

**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.

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| Name of State or territorial unit: ¹ | Ministero della Giustizia Dipartimento per la Giustizia Minorile e di Comunità |
| <i>For follow-up purposes</i> | |
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PART I: RECENT DEVELOPMENTS²

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:

Article 9, par. 2 of Act n° 122/2016 was introduced, reading that all parties who institute proceedings under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction shall be mandatorily granted Legal Aid.

On 2 January 2013, Article 315 bis of Italy's Civil Code then entered into force; it sanctioned the principle - previously simply inferred, by way of interpretation, from domestic case-law - whereby the child aged 12, or even younger, provided that he/she is capable of discernment, has the right to be heard in all proceedings involving him/her.

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 authorities³ 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.

At present, we are facing an evolution of the supreme principle imposing that the child's interests shall be protected. In this new construction, when the child, within the proceedings, proves his awareness and maturity by clearly expressing his/her opposition, based on appropriate reasons, to be returned to the left-behind parent, such will is now taken more into account as a ground to reject the return application by way of interpretation. In particular, in line with the construction provided by the French Court of Cassation (Ref. No.: Dec. No. 107/2013), the Italian Supreme Court of Cassation has established the following principle, in its recent decisions Ref. No.: Cass. Civ. I sez. 5237/2014 and Cass. Civ. Sez. I 18846/2016: "Given the growing relevance gained by the child's own will - when clearly and appropriately expressed - in domestic, EU and international legislations, even when the child has been unlawfully removed by either parent from the authority and custody rights of the other parent and its parents are residing in two different States, the child's will of not being

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

² 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.

³ 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.

returned to the left-behind parent from whom he/she had been arbitrarily removed shall prevail even when there are no reasons to fear for the child's psychological or physical integrity upon return; return shall then be denied whenever the Judge has established that the child's refusal reflects its own reasonable existential and affective project, is supported by a constant, strong will, and is adequately motivated. Should the Judge decide otherwise, it would cause the child a serious, and most probably irreversible, damage, far from protecting and safeguarding him/her".

However, the jurisprudential orientation - according to which granting a return application would imply to demonstrate the actual exercise of factual parental responsibility on the child at the time of the latter's transfer - has been reaffirmed, regardless of the mere entitlement of such responsibility (Cass. Civ. I sez. 14561/2014 and Cass. Civ. I sez. 6139/2015) as well as of any reasons for its failed implementation.

Furthermore, the return rejection in accordance with Article 13 of the Hague Convention, is applied in a very restrictive and strict sense in Italy, considering the exceptional nature of this rule, being it limited to those cases where a serious danger for the child's psychological or physical integrity, resulting from his/her return to its original environment, has been ascertained (Cass. Civ. I sez. 14792/2014 and Cass. Civ. I Sez. 2417/2016).

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.

Please insert text here

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:

Challenges in achieving successful co-operation with a lot of Central Authorities are numerous. A synthetic listing is impossible to draw up here

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

No

Yes, please specify:

Some countries tend to interpret quite extensively the legal impediments to the child's return to his/her country of origin - which basically would be mandatory - in accordance with Article 13 of the Hague Convention, to include any difficulties in settling down back again with its own family environment, which can vary greatly in type and intensity. In particular, Polish Judicial Authorities systematically order, during the proceeding of return, a psychological examination of the children abducted to evaluate, in a comparative key, nature and intensity of their relationships with each parent. These kind of non necessary inquiries puts in a very favorable position the taking parent who has wrongly kept exclusive contacts with the child and opens an easy path to the rejection of the applications of return under article 13 of the Convention.

On the contrary, in Italy most practitioners share the general criteria providing that a return application filed over one year after the child's abduction shall be preliminarily assessed very strictly

.In general, problems arising from failure to comply with the timing provided by the Convention are very frequent.

PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION

3. **The role and functions of Central Authorities designated under the 1980 Convention**⁴

In general

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

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

- No
 Yes, please specify:

Some Central Authorities, including the Russian Federation one, use the traditional paper mail for all communications, despite of the opposite rules set by the guide to good practices. So, in some cases (notably: with Spain, Mexico and The Principality of Monaco) the notice of a hearing turned out to be completely useless since it was forwarded by the respective Central Authority by ordinary mail and reached us when the relevant hearing had already been held.

Sometimes, our requests for supplemental information of various nature, addressed to Central Authorities of some Member States (notably: Ecuador, Costa Rica and The Dominican Republic), are disregarded for a long time.

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:

It sometimes happened that foreign Central Authorities have replied too concisely to our requests for information or update on the investigations to locate a child abroad, without indicating, even briefly, the type and scope of their search, thus resulting absolutely inadequate to meet the expectations of the applicants, especially when the latter have submitted a number of details on their children's possible whereabouts as well as on the persons who were likely to host them.

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:

Provisions for expeditious proceedings under Article 11 of the 1980 Hague Convention are too often disregarded

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:

In Italy, the preliminary administrative procedure to decide on the applicant's admission to Legal Aid -non mandatory in Italian procedural system, because applications are in any case proposed by the public Prosecutors- usually slows down significantly the Hague civil proceedings by at least one month (or even more, often) since the original Legal Aid Request must be drawn up, mailed to the competent administrative authority and processed; then, the relevant decision granting Legal Aid must be forwarded to the lawyer appointed who has finally to be retained by the applicant (who sometimes has to select one among a short-list provided by the competent Bar Association).

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?⁵

⁵ 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 > under "Child Abduction Section" then "Special Commission meetings").

- No
 Yes, please specify:

The Belarus Central Authority simply provides assistance in the mere stage of locating the child in its territory, while return proceedings under the 1980 Hague Convention can be instituted before the competent Belarus courts solely by a private attorney retained by the applicant

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:

In Italy, the search to locate a child in our territory is physically carried out by Police Forces while in the United States is carried out by simply consulting local data bases or sending a request to the taking parent for the child's voluntary return; this U.S. practice sometimes fails to ensure the child's localization.

In the Bolivarian Republic of Venezuela, the investigations to ascertain the actual whereabouts of the removed child are often delegated to private agencies that the applicant itself has to hire and pay for.

In addition, on one occasion the search for the child was not carried out expeditiously in Spain, although we had promptly provided to the Central Authority the address and telephone numbers of both the person hosting the child and the school the latter was attending.

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:

In Italy, specialized investigative bodies take action on the basis of the information provided either by the applicant or collected by checking data available in Registry Offices, income and employment records as well as in public utilities users lists kept by the relevant business concerns. Investigative bodies also instruct to interview persons informed of the facts, if need be.

The injunction not to remove the child from the Italian jurisdiction shall not affect the court territorial jurisdiction in case of the child's subsequent change of domicile pending the same return proceedings.

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?⁶

- No
 Yes, please specify:
 Please insert text here

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:

Italian Central Authority participated, in may of 2017, to a meeting organized in Czech Republic with some others CA (France, England and Wales, Poland, Netherland, Slovakia, Germany, Norway, Ukraine, Hungary, USA, Canada, Switzerland) about connections between CE Regulation Bruxelles II bis and the Hague Conventions

⁶ 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.

Statistics⁷

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

Please insert text here

Prompt handling of cases

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

No

Yes, please specify:

Applications particularly urgent (proximity of expiry of one year term from abduction, psychophysical risks for the child, danger of transferring to another country, new born children's abduction) are initially sent and received in copy as attachments to emails, with a view to expediting preliminary accomplishments without delay, while original documents will follow by priority post.

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

Delayed handling of applications correctly filed to foreign Central Authorities, for long periods and for unspecified reasons before acknowledgement of receipt of the demand, that are held back before instituting court proceedings, sometimes transmitted to the Courts after the one year term.

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)?⁸

Yes

No, please indicate if such arrangements are being contemplated:

The jurisdiction to decide on return applications is vested exclusively with the courts specialized in dealing with children's rights, *i.e.* the 29 Juvenile Courts located throughout the domestic territory. After a significant reduction implemented recently in the Italian legal system, 165 Ordinary Courts and 26 Courts of Appeal are operative at present in the whole domestic territory.

Enforceable decisions issued by Juvenile Courts in the first instance stage may be appealed - only on grounds of law and not of fact - before the Supreme Court of Cassation based in Rome (whereas, as a general rule, Italy has a three-tiered judicial system).

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:

Actions for return or for the exercise of access rights enjoy a simplified procedure in Chambers within which both parties are not necessarily required to appear. Theoretically, this allows to expedite proceedings since the introductory stage, the admission - if any - and collection of evidence, the debate and the court's reserve to decide on the case may, always hypothetically, be handled in a single hearing.

The provision of a single means of redress - which may be used only for a restricted number of grounds expressly specified by the law - significantly limits the possibility of appeal.

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

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

⁸ 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".

- Yes, please explain:
Please insert text here

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

The excessive length of proceedings in a number of countries - in some of which the institution of court proceedings is not at all expeditious - is apparently originated from their being handled according to procedures conflicting with the summary procedure requested for urgent actions. Specifically, the accomplishment of time-consuming preliminary inquiries (expert appraisals, interview of the parties, taking of witness statements and submission of supplemental briefs) with respect to which parties are entitled to file their respective defenses and counterclaims, may often bring about considerable delays in listing the final hearing. Further delays are originated from appeal proceedings which include two additional stages.

Furthermore, remarkable difficulties have frequently arisen in the forced enforcement of return orders in a large number of countries (in particular, Romania, the Slovak Republic, Ukraine and several latin american countries). The execution of return orders falls within the jurisdiction of bailiffs, with the assistance of social workers and child psychologists whenever the taking-parent resists the return of the child and the latter - irrespective of his/her age - definitely refuses to be reunited to the applicant parent. In such cases, disputes have a long-standing execution stage that may drag on for years since the orders taken to define the operational details to implement the return decision must be delivered at the presence of both parties and may also be appealed. Furthermore, the enforceability of these decisions is frequently stayed to enable that counselling be provided to the child in order to verify the actual feasibility of the return and establish the relevant conditions.

In Italy, failing to conclude the proceedings within the established conventional time limit of six weeks from their commencement, is usually due to the institution - in the first instance stage - of an incidental optional mediation procedure which many Italian Courts are prone to turn to for the purposes of dispute resolution, which, as mentioned above, is often achieved. As proved by substantial occurrences, delays can also be due to the preliminary enquiries carried out by matter experts and their aids who are requested to submit their expertise on the child's living and psychological circumstances: this process is at times lengthy, despite being ordered within the framework of summary proceedings.

On the other hand, the possibility to challenge a decision on a child's return by lodging an appeal before the Supreme Court of Cassation - which is always extremely overburden with work - takes no less than three to four months, which can also mean more than one year if the Panel holds that the appeal results manifestly unfounded out of the summary evaluation it conducts prior to noticing the date of the hearing to the parties

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:

Further removal from domestic jurisdiction is specifically prohibited by a ban not to leave the State of refuge; failure to comply with such ban results in an ex-officio prosecution. Usually, measures to avoid both further removal of the child who has been wrongfully abducted from his/her habitual residence and the flight of its taking-parent are taken by Police forces who are also responsible for locating the child and exploring with the taking-parent the possibility of a voluntary return. Police authorities are delegated to perform some preliminary investigative tasks usually vested with the State Attorney and to check the child's living conditions during their home visit. In case there is the risk of unease or prejudice, they take the required protection measures as a matter of urgency and request the assistance of the social services. In order to prevent that the taking-parent may escape with the child, an alert notice containing their full personal details is given to the border authorities who are entitled - yet not obliged - to arrest the taking-parent in the act of further attempting to remove the child. Further removal is anyway prevented by stopping the fugitives at the border. Withdrawal of travel documents may be precautionarily imposed by the competent judicial authority; as to Italian citizens, it is ordered by an administrative order adopted by the local unit of the Ministry of the Interior.

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

Yes

No, please explain:

[Please insert text here](#)

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?

[Recently, the Italian Member of the International Hague Network of Judges \(IHNJ\) had a talk with the Argentinian judicial authorities to favour the safe return of a child and provided them with information and elucidations on the Italian legislation applicable to that case. The hoped-for outcome of her intervention has not been achieved, as of today.](#)

5. Ensuring the safe return of children⁹

*Methods for ensuring the safe return of children*¹⁰

5.1 What measures has your Central Authority taken to ensure that the recommendations of the 2006 and 2011 / 2012 Special Commission meetings¹¹ regarding the safe return of children are implemented?

[Dissemination, among Judicial Authorities, of the relevant recommendations included in the HCCH Guides to Good Practices.](#)

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)?

[Information regarding protection measures to be implemented abroad are forwarded by means of the Central Authorities of the Member States where Social Services are required to take action.](#)

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?

[As far as we know, usually the Italian Judicial Authority does not deliver specific prescriptions or impose specific conditions capable to stay the immediate enforceability of return orders; it merely issues guidelines or instructions in that respect.](#)

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**)?

No

Yes, please explain:

[Please insert text here](#)

⁹ See **Art. 7(2) h)** of the 1980 Convention.

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

¹¹ 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.

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.

: There are multiple records of opposition justified by the risk of exposing children to harm, including moral damage. Return applications were dismissed, in the most concerning cases, where it was deemed it impossible to prevent that physical and/or psychological abuse, as confirmed by documentary evidence, would be reiterated, even after imposing preventive measures. The same occurred whenever members of the household had experienced beatings, threatening and harassment that proved to widely undermine the child's serenity, balance, its possibility to develop affective bonds as well as to grow in a suitable environment, capable of meeting its essential needs, as well as whenever all of this became manifest through the effects, even indirect, that aggressive behaviors had had on the child's state of mind. In particular, one application for return was dismissed since filed by a left-behind parent who had pending charges of arms and drugs trafficking in his own country: in that case, the father's prolonged criminal behavior was regarded as a potential risk factor, given that the child could be attracted towards the same criminal environment.

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.

There have been just a few occurrences of return decisions in which Italian Judges of Juvenile Courts pointed out - through our Central Authority - the need for implementing a support program in favor of the involved household, requesting the competent foreign Social Services to promptly adopt all the protection and supporting measures that they deemed appropriate, without ordering to get feedback on the actual implementation of the same measures and on the outcome of the proposed protection program.

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 cooperate to provide each other with follow-up information on such matters, insofar as is possible?

No

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:

Police Forces and Social Services are those responsible for adopting measures aimed at bringing about a voluntary return and for cooperating with the Parties' attorneys, in order to favor an amicable dispute resolution. The family mediation agencies, which - according to the Italian legal system - are only optionally entrusted in the out-of-court stage, can be charged with mediation-related tasks only provided that all the parties consent to it. Mediation is for free only when it is a service offered by the municipal agencies.

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

The instrument of mediation was recommended throughout the national territory and various courts turn to it in an incidental manner during the preliminary stage, thus achieving great results as confirmed by numerous records.

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

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?¹³

- No, please explain:
[No information about it](#)
- 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?¹⁴

- No
- Yes, please describe:

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:
[A project of the form has been prepared](#)

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 Practice¹⁵ 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:

[providing deeds containing concise and clear contents; reporting the Central Authority e-mail address in every document along with the telephone number and the e-mail address of the Case Officer; creating a web site detailing the main tasks and the operating procedures of the Central Authority, also duly explained in web sites on Hague Conventions' related matters which are run by the Ministry of Justice and the Ministry of Foreign Affairs; using and providing applicants standard forms to submit their applications; ensuring expeditious actions; keeping constant and precise communication with the parties.](#)

b. Part II on Implementing Measures. Please explain:

[Requesting that the Central Authority gets the permanent allocation of all available material and human resources, including language experts, with the right competencies and professional qualifications so as to aptly and promptly deal with an increasing workload; accepting the cooperation offered by the International Police Forces as well as by domestic administrative institutions; keeping electronic records of case files;](#)

c. Part III on Preventive Measures. Please explain:

[collecting, complementing, perfecting, transmitting and translating deeds, documents and communications in an accurate manner, complying with deadlines, and providing explanations for possible delays](#)

d. Part IV on Enforcement. Please explain:

[preliminary assessing whether the application is complete, to acknowledge its receipt and, if necessary, to promptly ask for further information, clarification and additional documents; helping applicants to retain a lawyer and to duly report on any activities undertaken in the clients' interests; working towards parental agreements during meetings with the parties and their attorneys also when enforcing a return order.](#)

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?

¹³ 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.

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

¹⁵ 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".

[Inviting Judicial Authorities to consult the guide](#)

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

[Please insert text here](#)

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:

[Negative publicity by mass media about cases of non return](#)

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

Websites managed by Justice and Foreign Ministries

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| PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION |
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10. Transfrontier access / contact¹⁶

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:

[Article 317 bis of the Italian Civil Code explicitly provides that ascendants shall be entitled to maintain significant relations with their minor grandchildren, thus ensuring that also ascendants have the possibility to claim the effective exercise of their access rights](#)

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.

[No one](#)

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;

[Some Member States tend to interpret provisions under Article 21 of the Hague Convention in an unjustified restrictive sense: they apply this institution exclusively when access right has been acknowledged by a previous decision that is being disregarded by the other parent and when the child has been the victim of an international abduction; failing either of these requisites, the access application is not granted in these countries](#)

b. the effective exercise of rights of access; and

[Please insert text here](#)

c. the restriction or termination of access rights.

[Please insert text here](#)

Please provide case examples where possible.

[Please insert text here](#)

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

[The Italian Central Authority, ever since the preliminary stage of Hague proceedings, draws the attention of both parties on the possibility of reaching an amicable settle of parental dispute. Especially when the applicant's access right has already been recognized and regulated and its breach causes the Judicial Authority to modify ex officio any decisions already in force as well as to sentence the respondent to pay compensation for non-material damage and a fine in accordance with Article 709 ter of Italy's Code of Civil Procedure. Where the circumstances so require, the cooperation of both social services and the parties' private attorneys is solicited; they are informed of the possibility of having recourse to a family mediation plan scheduled by mediation experts.](#)

11. International family relocation¹⁸

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

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

¹⁸ 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.

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:

No

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| PART V: NON-CONVENTION CASES AND NON-CONVENTION STATES |
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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:

It could be advisable the invitation of observers, that facilitates the illustration of benefits of a good application of the Convention and verification of its compatibility with basic principles of islamic family law, as witnessed by good co-operation with Morocco

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"*¹⁹

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?²⁰

No

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 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

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| PART VI: TRAINING AND EDUCATION AND THE TOOLS, SERVICES AND SUPPORT PROVIDED BY THE PERMANENT BUREAU |
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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."

¹⁹ 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".

²⁰ 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".

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?

Support of attorneys training courses, useful to spread the knowledge of the tools among practitioners

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.

very useful for all users, if prepared correctly and completely

b. INCADAT (the international child abduction database, available at < www.incadat.com >).

In the short run since I took the charge, which remained vacant for a long term, it was not possible the consultation of the archive.

By our side, the inclusion of decisions in the archive is made difficult by the need to translate and convey texts from sensitive data.

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

In the short run since I took the charge, it was not possible the consultation of the Newsletter

d. The specialised "Child Abduction Section" of the Hague Conference website (< www.hcch.net >);

In the short run since I took the charge, it was not possible the consultation of the Child abduction section of the website

e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);²²

good tool of overview

f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.²³ 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;

Italian CA, sharing the view of improving mutual technical assistance, has declared its willingness to organize and manage a "mentoring programme" requested by Armenia through HCCH

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

Please insert text here

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

The publication of contact details continuously updated facilitates the AC activities

²¹ Available on the Hague Conference website at < 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.

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

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

²⁴ 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.

- 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
[Please insert text here](#)

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](#)

PART VII: PRIORITIES AND RECOMMENDATIONS FOR THE SPECIAL COMMISSION AND ANY OTHER MATTERS

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 harmonization of national and conventional rules and The adaptation of the internal procedure's law to the principles of the Convention should be urged as a priority.](#)

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](#)