the return, and should specify with whom, where, when and how the child should be

returned. Where possible, the order should make provision for voluntary compliance and specify the progressive coercive measures to be applied in the event of non-compliance.

15. The Special Commission underlines the importance of information exchange, training and collaboration between the various actors, within and between States, who may be involved in enforcement processes, including enforcement officers, social workers and child welfare professionals.

### **The Malta Process – update**

16. The Special Commission supports the general continuation of the Malta Process, including the Working Party on Mediation and a possible Fifth Malta Conference, and suggests that continued emphasis be placed on the involvement of government representatives in the Process.

### **European Court of Human Rights case law**

17. Following Conclusions and Recommendations Nos 48 and 49 of the Sixth Meeting of the Special Commission in 2011 (Part I), the Special Commission notes the subsequent developments in *X v. Latvia*, in particular the Court's assessment under the title "General principles" (paras 92-108), in which the Grand Chamber of the European Court of Human Rights stated, *inter alia*, that "in the context of an application for return made under the Hague Convention, which is accordingly distinct from custody proceedings, the concept of the best interests of the child must be evaluated in the light of the exceptions provided for by the Hague Convention [references to Arts 12, 13, and 20 of the Hague Child Abduction Convention]" (Grand Chamber, No 27853/09, 26 November 2013, para. 101; see also para. 107 where the Grand Chamber stressed that these "exceptions must be interpreted strictly").

### **Rights of custody, access / contact under the 1980 Convention**

#### *Access / contact*

18. The Special Commission agrees that an application to make arrangements for organising or securing the effective exercise of rights of access / contact under Article 21 can be presented to Central Authorities, independently of being linked or not, to an international child abduction situation.

19. The Special Commission notes significant variations among Contracting States as to their interpretation of the scope of Article 21, as well as on the relationship between access / contact under the 1980 Convention and under the 1996 Convention. In the interests of securing protection for access / contact rights under both Conventions, the Special Commission invites the Permanent Bureau to: i) identify existing variations and discrepancies; ii) assess to what extent they could be addressed and clarified with existing HCCH tools; and, iii) in due course report to the Council on General Affairs and Policy, for a decision on the kind of work, if any, that should be developed in advance of the next Special Commission.

#### *Applicant contact with the child during return proceedings*

20. The Special Commission recognises that, subject to the best interests of a particular child, interruption to access / contact between the left-behind parent and the child should, where possible, be avoided, minimised and rectified. The Special Commission encourages States, in particular their competent authorities hearing a child abduction case, to consider, as quickly as possible, what appropriate interim access / contact and communication should take place between the left-behind parent and the child and proceed to make a determination in those terms as an urgent measure. Seeking and / or exercising interim access / contact *per se* should not be construed as acquiescence or consent to the wrongful removal or retention and should not produce additional delays in the return procedure.

#### *International family relocation*

21. The Special Commission recalls the importance of securing effective access to procedures to the parties in international family relocation cases. In this regard, the Special Commission notes that: i) mediation services may assist the parties to solve these cases or prepare for

outcomes; ii) the Washington Declaration of 25 March 2010 on Cross-border Family Relocation may be of interest to competent authorities, in particular in the absence of domestic rules on this matter. The Special Commission recommends joining the 1996 Convention.

### **New Contracting States to the 1996 Convention**

22. The Special Commission welcomes the 16 new Contracting States that have joined the 1996 Convention since the June 2011 Sixth Meeting of the Special Commission (Part I), namely, Belgium, Cuba, Denmark, Georgia, Greece, Honduras, Italy, Lesotho, Malta, Montenegro, Norway, Russian Federation, Serbia, Sweden, Turkey, and the United Kingdom of Great Britain and Northern Ireland, bringing the total number of Contracting States to the Convention to 47.

23. Endeavours should continue to be made to encourage ratifications of, and accessions to, the 1996 Convention by States willing and able to undertake the Convention obligations. Contracting States are encouraged to arrange meetings at the regional level for this purpose.

24. Immediately following a State becoming Party to the 1996 Convention (or, in an appropriate case, where a State is preparing to do so or has expressed a strong interest in doing so), the State in question should be offered, by way of a standard letter from the Permanent Bureau, the opportunity to visit an experienced Contracting State to the 1996 Convention for the purpose of gaining knowledge and understanding regarding the effective practical operation of the 1996 Convention.

25. The Permanent Bureau will maintain a list of all experienced Contracting States willing to accept such a visit and, when a newly acceding / ratifying (or interested) State responds positively to an offer, will provide details of Contracting States prepared to receive the newly acceding / ratifying (or interested) State for the two States concerned to organise and arrange the visit.

### **Benefits and use of the 1996 Convention in relation to the 1980 Convention**

*Habitual residence, rights of custody, rules on applicable law, access / contact*

26. The Special Commission notes the many benefits and use of the 1996 Convention in relation to the use of the 1980 Convention, including the primary role played by the authorities of the State of habitual residence of the child, rules on jurisdiction, applicable law, recognition and enforcement and co-operation with respect to the organisation and enforcement of rights of custody, access / contact, urgent measures of protection, possible post-return assistance and relocation.

*Urgent measures of protection, including to facilitate interim access and ensure safe return*

27. When taking measures of protection in accordance with Article 11 of the 1996 Convention in a child abduction case (for example, to facilitate interim access or ensure safe return), competent authorities are invited, preferably through Central Authorities or members of the International Hague Network of Judges (IHNJ) to obtain information on available measures of protection in the other State with a view to ensuring the effective implementation of such measures.

*Central Authority post-return assistance*

28. Where appropriate, after the return of a child to his or her State of habitual residence, a Central Authority or other competent authority of the Contracting State which ordered the return of the child may request, with supporting reasons, in accordance with Article 32 of the 1996 Convention, from the Central Authority of the Contracting State in which the child is habitually resident a report on the situation of the child.

### **Scope (*ratione materiae*) of the 1996 Convention**

29. The Special Commission notes that the domestic laws of Contracting States to the 1996 Convention do not have to provide for all types of measures of protection that fall under the scope of the Convention.

30. The Special Commission recalls paragraphs 90 to 91 of the Explanatory Report of the 1996 Convention which provide useful information for cases where a measure of protection falling under the scope of the Convention has been taken in one State which is unknown, or the conditions of application of which significantly differ, in a new State of habitual residence of a child, to the extent that the measure is denatured or at least weakened.

31. More specifically, the Special Commission notes that in the case of a change of habitual residence of the child (Art. 5(2)), for example resulting from a long-term cross-border placement (Art. 33), the measures of protection established in the former State of habitual residence will subsist in the new State of habitual residence (Art. 14). The law of the new State of habitual residence will govern, from the time of the change, the conditions of application of the measure taken in the State of the former habitual residence (Art. 15(3)). If necessary, the competent authorities of the new State of habitual residence could adapt the measure taken in the former State of habitual residence or modify it in accordance with Article 5(2). The authorities of the new State of habitual residence may consult, if necessary, the authorities of the State of the former habitual residence when adapting or modifying such measures.

32. The Special Commission recalls that private agreements between parents on parental responsibility (*i.e.*, parental agreements) do fall under the scope of the Convention through the application of the rules on applicable law, if consistent with Article 3 and not excluded by Article 4. Such parental agreements cannot be subject to the rules on recognition and enforcement, unless they have been confirmed or approved by a competent authority, or have been subject to an act of a similar nature by a competent authority with a view to giving such agreements force of law (see Art. 23, which provides for recognition by operation of law of measures taken by the authorities of a Contracting State).

#### **Application of the 1996 Convention to unaccompanied and separated children**

33. The Special Commission notes that a number of States expressed support for the general direction of Preliminary Document No 7, while other States expressed concerns with regard to the general direction and / or some of the substance of the document.

34. The Special Commission recognises the need to clarify the application of the 1996 Convention to refugee children, and children who, due to disturbances occurring in their country, are internationally displaced. To this end, Preliminary Document No 7 is to be removed from the publicly accessible part of the HCCH website and replaced, taking into account the comments received and any further comments to be received (by the end of 2017 at the latest). A new draft will then be circulated for comments to Members and Contracting States with a view to a timely finalisation.

#### **Co-operation among Central Authorities under the 1996 Convention**

35. The Central Authorities designated by the Contracting States play an important role in making the Convention function. To this end, they should be given a mandate which is sufficiently broad, qualified personnel and resources, including modern means of communication, necessary to carry out their functions effectively. Central Authorities should have a regular staff, able to develop expertise in the operation of the Convention.

36. Contracting States should inform the Permanent Bureau promptly of the contact details of their Central Authority(ies), and Central Authorities should inform the Permanent Bureau promptly of the names of contact persons, of the means by which they may be contacted and of their languages of communication. Central Authorities should promptly inform the Permanent Bureau of any changes in these details.

37. Central Authorities should co-operate closely and respond promptly to requests for co-operation. To this end they should, as far as possible, use rapid means of communication, bearing in mind the need for confidentiality.

38. Each Central Authority is encouraged, where feasible, to establish and regularly update a website, details of which should be furnished to the Permanent Bureau for the purpose of establishing a link with the HCCH website.

39. Central Authorities are encouraged, in addressing any practical problems concerning the proper functioning of the Convention, to engage in dialogue with one another. Where a group of Central Authorities share a common problem, consideration should be given to joint meetings which might in some cases be facilitated by the HCCH.

40. The Special Commission notes that many Central Authorities may provide certain degrees of assistance (both when the 1980 Convention and / or the 1996 Convention apply), both to individuals within their own State and to foreign Central Authorities on behalf of an individual residing abroad. Requests for assistance may encompass such matters as: securing rights of access; the return of children (both when the 1980 Convention and / or the 1996 Convention apply); the protection of runaway children; reporting on the situation of a child residing abroad; post-return reports for children returned to their habitual residence; the recognition or non-recognition of a measure taken abroad (advanced recognition); and, the enforceability of a foreign measure of protection.

41. The Special Commission recommends that the Permanent Bureau, in consultation with interested Contracting States, develop a model Co-operation Request Form, that may be used for any request under the framework of the 1996 Convention.

#### *Cross-border placement of a child*

42. The Special Commission notes that only decisions on placements or provision of care made or approved by a competent authority fall under the scope of Article 33. The Special Commission recalls that the consultation mechanism provided by Article 33 is mandatory for any placement or provision of care by *kafala* or an analogous institution that is to take place in another Contracting State, including the case where the care is provided by relatives of the child.

43. This consultation should occur well before taking a decision about the placement or provision of care, and it should be as comprehensive as possible (including among other things, a clear description of the measure of protection, status of the child, health (where appropriate) and family history, migration conditions of the child in the receiving country) in order to allow the respective authorities to take an informed decision in the best interests of the child. The decision on consent to the placement by the requested State should be provided as quickly as possible.

#### *Reports / requests under Articles 32, 34 and 35*

44. The Special Commission emphasises, for the purpose of providing reports or information under Articles 32, 34 and 35, the importance of swift and efficient communications between Central Authorities and competent authorities of the requested States, in order to avoid undue delays at all stages of the procedures and facilitate the effective protection of children. These reports and information should be provided as quickly as possible.

#### *Country Profile*

45. The Special Commission recommends, 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. Subject to available resources, this Country Profile should be developed with a view to be implemented in an electronic environment.

#### *Article 40 certificate*

46. The Special Commission takes note of the very limited experience with respect to the issuance of certificates under Article 40 of the 1996 Convention; it considers the development of a model certificate to be premature at this stage. Subject to necessary adaptations, the model certificate developed for the purposes of Article 38 of the *Hague Convention of 13 January 2000 on the International Protection of Adults* may be used for the issuance of a certificate under Article 40 of the 1996 Convention. Contracting States are invited to adapt other existing model certificates developed or used for the purposes of Article 40.

47. The Special Commission further encourages Contracting States that have not yet done so to designate the authorities competent to draw up the certificate in accordance with Article 40(3) of the 1996 Convention.

### **Judicial matters under the 1996 Convention**

#### *Recognition and enforcement of measures of protection (Arts 24 and 26)*

48. The Special Commission recognises the great importance of simple and rapid procedures to be employed for the recognition and / or declaration of enforceability or registration for the purposes of enforcement of measures from other Contracting States. To this end, States are encouraged to consider implementing legislation providing for stipulated time frames, the use of specialised judges or registrars and the concentration of jurisdiction for procedures in certain courts, among others.

#### *"Advance recognition" and relocation*

49. The Special Commission highlights the use and particular utility of Article 24 in international relocation cases, in order to ensure the advance recognition of access / contact arrangements in the foreign jurisdiction before the relocation of the child. Expedited Article 24 procedures in the Contracting State to which relocation is sought are vital.

#### *Hearing the child and bases for non-recognition (Art. 23(2)(b))*

50. The Special Commission notes that, in order to facilitate the recognition and enforcement of an order for measures, where a competent authority decides to hear a child, there are a range of ways in which it may do so within the diversity of legal systems and approaches. The competent authority should incorporate into the order for measures a record of the way the child was heard, or if a decision is made not to hear the child, an indication that consideration was given to doing so and the reasons for the decision not to hear the child.

#### *Articles 8 and 9*

51. The Special Commission supports the collection of information by the Permanent Bureau concerning the implementation and operation of Articles 8 and 9 of the 1996 Convention with a view to disseminating this information to interested States to consider in their implementation of the Convention. The Special Commission invites the Permanent Bureau to prepare a report on this issue for the attention of the next Meeting of the Special Commission.

### **Recognition and enforcement of agreements in family matters**

52. The Special Commission welcomes the oral update on the progress of the Experts' Group on the cross-border recognition and enforcement of agreements reached in the course of family matters involving children.

53. The Special Commission takes note of the finding of the Experts' Group that, depending on the individual circumstances of the case, the applicable law or the wording of the agreement or decision, the travel expenses associated with the exercise of cross-border access / contact may fall within the scope of the 1996 Convention.

### **Draft Guide to Good Practice on Article 13(1)(b) of the 1980 Convention**

54. The Special Commission welcomes the work of the Working Group and the progress made on the draft Guide to date, and invites the Working Group to continue its work with a view to the finalisation of the Guide. The Special Commission recommends that priority be given to this work.

### **Recognition and enforcement of protection orders**

55. The Special Commission, recalling its Conclusion and Recommendation on this topic at the Sixth Meeting (No 43), welcomes the report on preliminary work already undertaken as well as the continued exploration of further work on the recognition and enforcement of foreign protection orders at the international level.



### **Model consent to travel form**

56. While several States welcomed the work and progress made on the development of a model consent to travel form, highlighting at the same time its usefulness in the context of preventing child abductions, a number of States expressed strong reservations. Among others, concerns were raised that potential users of the form would be placed under the false impression that children in respect of whom temporary consent to leave the jurisdiction had been given, by using the form, would be protected with a high degree of security from potential abductions.

57. In the light of the very different views expressed, it was decided that the Permanent Bureau would not undertake further work on the development of a model consent to travel form at this stage. Rather it was recommended that Contracting States share information on the requirements that exist under their domestic legislation in order for a child to be allowed to enter or leave the jurisdiction. States are furthermore invited to provide, where available, links to official consent to travel forms that have been developed in their jurisdiction. This information should be included in the Country Profile under the 1980 Convention.

58. States that wish to develop a domestic consent to travel form are invited to consider the information provided in Preliminary Document No 4.

### **Judicial networking and direct judicial communications**

#### *Development of the IHNJ*

59. The Special Commission welcomes the significant growth in the number of members of the IHNJ in the period from 2011 to 2017 which now includes 124 judges from 81 States. States that have not yet designated a Hague Network judge are strongly encouraged to do so.

#### *Value of judicial communications*

60. The Special Commission recognises the value of the attendance and participation of judges at its meetings. States are invited to consider and, where possible, to facilitate and encourage the attendance of members of the IHNJ as participants in national delegations.

61. The Special Commission welcomes the experience shared by judges using direct judicial communications in the context of Articles 8, 9, 34 and 35 of the 1996 Convention.

62. The Special Commission welcomes the increasing co-operation within States between the member(s) of the IHNJ and the relevant Central Authorities resulting in the enhanced operation of the 1980 and 1996 Conventions.

#### *Draft document to inform lawyers and judges about direct judicial communications (DJC), in specific cases, within the context of the IHNJ*

63. The Special Commission welcomes the development of a *Document to inform lawyers and judges about direct judicial communications, in specific cases, within the context of the International Hague Network of Judges (IHNJ)* (Prel. Doc. No 5), based on the previously endorsed Principles. It supports its finalisation and publication in an electronic format to be made available on the HCCH website, based on comments received. The document should be updated at regular intervals to reflect new case law and developments.

#### *Briefing note: legal basis for direct judicial communications within the context of the International Hague Network of Judges (IHNJ)*

64. The Special Commission welcomes the *Briefing note: legal basis for direct judicial communications within the context of the International Hague Network of Judges (IHNJ)* (Prel. Doc. No 8) and encourages States to share additional information with the Permanent Bureau, and looks forward to the publishing of this document on the HCCH website, to serve as an inventory of legal bases for direct judicial communications in various States.

*Judicial conferences and meetings*

65. The Special Commission recognises the value of regular meetings of the IHNJ at the regional or global level, subject to available supplementary resources.

*Use of IT to support networking and communications*

66. The Special Commission recognises the value of the use of information technology for efficient communication and sharing of data and invites the Permanent Bureau to explore further, subject to available resources, the development of secured systems of communications, such as secured e-conferencing, in particular for members of the IHNJ.

**Permanent Bureau services***INCADAT, including its possible expansion to include 1996 Convention cases*

67. The Special Commission welcomes the launch of the enhanced INCADAT (International Child Abduction Database). It recognises the value of INCADAT for the effective operation of the 1980 Convention and continues to support it, underlining the need for the database to be as up to date as possible, subject to available resources. The Special Commission expresses its thanks to the Government of Germany and to Miles & Stockbridge for their financial contributions enabling the enhancement of INCADAT.

68. The Special Commission further supports the consolidation of a global network of INCADAT correspondents to ensure a wide geographic coverage for the database, and encourages all States to designate a correspondent for this purpose. The Permanent Bureau should be informed of these designations to grant each correspondent access to the INCADAT content management system into which correspondents should enter case details that the Permanent Bureau will review and publish.

69. The Special Commission encourages INCADAT correspondents, Central Authorities and members of the IHNJ to enter relevant case law on direct judicial communications in the INCADAT content management system, if possible, or to share such cases with the Permanent Bureau.

70. The Special Commission supports the extension of INCADAT to include, in the long term, case law under the 1996 Convention, subject to available resources. It recommends that Contracting States share case law dealing with the application of the 1996 Convention with the Permanent Bureau, in order for the functional requirements of this extension to be identified.

*The Judges' Newsletter on International Child Protection and specialised website child protection section (including secure IHNJ portal)*

71. The Special Commission acknowledges the value and usefulness of the information provided in *The Judges' Newsletter*. The Special Commission notes however that the current format of *The Judges' Newsletter* is not adequate to provide timely information.

72. The Special Commission supports the continued electronic publication of *The Judges' Newsletter*, subject to available resources, to be edited in-house. States and members of the IHNJ are invited to share with the Permanent Bureau topics for "special focus" that they would like to see addressed in future issues of *The Judges' Newsletter*.

73. The Special Commission supports the development of an IHNJ specialised section on the HCCH website. This section would constitute a dedicated platform providing information relevant to the IHNJ.

74. Subject to available resources, the Special Commission further supports the creation of a secure portal for the members of the IHNJ. The secure portal would serve as an electronic platform to foster communication and dialogue among the members of the Network.

*Other publications of the HCCH*

75. The Special Commission recommends the updating of references to national laws and procedures contained in the Guide to Good Practice on Central Authority Practice and the Guide to Good Practice on Implementing Measures, based on information available in the Country Profiles for the 1980 Convention. It encourages States to facilitate this exercise by ensuring that their Country Profiles are up to date.

*INCASTAT*

76. The Special Commission recalls the importance of collecting current, global statistics on the operation of the 1980 Convention and welcomes the new, expanded INCASTAT. It encourages Central Authorities to enter their statistics into the database regularly and at least on an annual basis. The Special Commission expresses its thanks to the Government of Canada for its financial contribution enabling the expansion of INCASTAT.

*Development of an electronic Country Profile for the 1980 Convention*

77. The Special Commission urges Contracting States that have not yet done so to complete a Country Profile for the 1980 Convention as soon as possible. With a view to facilitating its completion and its updating, as well as facilitating the extraction of information, the Special Commission recognises the value of developing, subject to supplementary voluntary contributions, an electronic Country Profile ("e-Country Profile") for the 1980 Convention.

*Post-Convention assistance, including training and twinning arrangements under both the 1980 and 1996 Conventions*

78. The Special Commission welcomes the report on post-Convention services and assistance provided in Preliminary Document No 13, and encourages the Permanent Bureau to continue providing its post-Convention services on the promotion, implementation and effective practical operation of the 1980 and 1996 Conventions.

79. The Special Commission acknowledges the high appreciation expressed by States for the post-Convention services provided by the Permanent Bureau through its Regional Offices, noting the substantive impact this has on the work carried out by Central Authorities and Judges. The Special Commission recommends the Permanent Bureau to continue exploring means to expand its post-Convention services in Africa.

**Miscellaneous matters**

80. The Special Commission supports the continued allocation of specific tasks to Working Groups but in light of limited financial resources and efficiencies of time, recommends that consideration be given to the meetings of Working Groups being conducted electronically by video conference.

81. The Special Commission recognises the value of evidence-based research to strengthen existing knowledge on the effects of wrongful removal or retention of children internationally. In particular, it would be desirable to have further research addressing: (1) the short-term and long-term outcomes for children and relevant family members, including taking and left-behind parents; and (2) the impact and effectiveness of protective measures, other judicial and legal processes, support services and / or arrangements to apply post-return. The Special Commission acknowledges that this is not part of the work programme of the Permanent Bureau, and that it places no burden on individual States.

**Timing of the next Meeting of the Special Commission**

82. The Special Commission recommends holding its next Meeting in five years.