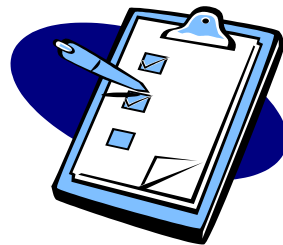


# *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*

## **IMPLEMENTATION CHECKLIST**



### **Introduction**

#### **A "Checklist" of matters that may need to be examined in implementing the Convention**

The purpose of this Checklist is to highlight issues which may need to be considered by States when implementing the Convention.

The Checklist does not seek to prescribe the method by which the Convention is implemented in Contracting States. Rather, it indicates some questions that may arise prior to, or upon implementation of the Convention. The list is not exhaustive and there undoubtedly will be other issues specific to States that will require consideration.

The Checklist includes "Preliminary matters" for consideration that relate to the Convention generally, while "Specific Measures of Implementation" and the annexes to the Checklist may also assist a State when considering particular aspects of the Convention. The annexes cover the following matters:

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|-----------|---|
| Annex I   | A summary of provisions in the Convention that may require implementing measures, <i>e.g.</i> , changes to legislation, prior to the Convention entering into force.  |
| Annex II  | A summary of information to be communicated to the depositary (the Ministry of Foreign Affairs of the Kingdom of the Netherlands), and the Permanent Bureau of the Hague Conference on Private International Law. |
| Annex III | A summary of the functions performed by Central Authorities, competent authorities and other authorities under the Convention.  |
| Annex IV  | List of available resources from States that may be of assistance to other States.  |

# IMPLEMENTATION CHECKLIST

## Preliminary matters

### 1. Contemplating becoming a State Party

- Consult with the Permanent Bureau of the Hague Conference on Private International Law and other Contracting States on the benefits of the Convention.
- Identify and consult with different stakeholders and experts in your State, for example, government and non-government agencies, judiciary, child protection services and the legal profession to:
  - determine the implications of becoming a State Party;
  - decide whether to become a State Party;
  - identify the best methods to implement the Convention; and,
  - develop a plan for the implementation and operation of the Convention.

### 2. Methods of implementation

- Consider the method by which the Convention will be implemented in your State:
  - In your legal system, is the Convention automatically incorporated into domestic law once the Convention enters into force?

OR

- In your legal system, is incorporation or transformation of the Convention into domestic law necessary? If so, by what means will this be achieved?

Regardless of whether incorporation or transformation is required in your legal system, some implementing measures will be needed to assist the effective implementation and operation of the Convention within the context of your own legal and administrative systems.

- Conduct a comprehensive review of domestic laws, rules, regulations, orders, policies and practices to ensure that existing provisions are not contrary to the Convention.
- If there are any existing provisions that create obstacles or impediments to the effective implementation and operation of the Convention, what amendments are needed? (See below under "*Specific Measures of Implementation*" and Annex I.)
- Consider which matters will need, in your legal system, to be dealt with:
  - i. by administrative acts (e.g., appointment of a Central Authority);
  - ii. in legislation (e.g., rules of jurisdiction to take measures of protection, including provisions to transfer or assume jurisdiction<sup>2</sup>);
  - iii. in rules, regulations or orders (e.g., rules of Court to admit and consider evidence from another Contracting State in proceedings related to access<sup>3</sup>).

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<sup>1</sup> Art. 29.

<sup>2</sup> Arts 8 and 9.

<sup>3</sup> Art. 35.

### 3. Becoming a State Party – signature and ratification or accession

Any State may become a State Party to the Convention. However, there are different ways in which a State may become a Party to the Convention. Consider which of the following is applicable:

- **Signature followed by ratification:** A State which was a Member of the Hague Conference on 19 October 1996 may *sign and ratify* the Convention.<sup>4</sup> By *signing* the Convention, a State expresses, in principle, its intention to become a Party to the Convention. However, signature does not oblige a State to ratify the Convention.<sup>5</sup> The State will then need to *ratify* the Convention for it to enter into force. The Convention enters into force three months after ratification.<sup>6</sup>
- **Accession:** Other States wishing to become a Party to the Convention may *accede*.<sup>7</sup> For an acceding State the Convention will enter into force nine months after the date of accession.<sup>8</sup> Within the first six months of that nine-month period, any other Contracting State may raise an objection to the accession. The Convention will not enter into force between the acceding State and the State which has raised the objection, until such time as the objection is withdrawn. Nevertheless, the Convention will enter into force between the acceding State and all other Contracting States which have not raised an objection.<sup>9</sup>

Ratification or accession to the Convention requires the deposit by a State of the appropriate instruments with the depositary.<sup>10</sup> Annex II summarises other information that should be communicated to the depositary and / or the Permanent Bureau of the Hague Conference on Private International Law prior to, or on, ratification / accession.

### 4. Developing a timetable

Determine the date on which the Convention should come into force for your State. In developing a timetable for implementation, keep this date in mind and take steps to:

- Ensure that the necessary instruments and information are deposited with the depositary and communicated to the Permanent Bureau (see Annex II).
- Ensure that the appropriate implementing measures are put in place, or enacted and in force, by the time the Convention enters into force in your State.
- Make certain that all key stakeholders (*e.g.*, government departments, child welfare agencies, courts, police, legal profession) are informed of when the Convention will come into force, any changes to law and procedures and, where applicable, their respective roles under the Convention.
- Ensure that adequate training is provided to individuals involved in the application of the Convention (*e.g.*, government departments, child welfare agencies, courts, police).
- Disseminate information on the Convention to the public.

<sup>4</sup> Art. 57(1): The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Eighteenth Session (19 October 1996).

<sup>5</sup> Art. 18 of the *Vienna Convention on the Law of Treaties* obliges States, once an expression of consent to be bound by the treaty has been made, not to defeat the object and purpose of the treaty prior to its entry into force.

<sup>6</sup> Art. 61(2) *a*): the Convention shall enter into force for each State *ratifying, accepting or approving* it subsequently, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession.

<sup>7</sup> Art. 58(1): Any other State may accede to the Convention after it has entered into force.

<sup>8</sup> Art. 61(2) *b*): the Convention shall enter into force for each State *acceding*, on the first day of the month following the expiration of three months after the expiration of the period of six months.

<sup>9</sup> Art. 58(3). Note that an objection in respect of an earlier accession may be raised by States at the time they *ratify, accept or approve* the Convention.

<sup>10</sup> Art. 57(2); Art. 58(2).

## **5. Designations, declarations and reservations**

There are some obligatory designations to be made under the Convention as well as optional declarations and reservations that States may consider necessary.

A summary of the information to be communicated to the depositary and / or the Permanent Bureau of the Hague Conference is provided at Annex II, but in particular:

- Ensure that the designation of a Central Authority or Central Authorities is made at the time of ratification / accession (or at least before the Convention enters into force).<sup>11</sup>
- Ensure that, as a matter of priority, the contact details of each Central Authority and the language(s) of communication are communicated to the Permanent Bureau and are kept updated.
- Contracting States may designate the authorities to which requests under Articles 8 and 9 (transfer of jurisdiction) and Article 33 (requests for placement of child in care) are to be addressed.<sup>2</sup> Ensure that, as a matter of priority, the designation and contact details of the authorities are promptly communicated to the Permanent Bureau (as well as language(s) of communication of the authorities).
- Consider whether a declaration is needed under Article 34, paragraph 2 (where a measure of protection is contemplated information relevant to the protection of a child is to be communicated to its authorities only through the Central Authority).<sup>3</sup>
- Consider whether reservations are necessary under Article 54 (language of communication) and Article 55 (property).<sup>4</sup>
- Consider whether a declaration under Article 59 is necessary (application of the Convention to territories).<sup>5</sup>

## **6. Ongoing processes of implementation**

- Develop and implement mechanisms to monitor and evaluate the application and functioning of the Convention, for example, consultation with courts and other authorities responsible under the Convention. Regular evaluation will assist in identifying and responding to any implementation difficulties that may arise.
- Ensure that any future changes to contact details of Central Authorities and designated authorities are provided to the Permanent Bureau.
- Access the following resources for assistance:
  - Website of the Hague Conference on Private International Law < [www.hcch.net](http://www.hcch.net) >.
  - *The Judges' Newsletter on International Child Protection* – available on the website of the Hague Conference under "Publications" then "Judges' Newsletter".
  - P. Lagarde, "Explanatory Report on the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children", *Proceedings of the Eighteenth Session, Tome II, Protection of children*, The Hague, SDU, 1998, available at < [www.hcch.net](http://www.hcch.net) > then "Publications" then "Explanatory Reports."
  - List of available resources from States that may be of assistance to other States (see Annex IV).

<sup>11</sup> Art. 29; Art. 45. There is a risk that, if a Central Authority is not designated at the time of ratification / accession, this may lead other Contracting States to consider whether an objection to the accession should be raised.

<sup>2</sup> Art. 44; Art. 45.

<sup>3</sup> Art. 45; Art. 60. See also Explanatory Report, para. 144.

<sup>4</sup> Art. 60. See also Explanatory Report, para. 181.

<sup>5</sup> Art. 60.

## Specific measures of implementation

### Chapter I – Scope

- Identify what measures of protection are already available in domestic law and how they relate to the Convention. The measures listed in Article 3 are not exhaustive and there may be other measures of protection available in your State.<sup>16</sup>
- Consider what rights and responsibilities under domestic law reflect the concept of “parental responsibility” (see Art. 1(2)).

### Chapter II – Jurisdiction

- Consider whether changes to legislation are necessary for judicial or administrative authorities to have jurisdiction to take measures of protection based on a child’s “habitual residence” (Art. 5).
- Authorities must also be able to take certain measures of protection in respect of a child that is *present* in the State but not *habitually resident* (Arts 6, 11 and 12).
- Note that the Convention permits the authorities of a State to take measures of protection for a child habitually resident in another Contracting State in the context of an application for divorce, legal separation or annulment in respect of the parents’ marriage. However, this is in very limited circumstances, and only if permitted by the law of the State (Art. 10).
- Identify which judicial or administrative authorities will be competent to exercise jurisdiction under the Convention and ensure they are informed of any changes to legislation, policy or practice.

### Transfer provisions (Arts 8 and 9)

- Consider what implementing measures may be necessary to facilitate the transfer of jurisdiction under Articles 8 and 9, for example:
  - changes to legislation or rules to enable competent authorities to transfer or assume jurisdiction. Authorities should be aware of the conditions under which the transfer may occur, in particular, that it must be in the best interests of the child and agreed to by both competent authorities (see Arts 8 and 9);
  - implementation of internal procedures, such as:
    - mechanisms for transferring or assuming jurisdiction. Authorities should have the ability to agree to requests to transfer or assume jurisdiction in appropriate cases. Consider:
      - how the application for measures of protection will come before an authority where jurisdiction has been assumed; and,
      - how to ensure that where jurisdiction has been transferred the case is no longer dealt with by the authorities of your State.

<sup>16</sup> By contrast, the list in Art. 4 of matters for which the Convention does not apply *is* exhaustive. See Explanatory Report, paras 26 to 36.

## IMPLEMENTATION CHECKLIST

### *Transfer provisions (Arts 8 and 9) continued*

- procedures for the transmittal and receipt of requests for the transfer of jurisdiction and the role, if any, of the Central Authority. States should consider how their authorities will communicate with authorities in other Contracting States, for example, by a direct exchange between the competent authorities concerned with the proceedings or communication through the Central Authority. Consider whether a declaration under Article 44 is necessary (*i.e.*, designation of the authorities to which requests under Arts 8 and 9 are to be addressed);
- procedures for parties to a matter (other than Central Authorities or competent authorities) that are invited to request the transfer of jurisdiction. It should be borne in mind that one of the parties may be located in another Contracting State.

### **Chapter III – Applicable law**

- Consider whether any changes to existing legislation are needed to enable:
  - the recognition of parental responsibility that has been attributed or extinguished under the laws of the child's habitual residence, *i.e.*, the laws of another State (Art. 16);
  - authorities to *exceptionally* apply or take into account the law of another State where the child has a "substantial connection" (Art. 15(2)).

### **Chapter IV – Recognition and enforcement**

- Consider whether any implementing measures are needed to amend existing legislation or procedures that are contrary to the following provisions:
  - measures of protection taken by the authorities of a Contracting State must be recognised "*by operation of law*" (Art. 23(1));
  - recognition of measures of protection taken in another Contracting State may only be refused on the grounds provided in Article 23, paragraph 2;
  - any "*interested person*" may request a decision on the recognition or non-recognition of a measure taken in another Contracting State (Art. 24). It may be that the interested person is located outside the requested State;
  - the procedure for the declaration of enforceability or registration of measures of protection must be "*simple and rapid*" (Art. 26);
  - enforcement of measures of protection takes place in accordance with the law of the requested State to the extent provided by such law, taking into consideration the best interests of the child (Art. 28).
- Examine any existing domestic laws outside the Convention that apply to the recognition, declaration of enforceability or registration for enforcement of foreign measures of protection taken by another State and consider how these laws relate to the Convention.

## Chapter V – Co-operation

### a) Central Authorities

Central Authorities will play an important role in the effective operation of the Convention. Ideally, Central Authorities will be established and managed to provide a point of contact as well as complementing any existing domestic and cross-border arrangements.

When planning to establish a Central Authority, consider:

- which authority is best placed to perform the functions of a Central Authority. This is most likely to be an authority with responsibilities that are closely related to the subject matter of the Convention. The Central Authority should also be in a position to promote co-operation amongst the national authorities responsible for the different aspects of child protection, as well as to co-operate with other Central Authorities in Contracting States.

The Central Authority might, for example, be a government authority such as a ministry of justice or a ministry of child and family issues. Alternatively, a non-governmental organisation with similar responsibilities for children could be appointed;

- the functions that Central Authorities will perform and the functions that other authorities will perform (see Annex III);
- the measures needed to ensure that each authority has the necessary powers and resources to effectively perform their functions under the Convention;
- whether internal procedures are needed to ensure that requests are transmitted and processed quickly. For example:
  - communication between Central Authorities, competent authorities and other authorities *within* your State;
  - communication with authorities in other States.
- how mediation, conciliation or similar means can be used to reach agreed solutions for measures of protection (Art. 31 *b*). Identify what services are available to enable and support parties to engage in making consensual solutions;
- while Central Authorities and other public authorities of Contracting States are required to bear their own costs in carrying out their obligations under the Convention, consider whether “reasonable charges” might be imposed for the provision of certain services (Art. 38).<sup>17</sup>

If your State is a Party to the 1980 Child Abduction Convention, consider whether the designated Central Authorities will be the same for both Conventions.

- If the Central Authorities to be designated are not the same, ensure that the Central Authorities are able to consult in cases involving wrongful removal or retention of a child,<sup>8</sup> or contact / access cases.

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<sup>17</sup> See Explanatory Report, para. 152.

<sup>8</sup> See Art. 7.



## IMPLEMENTATION CHECKLIST

*Co-operation – Chapter V continued*

### **b) Access – Article 35**

- Consider whether any implementing measures or amendments to existing legislation are needed to:
  - assist in “securing the effective exercise of rights of access” for a parent residing in another Contracting State. Identify which authorities will transmit and receive requests for assistance;
  - enable authorities that are seized of proceedings relating to access to consider information from another Contracting State as to the suitability of a parent residing in another State.
  
- Identify what legal assistance or other advice may be available to foreign parents seeking measures of protection relating to access in respect of a child that is habitually resident in your State.

For further advice on this aspect of the Convention, see *Transfrontier Contact Concerning Children – General Principles and Guide to Good Practice (2008)* available at < [www.hcch.net](http://www.hcch.net) > under “Child Abduction Section” then “Guides to Good Practice”.

### **c) Cross-border placement of children – Article 33**

- Consider whether implementing measures or amendments to existing legislation are necessary in respect of the cross-border placement of a child in a foster family or institutional care or the provision of care by *kafala* or an analogous institution.
  
- Consider which authorities are best placed to:
  - consult on proposed placements
  - prepare reports on the child
  - receive and transmit requests from another Contracting State.
  
- Consider what safeguards and standards should apply before the Central Authority or other competent authority gives consent to a cross-border placement or provision of care.
  
- A designation under Article 44 may be necessary (Contracting States may designate the authorities to which requests under Art. 33 are directed).
  
- Ensure that communication procedures are implemented within the State and with other Contracting States, to avoid placements being made without the consent of the receiving State.



*Co-operation – Chapter V continued*

**d) Judicial communication**

The International Hague Network of Judges facilitates direct judicial communication between, and information sharing among, judges in different countries.

- If your State is represented in the Network consider whether the designated judge should also be available to communicate information relating to the Convention. Consider whether it may be useful to designate an additional judge with an interest or expertise in the Convention.
- If your State is not represented in the Network, consider whether a member of the judiciary in your State has a specialist interest in the operation of the Convention and would be willing to participate. Further information on the Network is available from the Permanent Bureau of the Hague Conference.
- Consider the possible role of direct judicial communication in the operation of Articles 8 and 9 in your State.
- Consider whether any implementing measures are necessary to provide the legal basis for direct judicial communications.

**Confidentiality (Arts 41-42)**

- Consider whether existing domestic laws are sufficient to protect the confidentiality of information that is gathered or transmitted under the Convention.
- If there are existing limitations in your State on the type of information that can be released to third parties, consider whether exceptions could be made for an exchange of information where it would be consistent with the objects of the Convention, for example, where a child is in need of urgent protection.

**Relationship between the Convention and other instruments**

- Identify any other international instruments to which your State is a Party which deal with the protection of children and consider how they will relate to the Convention. If appropriate, consider, together with other Parties to the instruments, whether any declaration is needed to ensure compatibility with the 1996 Convention (Art. 52).

March 2009

**IMPLEMENTATION CHECKLIST**

**ANNEX I**

**Checklist of provisions in the 1996 Convention that may require changes in domestic laws or procedures**

The following table provides a summary of provisions where it may be necessary to consider legislative or procedural changes for the effective implementation and operation of the Convention. The need of such changes will obviously be less for those countries in which the provisions of the Convention are automatically incorporated into the legal system.

<b>Article</b>	<b>Provision</b>	<b>Issue</b>
Article 5	The State of the child's "habitual residence" has jurisdiction to take measures of protection.	Do authorities have jurisdiction to take measures based on a child's "habitual residence"?
Articles 6, 11, 12	Contracting States may take certain measures of protection in respect of a child that is not habitually resident but is present in the State.	Do authorities have jurisdiction to take measures of protection when a child is <i>present</i> in the State but not <i>habitually resident</i> ?  Can authorities take measures of protection under Article 12 that are provisional and limited in territorial effect?
Article 7	In cases of child abduction, the authorities of the State of the habitual residence of the child immediately before the wrongful removal or retention retains jurisdiction for measures of protection until a number of conditions have been met.	Are there mechanisms in place to ensure that the authorities with jurisdiction are aware that the case is an international child abduction matter?  Is the jurisdiction of authorities where the child is located limited so as to take only urgent measures?
Articles 8, 9	Jurisdiction may be transferred between authorities of Contracting States once certain conditions are fulfilled.	Can authorities assume or transfer jurisdiction in accordance with the Convention?  Are procedures in place to facilitate the transfer of jurisdiction?
Article 10	Where certain conditions are fulfilled, authorities may be able to take measures of protection for a child <i>habitually resident</i> in another Contracting State where the measures are taken as part of an application for divorce or legal separation or annulment in respect of the parents' marriage.	Ensure that, if authorities in your State can take measures of protection as a part of an application for divorce or legal separation of parents, they do so only where the conditions in Article 10(1) <i>a</i> ) and <i>b</i> ) are fulfilled.
Articles 1, 3, 16-18	The Convention defines parental responsibility in Article 1(2).  Measures of protection include the attribution, exercise, delegation and termination or restriction of parental responsibility.	Is the concept of "parental responsibility" familiar to your system of law?  What are the rights and responsibilities in your State that reflect the concept of parental responsibility?  Will parental responsibility attributed or extinguished under the laws of the child's habitual residence, <i>i.e.</i> , laws of another State, be recognised?
Article 23	Measures of protection shall be recognised in all Contracting States "by operation of law".	Are measures of protection taken in another Contracting State recognised in your State by operation of law, <i>i.e.</i> , a measure will be recognised without the need to take proceedings?
Article 24	Any "interested person" may request a decision on the recognition or non-recognition of a measure taken in another Contracting State.	Can an interested person seek the recognition or non-recognition of a measure of protection? It may be that the interested person is located in another Contracting State.
Article 26	The declaration of enforceability or registration of measures of protection shall be "a simple and rapid procedure".	Are procedures for registration of measures of protection "simple and rapid"?
Articles 30-39	Co-operation under the Convention.	Does each authority have the necessary powers and resources to effectively perform their functions under the Convention?

**ANNEX II**

**Information to be communicated to the depositary or the Permanent Bureau by States Parties to the Hague Convention of 1996 on the Protection of Children**

***Designations which Contracting States must provide directly to the Permanent Bureau of the Hague Conference on Private International Law (Art. 45(1))***

Article 29	<p>Contracting States shall designate a Central Authority to discharge duties which are imposed by the Convention on such authorities. As a matter of priority, contact details of Central Authorities and the language(s) of communication should be communicated to the Permanent Bureau.</p> <p>Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority.</p> <p>Where more than one Central Authority is designated, the State shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.</p>
Article 44	Contracting States may designate authorities where requests under Articles 8, 9 and 33 are to be addressed.

***It is recommended that the following information be communicated to the Permanent Bureau:***

Article 40	Each Contracting State shall designate authorities competent to issue certificates under Article 40. The contact details and language(s) of communication of the designated authorities should be communicated to the Permanent Bureau.
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***Notifications to be communicated to the depositary<sup>19</sup>***

Article 57	Instruments of ratification, acceptance and approval.
Article 58	<ul style="list-style-type: none"> <li>• Instruments of accession.</li> <li>• Objections to accession. Contracting States may object to the <i>accession</i> of an acceding State within six months after the receipt of a notification of accession.<sup>20</sup></li> </ul>
Article 62	A State Party to the Convention may denounce the Convention by notification to the depositary.

***Declarations which may be made and must be communicated to the depositary***

Article 45	A State may declare that requests for information under Article 34(2) shall only be communicated through its Central Authority.
Article 52	The Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by States Parties to such instrument.
Article 59	Where a State has two or more territorial units in which different systems of law are applicable, it may declare that the Convention shall extend to all or to one or more of the territorial units of the Contracting State (which must be identified). The declaration may be modified.

***Information to be provided to the depositary regarding agreements between Contracting States:***

Article 39	Contracting States may enter into agreements with other Contracting States with a view to improving the operation of the Convention. A copy of any such agreements shall be transmitted to the depositary.
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***Reservations which may be made and must be communicated to the depositary***

Article 54(2)	States may make a reservation objecting to the use of either French or English, but not both.
Article 55	A Contracting State may reserve the jurisdiction of its authorities to take measures of protection directed to the property of a child situated on its territory, and reserve the right not to recognise any parental responsibility or measure in so far as it is incompatible with any measure taken by its authorities in relation to that property.
Article 60(2)	The withdrawal of any reservations.

<sup>19</sup> Ministry of Foreign Affairs of the Kingdom of the Netherlands.

<sup>20</sup> Note that an objection in respect of an earlier accession may be raised by States at the time they *ratify, accept or approve* the Convention.

**ANNEX III**

**Functions of Central Authorities and other authorities  
under the Hague Convention of 1996 on the Protection of Children**

<b><i>Direct obligations of Central Authorities</i></b>	
Article 30(1)	Central Authorities shall co-operate with each other and promote co-operation amongst competent authorities in their States.
Article 30(2)	Central Authorities shall take appropriate steps to provide information as to the laws of, and services available, in their State relating to the protection of children.

<b><i>Functions where Contracting States may designate specific authorities to whom requests be directed (Art. 44)</i></b>	
Article 8(1)	Requests to transfer jurisdiction: the authority of a Contracting State which has jurisdiction can request or ask the parties to request an authority in another Contracting State to assume jurisdiction in a particular case.
Article 9(1)	Requests to assume jurisdiction: the authority of a Contracting State which does not have jurisdiction can request or ask the parties to request an authority in the Contracting State of the habitual residence to transfer jurisdiction in a particular case.
Article 33	Requests regarding cross-border placement: the Central Authority or competent authority of Contracting States must consult the Central Authority or competent authority in another Contracting State regarding placement in that other State of a child in a foster family or institutional care, or the provision of care by <i>kafala</i> or other analogous institution. The requesting State must provide a report with reasons for placement. The requested State shall communicate its decision regarding the proposed placement.

<b><i>Other functions which may be performed by Central Authorities, competent authorities or other public authorities as determined by the Contracting State<sup>2</sup></i></b>	
Article 23, 24	Receipt and transmittal of requests related to the recognition or non-recognition of measures.
Article 26	Declaration of enforceability or registration for enforcement of measures of protection taken in another Contracting State.
Article 28	Enforcement of measures of protection.
Article 31 a)	Authorities to facilitate communication and offer assistance under Articles 8 and 9 and Chapter V.
Article 31 b)	Facilitate consensual solutions for protection measures to which the Convention applies.
Article 31 c)	Provide assistance, on request from competent authorities, in locating missing children in need of protection.
Article 32 a)	Provide a report on the situation of the child in the State of habitual residence.
Article 32 b)	Request a competent authority to consider taking measures of protection for a child.
Article 34(1)	Receive or transmit requests for information relevant to the protection of a child. States may declare that requests under Article 34(1) be communicated only through its Central Authority.
Article 35(1)	Assist in securing the effective exercise of rights of access.
Article 35(2)	Authorities of the Contracting State where a non-custodial parent resides may, on request, gather information and make a finding on suitability of the parent to exercise access. Authorities of a Contracting State considering a request from a foreign parent for access to a child shall admit and consider information gathered, or findings made, by authorities of the Contracting State where the foreign parent resides.
Article 36	Where a child has been moved and is exposed to serious danger, competent authorities seized of the proceedings shall inform the State where the child is located about the danger (notwithstanding Art. 37).
Article 40	A certificate may be issued under Article 40 to a person having parental responsibility or is entrusted with the protection of the child's person or property. The certificate should indicate the capacity in which the bearer is entitled to act.

<sup>2</sup> For example: government agencies, courts, administrative authorities / tribunals, child welfare services, health professionals, social welfare services, counselling services, court services, police services, mediation professionals. States should ensure that each authority has the necessary powers and resources to perform effectively their functions under the Convention. Procedures may also be necessary to ensure that authorities are aware of the responsibilities and functions performed by different authorities in the State.

## ANNEX IV

## Available resources from States that may be of assistance to other States

**HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW**

< [www.hcch.net](http://www.hcch.net) >

**AUSTRALIA** (English)

Family Law (Child Protection) Regulations 2003 (Cth)

<http://www.comlaw.gov.au/comlaw/legislation/LegislativeInstrument1.nsf/0/71EB7B19DB0B4659CA256F700080E993?OpenDocument>

Family Law Act 1975 (Cth) – Division 4

<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/59D7F763D13627B5CA2573B5001A451B?OpenDocument&mostrecent=1>

Child Protection (International Measures) Act 2003 (Qld)

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/ChildProtInMA03.pdf>

Child Protection (International Measures) Act 2006 (NSW)

[http://www.legislation.nsw.gov.au/scanview/inforce/s/1/?TITLE=%22Child%20Protection%20\(International%20Measures\)%20Act%202006%20No%2012%22&nohits=y](http://www.legislation.nsw.gov.au/scanview/inforce/s/1/?TITLE=%22Child%20Protection%20(International%20Measures)%20Act%202006%20No%2012%22&nohits=y)

Child Protection (International Measures) Act 2003 (Tas)

[http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc\\_id=23%2B%2B2003%2BAT%40EN%2B20080731230000;hison=;prompt=;rec=;term](http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc_id=23%2B%2B2003%2BAT%40EN%2B20080731230000;hison=;prompt=;rec=;term)

**EUROPEAN UNION** (English, French)

Council Decision of 5 June 2008 authorising certain Member States to ratify, or accede to, in the interest of the European Community, the 1996 Hague Convention on Child Protection

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:151:0036:0038:EN:PDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:151:0036:0038:FR:PDF>

**DENMARK** (Danish)

Lov om Haagerbørnebeskyttelseskonventionen

Act on the 1996 Hague Convention on Child Protection

<https://www.retsinformation.dk/Forms/R0710.aspx?id=31721>

**FRANCE** (French)

Enfance : responsabilité parentale et protection des enfants (convention de La Haye)

[http://www.assemblee-nationale.fr/13/dossiers/lahaye\\_responsabilite\\_parentale.asp](http://www.assemblee-nationale.fr/13/dossiers/lahaye_responsabilite_parentale.asp)

**IRELAND** (English)

Protection of Children (Hague Convention) Act, 2000

<http://www.irishstatutebook.ie/2000/en/act/pub/0037/index.html>

**NETHERLANDS** (Dutch)

Uitvoeringswet internationale kindbescherming

International Child Protection Act, 16 February 2006

<http://wetten.overheid.nl/BWBR0019574/>

**SWITZERLAND** (French, German, Italian)

Announcement and documents - Towards more effective protection of the children in cases of international abduction, 28 February 2007

Vers une protection plus efficace des enfants en cas d'enlèvement international

Entführte Kinder werden besser geschützt

Migliore protezione dei minori rapiti

[http://www.bj.admin.ch/bj/fr/home/dokumentation/medieninformationen/2007/ref\\_2007-02-281.html](http://www.bj.admin.ch/bj/fr/home/dokumentation/medieninformationen/2007/ref_2007-02-281.html)