

Questionnaire concerning the Practical Operation of the 1996 Child Protection Convention

Wherever your replies to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 1996 Child Protection 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.

Name of State or territorial unit: ²	Germany
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PART I – FOR CONTRACTING PARTIES

1. Recent developments in your State

1. Have there been any significant developments in your State regarding the **legislation** or **procedural rules** applicable in cases of international child protection? Where possible, please state the reason for the development and the results achieved in practice.

- No
 Yes

Please specify:

The application practice of the 1996 Hague Convention cannot be assessed without consideration of the Brussels IIa and the Brussels IIb Regulations (Regulation (EU) 1215/2012 and Regulation (EU) 2019/1111) and the application and interpretation thereof. See further the answer of the EU.

The entry into force of the EU Council Regulation (EU) 2019/1111 on August 2022 required a revision of parts of the IFLPA (International Family Law Procedure Act, find English version under http://www.gesetze-im-internet.de/englisch_intfamrvg/index.html). There were no relevant changes to the law concerning the 1996 Convention.

2. Please provide the three most **significant decisions concerning the interpretation and application of the 1996 Convention** recently rendered by the relevant authorities³ in your State.

Case Name	Court Name	Court Level	Brief summary of the ruling
12 UF 60/20	OLG Hamburg	Court of 2nd instance	1. A "request for return" in Art. 7 of the 1996 convention is only a request under the Child Abduction Convention 1980 2. The child's opportunity to be heard as stated in Art. 23 para. 2 b) of the 1996 Convention may be given in cases where the child has been heard

² The term "State" in this Questionnaire includes a territorial unit, where relevant.

³ The term "relevant authorities" is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1996 Convention. Whilst in the majority of Contracting Parties such "authorities" will be courts (i.e., judicial), in some Contracting Parties administrative authorities remain responsible for decision-making in Convention cases.

			by an authority that was competent for the hearing under national law and where a report of the hearing was submitted to the court.
8 UF 152/19	OLG Frankfurt a. M. (8. Senat)	Court of 2nd instance	<p>I. In establishing a child's habitual residence the court has to take into account the duration, regularity and the circumstances of a stay in a member state als well as the reasons for the stay and the removal, the child's nationality, the place and the circumstances of school enrolment, the child's language skills and family and social relationships. The intention of the family to settle permanently kann be relevant.</p> <p>II. In the case of a change of the child's habitual residence from a State where the Council Regulation (EC) No 2201/2003 Regulation (Regulation 2201/2003) applies to a State where it does not apply (but where the 1996 Convention applies), there is no perpetuity of jurisdiction. Art. 8 para. 2 of the Regulation 2201/2003 does not apply. According to Art. 61 a of Regulation 2201/2003 the Regulation takes precedence over the 1996 Convention only if the child concerned is habitually resident in a State where the Regulation applies. Therefore,</p>
3 F 25/21	AG Hamm	Court of 1 st instance	In a case under the 1996 Convention, a family court may, via the domestic liaison judge, contact a foreign liaison judge in the European Judicial Network in Civil and Commercial Matters to obtain information on the applicable foreign law and its specific interpretation.

3. Please provide a brief summary of **any other significant developments** in your State relating to international child protection, including any regional instruments or bilateral agreements that have been negotiated or which your State has signed and ratified or acceded to (e.g., Memorandum of Understanding on the placement of children abroad):

Germany adheres to the relevant international treaties and European law. Furthermore, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth issued a "Statement on the protection of the Rights of Ukrainian Refugee Children and Youth" in June 2022 and endorsed the "Political Statement on the Protection of Displaced Children from Ukraine in the Context of Russia's War of Aggression against Ukraine" by the Presidency of the Council of European Union.

2. Scope of application (Arts 2, 3 and 4, and C&R No 29 of 2017 SC)

4. Have competent authorities in your State experienced any challenges, or have questions arisen, in determining the scope of the 1996 Convention (e.g., which measures of protection fall within the scope of the 1996 Convention)?

- No
 Yes

Please specify:

Please insert text here

3. Jurisdiction to take measures of protection

Habitual residence (Art. 5 and C&R No 31 of 2017 SC)

5. Have competent authorities in your State experienced any challenges when determining the habitual residence of the child in cases falling within the scope of the 1996 Convention?

- No
 Yes

Please specify:

Problems arose in determining the state of habitual residence of cross-border commuters.

With regard to refugee children, in some cases it is difficult to assess when and under which circumstances those children establish habitual residence in the country of refuge, especially when return to their home country is intended.

International child abduction (Arts 7 and 50)

6. Have competent authorities in your State experienced any challenges, or have questions arisen, in **making a determination whether to exercise jurisdiction** in cases of wrongful removal or retention of the child?

- No
 Yes

Please specify:

When a child was brought to Germany due to armed conflicts in their home state with consent of the left-behind parent and later this consent was revoked, questions arose as to whether the child is illegally retained in Germany in case of non-return.

Pending divorce or legal separation of the child's parents (Art. 10)

7. Have competent authorities in your State experienced any challenges, or have questions arisen, in making a determination whether to exercise **jurisdiction** in cases where there is a pending divorce or legal separation of the child's parents (**Art. 10**)?

- No
 Yes

Please specify:

Please insert text here

Transfer of jurisdiction (Arts 8 and 9)

8. How often have competent authorities in your State experienced cases of transfer of jurisdiction under **Articles 8 and / or 9** of the 1996 Convention?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

If possible, please provide supplementary information:

Most cases concern the transfer of jurisdiction within EU Member States, therefore transfer of jurisdiction regimes under EU Regulations (Brussels IIa/IIb) are primarily applicable. Only in a minority of cases, the 1996 Convention is applicable.

Problems primarily occur in the area of custody proceedings initiated because of child endangerment. For instance, the national procedural law of some states does not allow the court to initiate proceedings because of child endangerment. It requires an application to the court by a specific body in the state, e.g. by the public prosecutor in Belgium or the child protection authority ("Raad voor de kindbescherming") in the Netherlands. However, these are not authorities that take the measures within the meaning of the 1996 Convention (or the Brussels IIa or Brussels IIb Regulation with parallel problems), so that jurisdiction cannot be passed on to them.

9. Has your State developed any **good practices, procedures, guidelines or protocols** to facilitate the transfer of jurisdiction?

Yes
 Please specify and provide the links to relevant documents whenever possible:

No
 Please specify any reasons:
 A preliminary informal inquiry via the liaison judge to clarify jurisdiction in the other state and the agreement of the foreign court to take over the procedure has proven to be very helpful and expedites the duration of the procedure. For instance, a court reported a case where the child was supposed to be in danger in the custody of both parents. The foreign court was informed via the liaison judges.
 Direct communication is now also laid down in Art. 86 para. 2 lit. a Brussels IIb Regulation .

4. Special types of measures of protection

Urgent measures of protection (Art. 11)

10. Have competent authorities in your State experienced any challenges, or have questions arisen, with respect to the application of **Article 11** (e.g., the definition of "urgency"; scope, nature and duration of measures)?

No
 Yes, in cases of international child abduction.
 If possible, please provide more details about the experience of your State using Article 11 in cases of international child abduction:
 According to German jurisdiction and literature cases of child abduction generally are "urgent" (see OLG München, judgment of 15.01.2015, 12 UF 1821/14 and Wiedemann in: Münchener Kommentar zum FamFG, 3. Aufl. 2019, Art. 11 KSÜ Rn. 8).

- Yes, in other situations.
Please describe in which other situations a competent authority in your jurisdiction has applied Article 11:
The definition and interpretation of the term "urgency" is elusive.
Frequently, it is difficult to assess whether foreign authorities cannot decide in time. Problems also arise to the scope of measures that are possible. Furthermore, not all of the courts are aware of the fact that if the child is present in their state, they may have international jurisdiction under Art. 11 of the 1996 Convention and that they should clearly state in their decision what they base their international jurisdiction on, so that it is clear whether the mechanism of Art. 11 para. 2 of the 1996 Convention applies.
Courts do not always inform each other of the measures taken. Then, the later court might have no knowledge that a (preliminary) measure already exists.

Provisional measures (Art. 12)

11. Have competent authorities in your State experienced any challenges, or have questions arisen, in applying **Article 12** (e.g., definition as to what may constitute a "provisional character"; scope, nature and duration of measures)?

- No
 Yes
Please describe:

5. Applicable law (Chap. III)

12. Have competent authorities in your State experienced any challenges, or have questions arisen, in relation to the applicable law rules provided by **Articles 15, 16 and 17** of the 1996 Convention?

- No
 Yes
Please describe:

6. Recognition and enforcement

13. Have competent authorities in your State experienced any challenges, or have questions arisen, in relation to the **recognition of measures of protection**, from the perspective of the requested State?

- No
 Yes
Please describe:

A German court might order a protection measure in combination with a divorce decision according to national jurisdiction rules (so called Joinder, see for instance sec. 137 of the German Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction find English version under https://www.gesetze-im-internet.de/englisch_famfg/); however, not in accordance with Art. 10 of the Convention. This results in the refusal of recognition under Art. 23 para. 2 lit. a) of the Convention.

Problems also very frequently arise in the context of recognition of foreign decisions under Article 23 para. 2 lit. b) in child custody proceedings because of the strict German standard applying to child hearings.

Courts reported refusals of recognition concerning a custody and an access decision in Denmark but the exact circumstances are not yet known.

Advance recognition (Art. 24)

14. How often have competent authorities in your State experienced cases of requests for **advance recognition**?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

If possible, please provide supplementary information:

Please insert text here

15. Have **judicial or administrative procedures, guidelines, or protocols** been adopted in your State to facilitate the application of Article 24?

- Yes, but there have been no changes since the last SC meeting
 Yes, with changes since the last SC meeting.
 Please specify:
 Please insert text here
 No

Declaration of enforceability or registration for the purpose of enforcement (Arts 26, 27 and 28)

16. In relation to the **simple and rapid procedure** for declaring enforceable or registering for the purpose of enforcement of measures of protection taken in another Contracting Party (Art. 26), what is the practice in your State?

- a) Which authority declares enforceable or registers a measure of protection taken in another Contracting Party? Please specify:

The implementing legislation for the "simple and rapid procedure" pursuant to Art. 26 (2) can be found in sec. 16-23 IFLPA (see question 1). The applicant may obtain the endorsement of enforcement in a simple and effective ex parte procedure, see sec. 18 (1), 20, 23 IFLPA. The competent court (see sec. 10, 12 IFLPA) shall order that the title be furnished with the endorsement of enforcement; in giving the reasons it is - as a rule - sufficient to make reference to the Convention, see sec. 20 (1) IFLPA. The endorsement of enforcement is then to be granted by the registry clerk, see sec. 23 (1) IFLPA.

- b) What time frames are applied to ensure that the procedure is rapid? Please explain:

There is no time frame.

- c) Is legal representation required? Please explain:

Legal representation is not required, sec. 18 (2) IFLPA in conjunction with sec. 10 (1), 114 (1), 111, 151 of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction. Please insert text here

17. Are you aware of any challenges, or have questions arisen, in applying **Articles 26, 27 and / or 28** in your State?

- No
- Yes

Please describe:
Please insert text here

7. Cooperation (Chap. V)

Central Authority practice

18. Are you aware of any challenges, or have questions arisen, in applying **Article 30** in your State (e.g., in relation to the timeliness of responses to requests)?

- No
- Yes

Please describe:
Generally, cooperation between Central Authorities runs smoothly and effectively. However, some Central Authorities reply with a certain delay, on rare occasions the German Central Authority does not receive any reply at all. As for communication via e-mail, it has proven quite effective if Central Authorities provide a collective e-mail adress that can be used instead of individual adresses linked to a particular employee. This practice avoids difficulties caused by turnover of staff.

Services available

19. If your State answered the 2016 Questionnaire, please indicate whether since then there have been any changes in relation to the services provided by your Central Authority:

- No. Please proceed to question No 22
- Yes. Please continue answering the following questions

20. With the understanding that services provided by Central Authorities under the 1996 Convention may vary, does your Central Authority provide assistance to **individuals habitually resident in your State** who request it in connection with the following matters? If so, please specify the nature of the assistance provided.

Matter	Service(s) provided
a) A request to organise or secure effective exercise of rights of access in another Contracting Party (requested State) ⁴	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State

⁴ See in this context, e.g., the [Practical Handbook](#) on the Operation of the 1996 Child Protection Convention, sections 11(E)(d) and 13(B) (2014).

	<ul style="list-style-type: none"> <input type="checkbox"/> 6. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input type="checkbox"/> 7. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 8. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input type="checkbox"/> 9. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 10. Provision of regular updates on the progress of the application <input type="checkbox"/> 11. Other, please specify: Please insert text here
<p>b) A request to secure the return to your State of a child subject to international abduction where the 1980 Convention is <u>not</u> applicable</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in discovering the whereabouts of a child who has been wrongfully removed or retained <input type="checkbox"/> 7. Assistance in taking provisional / urgent measures of protection to prevent further harm to the child <input type="checkbox"/> 8. Assistance in securing the voluntary return of the child or in bringing about an amicable resolution of the issue <input type="checkbox"/> 9. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child <input type="checkbox"/> 10. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 11. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child <input type="checkbox"/> 12. Assistance in obtaining private legal counsel or mediation services <input type="checkbox"/> 13. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 14. Regular updates on the progress of the application <input type="checkbox"/> 15. Other, please specify: Please insert text here
<p>c) A request to secure the return to your State of a runaway child (see Art. 31(c))</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in discovering the whereabouts of a runaway child <input type="checkbox"/> 7. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child <input type="checkbox"/> 8. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 9. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child <input type="checkbox"/> 10. Assistance in obtaining private legal counsel

	<input type="checkbox"/> 11. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 12. Regular updates on the progress of the application <input type="checkbox"/> 13. Other, please specify: Please insert text here
<p>d) A request for a report on the situation of a child habitually resident in another Contracting Party (e.g., a child returned as a result of child abduction proceedings or a child who has moved as a result of a relocation) (see Art. 32(a))</p>	<input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Other, please specify: Please insert text here
<p>e) A request that the competent authorities of another Contracting Party decide on the recognition or non-recognition of a measure taken in your State (see Art. 24)</p>	<input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in obtaining private legal counsel <input type="checkbox"/> 7. Regular updates on the progress of the request <input type="checkbox"/> 8. Other, please specify: Please insert text here
<p>f) A request that the competent authorities of another State Party declare enforceable or register for the purpose of enforcement measures taken in your State (see Art. 26)</p>	<input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in obtaining private legal counsel <input type="checkbox"/> 7. Regular updates on the progress of the request <input type="checkbox"/> 8. Other, please specify: Please insert text here

21. With the understanding that services provided by Central Authorities under the 1996 Convention may vary, if your Central Authority were to receive a request of assistance from **another Central Authority** on behalf of an individual residing abroad, in connection with the following matters, please specify the nature of the assistance that your Central Authority provides or would provide if the situation were to arise.

Matter	Service(s) provided
	<input type="checkbox"/> 1. None

<p>a) A request to organise or secure effective exercise of rights of access in another Contracting Party (requested State)⁵</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input type="checkbox"/> 7. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 8. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input type="checkbox"/> 9. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 10. Provision of regular updates on the progress of the application <input type="checkbox"/> 11. Other, please specify: Please insert text here
<p>b) A request to secure the return to your State of a child subject to international abduction where the 1980 Convention is <u>not</u> applicable</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in discovering the whereabouts of a child who has been wrongfully removed or retained <input type="checkbox"/> 7. Assistance in taking provisional / urgent measures of protection to prevent further harm to the child <input type="checkbox"/> 8. Assistance in securing the voluntary return of the child or in bringing about an amicable resolution of the issue <input type="checkbox"/> 9. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child <input type="checkbox"/> 10. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 11. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child <input type="checkbox"/> 12. Assistance in obtaining private legal counsel or mediation services <input type="checkbox"/> 13. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 14. Regular updates on the progress of the application <input type="checkbox"/> 15. Other, please specify: Please insert text here
<p>c) A request to secure the return to your State of a runaway child (see Art. 31(c))</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State

⁵ See in this context, e.g., the [Practical Handbook](#) on the Operation of the 1996 Child Protection Convention, sections 11(E)(d) and 13(B) (2014).

	<ul style="list-style-type: none"> <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in discovering the whereabouts of a runaway child <input type="checkbox"/> 7. Assistance in initiating judicial or administrative proceedings with a view to obtaining the return of the child <input type="checkbox"/> 8. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 9. Assistance in providing such administrative arrangements as may be necessary and appropriate to secure the safe return of the child <input type="checkbox"/> 10. Assistance in obtaining private legal counsel <input type="checkbox"/> 11. Referral to other governmental and / or non-governmental organisations for assistance <input type="checkbox"/> 12. Regular updates on the progress of the application <input type="checkbox"/> 13. Other, please specify: Please insert text here
<p>d) A request for a report on the situation of a child habitually resident in another Contracting Party (e.g., a child returned as a result of child abduction proceedings or a child who has moved as a result of a relocation) (see Art. 32(a))</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Other, please specify: Please insert text here
<p>e) A request that the competent authorities of another Contracting Party decide on the recognition or non-recognition of a measure taken in your State (see Art. 24)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in obtaining private legal counsel <input type="checkbox"/> 7. Regular updates on the progress of the request <input type="checkbox"/> 8. Other, please specify: Please insert text here
<p>f) A request that the competent authorities of another Contracting Party declare enforceable or register for the purpose of enforcement measures taken in</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 1. None <input type="checkbox"/> 2. Assistance in obtaining information on the operation of the 1996 Convention <input type="checkbox"/> 3. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 4. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input type="checkbox"/> 5. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 6. Assistance in obtaining private legal counsel

your State (see Art. 26)	<input type="checkbox"/>	7. Regular updates on the progress of the request
	<input type="checkbox"/>	8. Other, please specify: Please insert text here

Mediation, conciliation or similar methods (Art. 31(b))

22. How does your Central Authority (either directly or through public authorities or other bodies) take appropriate steps under **Article 31(b)** to facilitate, by mediation, conciliation or similar means, agreed solutions for the protection of the person or property of the child in situations to which the 1996 Convention applies?

Please explain:

In the context of Art. 7 para. 2 lit. c) of the 1980 Hague Child Abduction Convention and Art. 55 (e) Brussels IIa Regulation/ Art.79 (g) Brussels IIb Regulation, mediation is offered by the German Central Authority to applicants on a regular basis. If applicant and respondent both show an interest in mediation, the German Central Authority is supported by third party mediators and cooperates closely with a non profit organization (MiKK e.V.), that helps to facilitate the mediation. The German Central Authority contacts the competent court in 1980 Hague Convention proceedings in order to ensure that no undue delay is caused by mediation and that the results achieved can be incorporated into the court order where appropriate.

Although the German Central Authority does not offer such specific service in the context of the 1996 Convention, they provide information also in this context on request.

Placement and provision of care abroad (Art. 33)

23. Have authorities in your State experienced any challenges, or have questions arisen, in relation to:

- a) the **scope of application of Article 33** (e.g., in case of placement with relatives, migrant children)

Please provide further details, if possible:

Questions arose as to the necessity of consultation in cases of placement with relatives since under some domestic laws such placements are not considered "placements" in a legal meaning.

Also the question whether a consultation procedure is required for a short-term stay (for example for vacation purposes) rises regularly.

For unaccompanied minor refugees normally guardianship is ordered and in the following the minors are placed in an institution, which means Art. 33 of the 1996 Convention is not applicable.

- b) **time frames** of consultations under Article 33

Please provide further details, if possible:

Please insert text here

- c) the availability of **equivalent measures** of protection in the other Contracting Party or differences in the applicable domestic legislation

Please provide further details, if possible:

- d) **financial costs** involved in the placement / provision of care abroad

Please provide further details, if possible:

- e) other **practical issues** arising from the placement / provision of care abroad (e.g., documentation, immigration matters)

Please provide further details, if possible:

The placement of minors in Germany and the associated consultation procedure pursuant to Art. 33 of the 1996 Convention is governed by the implementing legislation in sec. 45-47 IFLPA (see supra question 1). According to sec. 45 IFLPA competence for the consentment lies with the supra-local agency responsible for the public youth welfare service and requires to be approved by the competent family court according to sec. 47 IFLPA. In this context, it occurred that the placement decision was made prior to the completion of the consultation procedure and thus in derogation of the procedure provided for in Art. 33 of the 1996 Convention in conjunction with sec. 45-47 IFLPA. This led - inter alia - to further problems i.e. to obtain a visa for the respective child.

Cases of Kafala may also raise difficult legal issues. For example, the foster parents regularly apply for adoption after a child has been placed in or moved to Germany. It is unclear whether the consent of the biological parents to the placement through Kafala also includes their consent to adoption.

- f) other issues relating to Article 33.
Please specify:

24. Have **judicial or administrative procedures, guidelines, or protocols** been adopted in your State to deal with the placement procedure under Article 33?

- No
 Yes

Please describe and also provide a link or attach any relevant documents, preferably translated into English or French:
Sec. 45-47 IFLPA (see supra question 1).

The Federal Working Group of supra-local agencies responsible for public youth welfare service has published a comprehensive guideline on the cross-border placement of children and youths pursuant to Art 33 of the 1996 Convention and the (then) Art. 56 Brussels-IIa Regulation:
http://www.bagljae.de/assets/downloads/143_verfahren-bei-grenzueberschreitenden-unterbringungen.pdf

The International Social Service has also published a guideline on the cross-border placement of children:
https://www.deutscher-verein.de/de/uploads/empfehlungen-stellungnahmen/2022/dv-19-21_auslandsmassnahmen.pdf

25. After the placement of the child abroad to another Contracting Party, does your State seek **follow up information on the situation** of that child?

- No
 Yes

Please describe:

The Youth Welfare Office supervises placements, courts do not seek follow-up-information.

Reports (Arts 32, 33 and 34)

26. Have authorities in your State experienced any challenges, or have questions arisen, in providing or obtaining reports or information under **Article 32, 33 or 34**?

- No
 Yes

Please describe:

The diversity of requests under Art. 32 to 34 of the 1996 Convention sometimes entails difficulties. It may be difficult to determine what kind of information is requested and if the request falls within the scope of the Convention. This, however, seems to be inevitable to a certain degree given the different systems of family law and protective measures in the respective Contracting States. In general, communication between Central Authorities runs smoothly and helps to clarify remaining uncertainties within a short period of time.

27. Do authorities in your State use a standard template when providing a report on the (situation of the) child under Article 32 or 33?

- No
 Yes

Please attach the template to your response (preferably translated into English or French):
 Please insert text here

Assistance from the authorities of another Contracting Party

28. Have competent authorities in your State experienced any challenges, or have questions arisen, in applying Article 35?

- No
 Yes

Please describe:

In rare occasions difficulties arose when authorities of the requesting state did order protective measures (e.g. access to the child in a special environment and/or supervised by YWO) that are unknown in / to the requested state.

29. Have judges in your State used direct judicial communications in cases falling under the 1996 Convention?

- No
 Yes

Please specify in relation to which specific matters (e.g., transfer of jurisdiction, placement of a child)::

Between 2018-2022 (since the last SC) both liaison judges of the IHNJ received the following requests concerning solely the 1996 Convention (cases under Brussels IIa/IIb Regulation and 1996 Convention are not listed):

- 7 requests concerning jurisdiction under Art. 7 of the Convention
- 2 requests concerning transfer of jurisdiction under Art. 8 of the Convention
- 16 requests concerning the custody situation under Art. 16 of the Convention
- 2 requests concerning urgent protection measures under Art. 11 of the Convention
- 2 requests concerning jurisdiction under Art. 13 of the Convention
- 4 requests concerning recognition and refusal of recognition under Art. 23 of the Convention
- 2 requests concerning declaration of enforceability under Art. 26 of the Convention

8. General provisions

Article 40 Certificates

30. How often have competent authorities in your State issued **Article 40 certificates** indicating the capacity in which a person having parental responsibility or entrusted with the protection of the child's person or property is entitled to act and the powers conferred upon him or her?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

31. Has your State experienced any challenges, or have questions arisen, in relation to **requests under Article 40**?

- No
 Yes
 Please describe:
 Please insert text here

Issues in relation to the property of the child (Arts 55 and 60)

32. How often have competent authorities in your State dealt with **measures for the protection of the property of the child by using the framework of the Convention**?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

If possible, please provide supplementary information:
 Please insert text here

9. Special topics

International family relocation

33. Has your State adopted specific procedures for international family relocation?

- Yes
 Please describe such procedures, if possible:
 Please insert text here
 No
 Please describe how the authorities deal with international family relocation cases, if possible:
 Please insert text here

34. Are you aware of any use being made of Article 24, which provides for advance recognition, in lieu of or in connection with international family relocation?

- No
 Yes
 Please explain:

Please insert text here

35. Are you aware of any use being made of other provisions of the 1996 Convention in cases where a parent wishes to relocate with his or her child to another State?

- No
 Yes

Please explain:

Please insert text here

Children subject to international abduction

36. Have authorities in your State experienced any challenges, or have questions arisen, in relation to the application of the 1996 Convention (e.g., Art. 50) in cases of child abduction where the 1980 Convention was not applicable (see Questions 20(b) and 21(b) above)?

- No
 Yes

Please describe:

Please insert text here

37. In cases of child abduction where both the 1980 Convention and the 1996 Convention were applicable, have authorities in your State made use of provisions under the 1996 Convention (e.g., Art. 50) in addition to or instead of provisions of the 1980 Convention?

- No
 Yes

Please specify the provisions and explain:

In child abduction cases, Art. 16 of the 1996 Convention is relevant for the determination of the illegality of the removal/retention, especially when the child has been living in different states before the removal/retention.

Sometimes a report on the situation of the abducted child before the abduction, including the family history and intervention of social services or existing court orders on the custody situation, is requested under Art. 32 of the 1996 Convention.

Moreover, sometimes communication between authorities is established under the 1996 Convention. If authorities of the state of habitual residence see a grave risk of the abducted child's wellbeing, they inform the authorities of the state where the child has been abducted to about the possible risk and request them to consider (provisional) protection measures on their own behalf under Art. 34, 32 of the 1996 Convention. In these cases, return is handled as a protective measure under Art. 34 of the 1996 Convention. In most cases, following the request, the competent authorities in the state of abduction clarify the situation. In case of a grave risk, frequently the child is taken into care by authorities in the state of abduction and picked up by competent authorities of the state of habitual residence.

In some cases, when a return decision under the 1980 Hague Convention could not be obtained, left-behind parents could obtain a custody decision ordering the handover of the child to themselves and enforce this decision under the 1996 Convention.

38. In cases of child abduction, whether or not the 1980 Convention is applicable, have authorities in your State used the cooperation provisions in Chapter V of the 1996 Convention to determine whether adequate measures of protection are available in the State of the habitual residence of the child (e.g., to facilitate the safe return of the child)?

- No
 Yes

Please explain:

no specification possible

39. In cases of child abduction, have competent authorities in your State taken measures of protection under Article 11, as an alternative to measures of protection in the form of mirror orders or undertakings, to facilitate the safe return of the child?

No

Yes

Please explain:

Please insert text here

Unaccompanied and separated children⁶ and emergency situations (Art. 6)

40. How often have competent authorities in your State dealt with **cases involving refugee children, internationally displaced children, or children whose habitual residence cannot be established** by using the framework of the 1996 Convention?

Do not know

Never

Rarely

Sometimes

Very often

Always

If possible, please provide supplementary information:

Please insert text here

41. Where the **habitual residence of a child present in your State could not be established**, have authorities in your State used any of the cooperation provisions of the 1996 Convention in determining the child's place of habitual residence?

No

Yes

Please specify:

When the state of habitual residence is not known but there are indications for a specific state, a request under Art. 31 lit. c) of the 1996 Convention is made.

42. Have competent authorities in your State had experience with providing assistance to **discover the whereabouts of children** that went missing due to disturbances occurring in their State of habitual residence by using the framework provided by the 1996 Convention?

No

Yes

Please specify:

The German Central Authority is authorised to request information from other authorities regarding personal data as well as requesting police enforcement authorities to investigate in order to ascertain the whereabouts of a child (see sec. 7 International Family Law Procedure Act). In practice, this often leads to useful results.

43. Have **procedures, guidelines, or protocols** been adopted in your State to deal with the protection of unaccompanied or separated children in the context of the 1996 Convention?

⁶ In relation to this section of the Questionnaire, see [Prel. Doc. No 7 of February 2020](#), "The application of the 1996 Child Protection Convention to unaccompanied and separated children".

- No
 Yes

Please describe and also provide a link or attach any relevant documents, preferably translated into English or French:
[see EU answer and above question 3.](#)

44. In emergency situations, such as a humanitarian crisis, have authorities in your State experienced any challenges, or have questions arisen, in regard to the **exchange of information** among authorities of the Contracting Parties, in particular taking into account Articles 36 and 37 of the 1996 Convention?

no

45. Are you aware of whether **Preliminary Document No 7 of February 2020, “The application of the 1996 Child Protection Convention to unaccompanied and separated children”**, has been brought to the attention of the competent authorities in your State?

- No
 Yes

Please specify:
[We are not aware.](#)

International access / contact cases involving children

46. Should your State also be a Contracting Party to the 1980 Convention, are you aware of any use being made of provisions of the 1996 Convention, including those under **Chapter V**, in lieu of or in connection with an application under **Article 21** of the 1980 Convention?⁷

- No
 Yes

Please explain:
[see above question 37.](#)

Practical Handbook

47. Do you have any observations or comments to share concerning the **Practical Handbook** on the Operation of the 1996 Child Protection Convention?

- No
 Yes

Please specify:
[Please insert text here](#)

Agenda items for the next SC meeting

48. Are there any **particular issues** that your State would like the SC meeting to discuss in relation to the 1996 Convention? Please specify and list in order of priority:

- [transfer of jurisdiction/consultation](#)
- [definition and interpretation of the term "urgency" in Art. 11 of the 1996 Convention](#)
- [inter-relation of the 1996 Convention and the 1980 Convention in child-abduction cases.](#)

⁷ The [Explanatory Report](#) (Lagarde) on the 1996 Convention notes that cooperation under Art. 35(1) between authorities of States Parties with respect to rights of access “serves in a certain way to complete and reinforce the co-operation, which is not always effective, provided for the same purpose between Central Authorities” under Art. 21 of the 1980 Convention. Explanatory Report, para. 146 (1997).

PART II – FOR NON-CONTRACTING PARTIES

49. Is your State currently considering **signing and ratifying or acceding to the 1996 Child Protection Convention**?

- Yes
If possible, please provide further information:
[Please insert text here](#)
- No
If possible, please provide further information:
[Please insert text here](#)

50. In considering how your State would **implement the 1996 Child Protection Convention**, have you encountered any **issues of concern**?

- No
- Yes
Please explain:
[Please insert text here](#)

51. Are there any **particular issues** that your State would like the SC meeting to discuss in relation to the 1996 Child Protection Convention?

- No
- Yes
Please specify and list in order of priority:
[Please insert text here](#)

52. Do you have any observations or comments to share concerning the **Practical Handbook** on the Operation of the 1996 Child Protection Convention?

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