

Questionnaire concerning the Practical Operation of the 1980 Child Abduction Convention

Wherever responses 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.

Name of State or territorial unit: ¹	Ukraine
<i>For follow-up purposes</i>	
Name of contact person:	
Name of Authority / Office:	
Telephone number:	
E-mail address:	
Date:	

PART I – PRACTICAL OPERATION OF THE 1980 CONVENTION

Recent developments in your State²

1. Since the 2017 SC, 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 and the results achieved in practice.

- No
 Yes

Please specify:

In 2017 and in 2020 amendments were adopted to the Procedure of Operation on the Territory of Ukraine of the 1980 Convention, approved by the Decree of the Cabinet of Ministers of Ukraine of July 10, 2006 № 952.

The mentioned amendments had the aim to facilitate the cooperation of the authorities, involved in operation of the 1980 Convention and to strengthen their interaction.

In particular, the amendments specified the order of obtaining from the State Migration Service of Ukraine (in case if an abductor or a child has a foreign citizenship) or from the local registration offices information of the registration of the place of residence or whereabouts of the child and abductor (in case the applicant mentioned in the application only the name of the town, city, village without specifying an address).

Also, the State Migration Service of Ukraine is should to provide the CA with the information on the decision made regarding the granting to the child and/or the person, with whom the child is on the territory of Ukraine, the status of a refugee or a person in need of additional protection in accordance with the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection".

By the amendments was foreseen the possibility to refer to the Ministry of Social Policy of Ukraine in order to obtain information from the Unified Information Database on Internally Displaced Persons.

By the amendments in 2017 the Procedure of Operation of the 1980 Convention was supplemented by the grounds for closing the file by the CA. The CA has right to

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 which have occurred in your State since the Seventh Meeting of the Special Commission (SC) to review the operation of the 1980 Abduction Convention and the 1996 Child Protection Convention (held from 10 to 17 October 2017) ("2017 SC").

stop the operation the return or access application if:

- 1) communication with the applicant has been lost (failure to provide by the applicant a written response to the request of the Ministry of Justice within six months from the date of the original date of the letter to the Ministry of Justice);
- 2) a settlement agreement has been concluded between the parties regarding the child's place of residence and/or the order for access to the child;
- 3) an applicant refused to take further measures in the case;
- 4) a child actually returned to the state of habitual residence;
- 5) a decision of the court, by which the case on ensuring the implementation of rights of access to the child was decided on the merits, became legally binding;
- 6) there are no legal grounds for submission of an appeal and/or cassation against the decision of the court of first and/or appeal instance;
- 7) there is no information on the whereabouts of the child and abductor parent on the territory of Ukraine;
- 8) there is no information about the child's entry into the territory of Ukraine, except in the case when the location of the child in the territory of Ukraine has actually been established by the National Police of Ukraine.

In 2020 this list was added, by 5 new grounds, namely, the CA has right to stop the operation the return or access application if:

- was obtained information that the child and/or the person, with whom the child is on the territory of Ukraine, got the status of a refugee or a person in need of additional protection;
- an enforcement agent sent to the pre-trial investigation body a notification about the debtor's commission of a criminal offense and issued a resolution on the termination of the enforcement proceedings, with the exception of the resumption of the enforcement proceedings as a result of the court's annulment of the enforcement agent resolution on the termination of the enforcement proceedings;
- a case was closed by the foreign CA;
- six months have passed since the applicant was informed about the court of a foreign state competent to consider the case on the basis of the 1980 Convention, with respect to those states that have made the reservation in accordance with Articles 26, 42 of the 1980 Convention, if the domestic legislation of the foreign state does not provide for the provision of further assistance to the applicants in the case;
- six months have passed since the applicant was informed about the court of Ukraine, competent to consider the case on the basis of the 1980 Convention, in relation to the applicants residing on the territory of the states that have made the reservation in accordance with Articles 26, 42 of the Convention, and in the case when the applicant applied to a lawyer or other duly appointed a private representative.

By the amendments also were revised the functions of the CA, in particular were deleted some of the functions, that no longer had been provided by the CA. For example, it was foreseen that the CA facilitates the applicant to translate the outgoing return application and supporting documents as well as obtaining the additional information. Due to the lack of resources, the CA had no possibility to arrange the translations. Thus by the amendments in 2017 these duties were deleted from the Procedure.

It was also foreseen by the amendments that as regard the outgoing return application the duties of the CA in case of delivering the return decision are only limited by the obligation to inform the applicant about the decision made and measures to be taken by the applicant to ensure the child's return to Ukraine based on information from the central authority of a foreign state.

In addition, the functions of the CA were changed as regard to the enforcement of the court orders on return of the child from Ukraine to the foreign State. In particular, in case the applicant has the attorney (hired by his/her wish or because the contracting State has done the reservation to Article 26, 42 of the Convention) the CA only provides to the applicant the information on procedure of enforcement of the court decision on return of the child.

In case if the territorial department of justice present the interests of the applicant before the court, the CA receives from the territorial body information on the progress of enforcement proceedings and on the measures taken to enforce the court decision on the return of the child, and sends it to the foreign CA.

The Ukrainian CA also informs the central authority of a foreign state about the need to involve the competent authorities to assist the child and ensure the protection of his/her rights upon return.

In 2017 the Procedure of Operation on the Territory of Ukraine of the 1980 Convention was amended by the provisions that foresee that the Ministry of Justice of Ukraine acts on the principle of reciprocity when the applicant resides in the State, having made reservations to Articles 26 and 42 of the 1980 Convention. In this case the CA does not represent the applicant in the court. The applicant has right to apply for free legal aid to hire a private lawyer with this purpose.

Some of the amendments also had the technical character and were connected with the changes of the names of the territorial bodies of the Ministry of Justice or the names of the state authorities in Ukraine, involved in the operation of the 1980 Convention.

2. Following the Covid-19 pandemic,³ have there been any **improvements** that have remained in your State in the following areas, in particular in relation to the **use of information technology**, as a result of newly adopted procedures or practices applicable to child abduction cases? In each case, please describe the tools, guidelines or protocols put in place.

- a) Methods for accepting and processing return and access applications and their accompanying documentation;

Because of the Covid-19 pandemic the quarantine was established all over Ukraine according to the Regulation of the Cabinet of Ministers of Ukraine «On preventing the spread of COVID-19 coronavirus in Ukraine».

At the first year of pandemic and periodically later, the staff of the CA worked remotely.

For the period of quarantine the letters of our Central Authority are performed in e-form and signed with the qualified electronic signature, which by its legal validity is equivalent to the handwritten signature according to the Law of Ukraine «On Electronic Trust Services».

All correspondence regarding the case takes place via e-mail. However, the hard copies of an application and supporting documents must be sent promptly also by regular mail for the purposes of initiation of the court proceedings in Ukraine.

- b) Participation of the parties and the child (e.g., appearance in court proceedings, mediation);

The responsibility to assure the video-link belongs to a court which considers the case. According to Article 212 of the Civil Procedural Code of Ukraine the parties of the case have a right to participate in the court hearings through a video-link outside the courtroom, in case the court has the appropriate technical capacity, what the court shall indicate about in the ruling on opening the court proceedings, except when the appearance of this participant of the case in a court hearing is recognized obligatory by a court.

The Civil Procedural Code of Ukraine also allows the parties to participate in the court hearings using their own technical means.

In this case the confirmation of the identity of the party in the case is carried out using an electronic signature. In case the person does not have such a signature, then in accordance with the procedure specified by the Law of Ukraine "On the Unified State Demographic Register and Documents Confirming the Citizenship of Ukraine, Certifying the Person or the Special Status" or by the State Judicial Administration of Ukraine.

³ This question aims to gather information about good practices that were developed in those exceptional circumstances and that will continue to be applied regardless of the pandemic.

Taking into account the time need for organization of the video-link the appropriate request shall be transmitted to the court not later than 5 days before the court hearing.

The interpreter's participation is allowed by the court on the request of the party of the case or is appointed on the initiative of the court. The applicant may hire the interpreter on his own costs. The court may also decide who bears costs, including for the services of the translator. The court may oblige the parties to deposit into the court's deposit account a determined amount of court costs related to the proceedings or a certain procedural action (Articles 135 and 139 of the Civil Procedural Code of Ukraine).

- c) Promoting mediation and other forms of amicable resolution;
This information is not available while the CA does not grant the mediation services, but it appears the such ways of communication as via e-mails as well as meetings in Zoom (Teams, etc) are widely used.
- d) Making arrangements for organising or securing the effective exercise of rights of access, including while pending return proceedings;
Such ways of keeping contact with the child as communication via Viber, Skype, WhatsApp, Telegram become popular during the past years, especially because of Covid-19 pandemic. The applicant could ask for establishing contact via these means of communication.
- e) Obtaining evidence by electronic means;
According to the Civil Procedural Code of Ukraine the court may decide to consider the oral evidences and to hear the testimonies of the witnesses. The testimony of the witnesses is heard during the hearings of the case on the merits. Moreover, the parties, third parties and their representatives, with their consent, including on their own initiative may be questioned as witnesses of circumstances known to them regarding the case (Articles 69, 90, 92 of the Civil Procedural Code of Ukraine).
Since April 2022 in Ukraine was launched the program "Electronic Court". The Electronic court allows to those who was registered in the system to send to the court and to obtain all the documents from the court exclusively in electronic form. The registration in the system requires the electronic digital signature.
- f) Ensuring the safe return of the child;
There are no changes in this regard for the moment of filled of this Questionnaire. The draft of law is under consideration of the Parliament of Ukraine.
- g) Cooperation between Central Authorities and other authorities;
The cooperation between Central authority and other authorities since 2018 is conducted in electronic form via the System of electronic communication of the authorities of the executive power. These grant the prompt delivering of all correspondence and swift cooperation and communication.
- h) Providing information and guidance for parties involved in child abduction cases;
The CA always communicate via emails with the applicants. This grant the prompt answer on the applicants` quires. Also the consultations by phone become very popular during the last year. The parents who try to discover information what measures should be taken in order to grant the child`s return to Ukraine.
- i) Other, please specify.
Please insert text here

3. Please provide the three most **significant decisions concerning the interpretation and application of the 1980 Convention** rendered since the 2017 SC by the relevant authorities⁴ in your State.

Case Name	Court Name	Court Level	Brief summary of the ruling
Ruling of 17.08.2022 case № 613/1185/19; N 61-2286cb21	Supreme Court	Court of cassation	<p>The claimant applied to the courts of Ukraine with the claim on return of the children from the Republic of Armenia to Ukraine. He substantiated his claims by the fact that he lived together with the defendant as one family without registering the marriage. The claimant gave his consent for the children`s travel abroad together with the mother for a period of one year. After the expiration of the granted permit, the respondent did not return to Ukraine with the children, there was no contact with them. The claimant claimed that the removal was wrongful and the children must be returned to the father at his place of residence as soon as possible. As legal grounds for the claim, the claimant referred to the provisions of Article 11 of the 1980 Child Abduction Convention. The first instance court refused to satisfy the claim. The Appeal court delivered the new decision and also refused to satisfy the claim on return of the children based on the inappropriate methods of protecting the violated right chosen by the claimant. The Supreme Court considered the cassation complaint on the decisions of the courts of the first and second instances on return of the children in accordance with the 1980 Child Abduction Convention. By its Ruling the Court decided to cancel the decision of the Appeal court because of incorrect application of the norms of substantive and procedural law. The Court decided that the application of the claimant to the court corresponds to the provisions of the 1980 Child Abduction Convention. The Supreme Court proceeds from the fact that the Abduction Convention does not establish limitations in</p>

⁴ 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 Contracting Parties such “authorities” will be courts (i.e., judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

		<p>applying to the court with a claim for the return of a child and therefore decision of the appellate court that the claimant had chosen an ineffective way of protecting his interests are erroneous.</p> <p>The Abduction Convention does not in any way prevent the courts of the contracting states from considering the case of child abduction without referring to the Central authorities. Also in its Ruling the Court considered the issues of Jurisdiction under 1996 Convention.</p> <p>In its ruling the Supreme Court, in particular, indicates that the 1996 Child Protection Convention complements and strengthens the 1980 Child Abduction Convention by establishing clear boundaries for the exercise of jurisdiction, including in exceptional cases where the return of the child is refused or not requested. The court mentioned that the 1996 Child Convention reinforces the 1980 Child Abduction Convention by emphasizing the primary role of the authorities of the Contracting State of the child's habitual residence in deciding on the measures that may be necessary for the long-term protection of the child.</p> <p>The Court pointed that under the rules of the 1996 Convention, in case of abduction, the State where the child habitually resided before the removal or retention retains jurisdiction under Article 5, subject to certain conditions under Article 7 of the 1996 Convention. The court mentioned that Article 7 of the 1996 Convention establishes the form of retention of jurisdiction of the state in which the child had his/her habitual residence before the removal or retention. The rules of Article 6 of the 1996 Convention are applicable in cases where it is impossible to establish the place of habitual residence of the child.</p> <p>The rules on jurisdiction enshrined in the 1996 Convention introduce a general approach to the determination of jurisdiction that provides certainty for the parties and can thus help to prevent attempts to find a "court of convenience" for international child abduction. The rule of Article 5 of the</p>
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			<p>1996 Convention defines the place of habitual residence of the child as the primary basis for determining jurisdiction, and encourages parents to apply to the authorities for custody, access/contact and relocation in those Contracting States where their child resides, instead of removing the child to other jurisdictions for solving such issues.</p> <p>Instead, Article 7 of the 1996 Convention provides a special rule regarding jurisdiction in cases of international child abduction. This rule aims to maintain a balance between the two ideas. First, that a person who unlawfully removes or retains a child should not benefit from a change of the authority that has jurisdiction to consider custody or access/contact case. Secondly, that the change of the child's place of residence, if a new place of residence is maintained, is a factor which cannot be ignored to such an extent as to deprive the authorities of the new State of residence of jurisdiction for an indefinite period. Therefore, depending on the establishment of certain circumstances of the case, in particular the habitual place of residence of the children, the court must apply one of the rules defined by the 1996 Convention on the jurisdiction. The jurisdiction is based on the binding of the permanent place of residence of the child and is resolved in each specific dispute depending on the established factual circumstances of the case.</p>
<p>Ruling of 20.07.2022 case № 757/32690/20-ц; № 61-1355св22</p>	<p>Supreme Court</p>	<p>Court of cassation</p>	<p>In July 2020, the claim to the court on return of the child under the Abduction Convention was submitted on behalf of the citizen of the Great Britain and Northern Ireland.</p> <p>The courts of first and appeal instances refused to return the child based on Art. 12 and 13 of the Convention. In particular, the courts decided that the child is now settled in its new environment. There is a grave risk that the return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.</p> <p>The Supreme Court decided that the court of first instance did not give a proper assessment to the evidences,</p>

		<p>provided by the claimant, which testified that the defendant for more than one year hid the child in Ukraine. In this regard, the claim to the court was submitted in 2020; meanwhile the Ukrainian CA received the return application in September 2018.</p> <p>The defendant deliberately abused her rights regarding the minor child, including the right to raise the child and determine place of residence, hiding the child from the claimant and state authorities, as a result of which there were grounds for applying the exception provided for in Article 12 of the Hague Convention.</p> <p>Since the claimant applied to the Ministry of Justice of Ukraine in September 2018, before the expiry of the one-year period established by Article 12, the provisions of the second paragraph of Article 12 of the Abduction Convention were not applicable.</p> <p>The Court considered the provisions of the second paragraph of Article 12 of the Abduction Convention as exceptional circumstances, which should be applicable only in the cases when the return proceedings are initiated after the expiration of a one-year period from the moment of abduction of the child.</p> <p>Thus, the court of first instance unjustifiably applied Article 12 of the Abduction Convention.</p> <p>Also in this case there were no circumstances provided for by Article 13 of the Abduction Convention. On contrary, the existence of all the conditions defined by Articles 3, 4, 35 of the Abduction Convention, under which the state, on the territory of which the child is located, is obliged to return the child to the state of the habitual residence.</p> <p>The courts of the first and appellate instances limited themselves to references to the fact that the child has settled in the new environment. But, the defendant did not prove the existence of grounds to refuse the return of the child. The court of first instance had all grounds to conclude that the child should be returned to the place of permanent residence, namely to the United Kingdom.</p>
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		<p>Articles 3, 12, 13, 20 of the Abduction Convention contain an exhaustive list of grounds when the court has the right to refuse to return the child to the State of habitual residence. But the defendant under Art. 13 of the Abduction Convention was bidden to prove that there were grounds to refuse the child`s return to the UK. The Supreme Court noted that the subject of the claim was exclusively the return of a minor child. The “custody” issues or the issue of establishing the person who will be granted the right to care for the child in the future has not been resolved. The issue of care and granting of parental rights to one or both parents belongs to the jurisdiction of the competent authorities of the state of the habitual residence of the child (Articles 16, 19 of the Convention). In this particular case, the courts resorted to clarify the circumstances that were not the subject of the claim, in particular the issue of the psychological attitude of the child towards each of the parents, the fulfilment by the parents of their parental duties, maintenance and upbringing of the child that contradicted the purpose and goals of the Abduction Convention. The Supreme Court satisfied the cassation complaint, cancelled the decisions of the first instance court and appeal court and delivered the new decision on return of the child to the UK.</p>
<p>Ruling of 31.08.2022 case № 683/1084/21; № 61-5599 CB 22</p>	<p>Supreme Court</p>	<p>Court of cassation</p> <p>The Ruling of the Supreme Court relates to the case on return of the children to Lithuania. The court of first instance refused to return the children motivated its decision by the fact that the return of the children to the Republic of Lithuania does not correspond to the best interests of the children, since the minor children, together with the defendant, who is a citizen of Ukraine, have been living in Ukraine for more than two years and have settled in their new place of residence, have close social ties and stable living conditions. The return of the children will lead to the actual removal of the children from their mother, and their separation from their mother could</p>

		<p>threat of mental and physical harm to the children's health.</p> <p>The appeal court partially satisfied the claimant's appeal and by its ruling changed the court's decision, namely its motivational part. The decision of the court of first instance remained unchanged.</p> <p>The Supreme Court agreed with the arguments of the claimant's cassation complaint that the defendant did not provide evidences, confirming the existence of grounds for refusal to return the children. The decision of the appeal court can be considered as not in accordance with the legal opinion of the Supreme Court, set out in the decision of April 21, 2021 in case No. 522/97/20, that concerns the duty of the person, who committed the wrongful removal of the child (the person objecting to the return), to prove the existence of grounds for refusal to return the child under the Abduction Convention. The defendant's explanations alone cannot be adequate and exhaustive evidence in this case. Courts did not indicate on the basis of which evidences, except the defendant's explanations, they established that the claimant committed violence against the defendant, that he had not interested in communicating with the children and did not try to do so, the technical characteristics of the claimant's apartment and the impossibility of the claimant to live with the children in this apartment. The courts also did not indicate on what basis they preferred the defendant's explanations in this matter to the claimant's explanations. The Supreme Court agreed with the fact that disputes regarding the place of residence and care of the child are not the subject of consideration on the basis of the Abduction Convention and shall be decided by the court of the state of habitual residence of the child.</p> <p>Also the appellate court's conclusion that the satisfaction of the claim will lead to the separation of the children from the mother is groundless. The return decision does not deprive the person, who returns the child to the state of his/her habitual residence, of the right to apply to a competent court</p>
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			<p>and obtain a decision on the merits of the issue of custody of the child.</p> <p>The Supreme Court also notes that the investigation of the living conditions of children in Ukraine can only take place in a comparison of a similar investigation of their living conditions in the country of their habitual residence, determined not by the testimony of the defendant, but by a similar authorized authority of the Republic of Lithuania. In the absence of such an investigation, the conclusions regarding the best interests of the children based only on the investigation of the living conditions of children in Ukraine were groundless.</p> <p>The established circumstances of the case did not confirm that the claimant's children expressed to the court, in accordance with the second part of Article 13 of the Hague Convention, an objection to return and reached such an age and level of maturity that their opinion should be taken into account.</p> <p>Thus, in the context of a Hague return request, the concept of the best interests of the child must be assessed in the light of the Hague Convention exceptions relating to the passage of time (Article 12), the conditions of application of the Convention (Article 13 (a)) and the existence of a "grave risk" (Article 13 (b)), as well as compliance with the fundamental principles of the requested state regarding the protection of human rights and fundamental freedoms (Article 20).</p> <p>In the light of the assessment of the data that the children have already settled in their new environment, the Supreme Court emphasized that the significant delay in considering the issue of the return of the children was caused precisely by the proper exercise of their own powers by the state authorities and the unjustified delay in considering the issue by the courts, which is in particular provoked and the defendant's behaviour.</p> <p>The Supreme Court cancelled the court's decision and decided to return the children to the Republic of Lithuania.</p> <p>The expenses related to the return of</p>
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			<p>the children should be borne by the defendant.</p> <p>The court also established the procedure of the enforcement of the court decision on return of the children, obliging the Ministry of Justice of Ukraine, if necessary, to provide assistance to the defendant in return of the children. In case of refusal to return to Lithuania together with the children within a month from the date of entry into force of this decision, the Ministry of Justice of Ukraine shall take the children and transfer them to the custody of the applicant for their return to Lithuania.</p>
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4. Please provide a brief summary of **any other significant developments** in your State since the 2017 SC.

Please insert text here

Issues of compliance

5. Has your State faced any particular **challenges with other Contracting Parties** to the 1980 Convention in achieving successful cooperation? Please specify the challenges that were encountered and, in particular, whether the problems appear to be systemic.

- No
- Yes

Please specify the challenges encountered:

As the CA we faced challenges with Spain in achieving successful cooperation. In several return cases the State Legal Service closed the cases considering that the case had no chance of success due to the war situation in Ukraine.

The position of the Ukrainian CA is taking into account the practice of applying the 1980 Convention in relations between Ukraine and the Kingdom of Spain and basing on the provisions of Article 11-13 of the Convention, is that the consideration of a case on the return of a child from the Kingdom of Spain to Ukraine and delivering a decision on the return of the child or the refusal to return the child falls within the competence of the court of the Kingdom of Spain.

At the same time, the practice of issuing decisions in the return cases in foreign Contracting States during this year is varied. There are already decisions of foreign courts delivered in 2022 after February 24, 2022, which satisfied the return claims and ordered the return of a child to Ukraine. The decisions have been enforced and the children were returned to Ukraine to the safe regions.

In regard of all abovementioned and being guided by Article 7 “e” and “i” of the 1980 Conventions, the Ukrainian CA applied to provide information on the competence of the Ministry of Justice of the Kingdom of Spain as well as the State Legal Service regarding taking decisions not to initiate the return court proceedings; and asked not to close the return cases, to accept the return applications and to take all necessary measures, foreseen by Article 7 of the 1980 Convention, including paragraphs “f” and “g”, in order to avoid violation of provisions of the 1980 Convention and parental rights of the applicants and children’s rights, prescribed by the international treaties and internal legislation of two States.

At the moment of preparation responses on the Questionnaire we have not received response of Spanish CA concerning the matter.

6. Are you aware of situations or circumstances in which there has been **avoidance or improper application** of the 1980 Convention as a whole or any of its provisions in particular?

- No
 Yes

Please specify:

Please, refer to answer on Question 5. We consider that refusal to proceed with the return application when the situation exactly falls under the Convention must be considered as avoidance or improper application of the 1980 Convention.

Addressing delays and ensuring expeditious procedures

7. The 2017 SC encouraged States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / other alternative dispute resolution - “ADR” phases)⁵ in order to identify possible sources of delay and implement the adjustments needed to secure shorter time frames consistent with Articles 2 and 11 of the Convention. Please indicate any identified sources of delay at the following phases:

Central Authority

- No
 Yes
 Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Please insert text here

Judicial proceedings

- No
 Yes
 Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Please insert text here

Enforcement

- No
 Yes
 Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Mediation / ADR

- No
 Yes

⁵ See C&R No 4 of the 2017 SC, “The Special Commission acknowledges that some States have made progress in reducing delays and encourages States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / ADR phases) in order to identify possible sources of delay and implement the adjustments needed to secure shorter time frames consistent with Articles 2 and 11 of the Convention.”

Procedure not yet revised

If the answer to the above is YES, please share any measures that have been implemented to address the delays:

Please insert text here

Court proceedings and promptness

8. Does your State have mechanisms in place to deal with return decisions within six weeks (e.g., production of summary evidence, limitation of appeals, swift enforcement)?

No

Yes

Please specify:

Please insert text here

9. If the response to question 8 above 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 specify:

Please insert text here

Yes

Please specify:

The Ministry of Justice of Ukraine had elaborated the draft Law on amendments of the legislation, which also foresees the changes to the Civil Procedural Code of Ukraine. These changes provide for spe procedural terms for consideration of the return case. These changes after adoption will allow the consideration of the case within 6 weeks. The draft law is under approval of the other involved authorities of Ukraine. After approval, it will be forwarded for consideration to the Cabinet Minister of Ukraine and after that to the Parliament for adoption.

10. Do the courts in your State make use of direct judicial communications⁶ to ensure prompt proceedings?

No

Yes

Please specify:

We suppose that the courts could benefits from the direct judicial communication, but information concerning the concrete cases is not available.

11. If your State has not designated a judge to the International Hague Network of Judges (IHNJ) does your State intend to do so in the near future?

No

Yes

Please specify:

Please insert text here

⁶ For reference, see “Direct Judicial Communications - Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for Direct Judicial Communications in specific cases, within the context of the International Hague Network of Judges”.

12. Please comment upon any cases (where your State was the 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?

The Ukrainian contact judges provided information that they had received 14 requests in regard to the cases which are within the scope or relates the family matters. Some of them related the application of the Abduction Convention on the occupied territories of Ukraine.

One of the requests related the case pending in the Ukrainian court.

The aim of the Request was:

1) to draw attention to a case of international child abduction identified in the header of this message that was sent to the Ukrainian Central Authority in October 2020.

The first hearing in Ukraine was set for May 24, 2021, and was postponed to June 15 because the mother's lawyer was apparently "on vacation." The hearing scheduled for June 15 was again postponed to June 29, as the mother said she tested positive for COVID. His lawyer, however, was present, but the hearing did not take place.

From the position of the left-behind parent defence in Spain it is thought that these successive postponements could be part of a strategy to force the decision to be made after the end of the year since the child arrived in Ukraine (this date would be August 30, 2021), which although formally would not be an obstacle to the return;

2) in addition to these delays, in this specific case, the mother filed a custody claim in Ukraine.

The contact judge referred to the court with the letter with the clarifications of the provisions of the Abduction Convention. The content of the delivered court decision concerning the subject shows that the court took into account the provided explanations.

The role and functions of Central Authorities designated under the 1980 Convention

In general

13. 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 Contracting Parties with which your State has cooperated?

No

Yes

Please specify:

Please insert text here

14. 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:

Please insert text here

Legal aid and representation

15. 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 that were dealt with?

- No
 Yes
 Please specify:
 Please insert text here

16. Are you aware of any other challenges in your State, or, where cases originate in your State, in any of the requested States your Central Authority has dealt with, regarding the **obtaining of legal aid, advice and / or representation for either left-behind parents or taking parents?**⁷

- No
 Yes
 Please specify:

If an applicant resides in a State having made reservations to Articles 26, 42 of the Convention the Ministry of Justice of Ukraine as the CA of Ukraine on the principle of reciprocity does not provide the applicant with the legal representation in courts and other authorities of Ukraine or in case the applicant have already has the attorney in Ukraine. The applicant may search the attorney via Internet or to find contacts of attorneys on the Unified Register of Attorneys of Ukraine at the link: <https://erau.unba.org.ua/>.

As the CA we are aware that rarely the applicants from abroad had problems with search of a private attorney.

It is not foreseen by the legislation of Ukraine the covering of any costs in regard with the proceedings of return application in Ukraine by the Central Authority. In some cases the applicants informed that they could not longer pay for the private attorney and required either free legal aid or representation of the CA (in case the origin the State which did not made reservations to Article 26, 42).

As regard the applicants from Ukraine rarely they claimed that the contact with the appointed attorney was established for a long period of time (for example USA).

Locating the child

17. 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:

Due to war in Ukraine launched by russia many people in Ukraine relocated within the territory of Ukraine. As the requested State, we could point the existence of the challenges with locating the child while he /she could stay on the occupied territories/or on the part of Ukraine where hostilities taking place or the child was relocated to another region without registration. In case there is no information about the child in the Unified Information Database on Internally Displaced Persons, it could be problematic to locate the child. As the requesting State, we also could mention than in some cases the applicants – left behind parents faced with the issue of locating the child in other state. Sometimes the applicant doesn't know the state to which the child was relocated and his/her presumable whereabouts. As during first days from the start of the russian invasion in February, 2022, there were

⁷ See paras 1.1.4 to 1.1.6 of the C&R of the Fifth Meeting of the SC to review the operation of the 1980 Child Abduction and the practical implementation of the 1996 Child Protection Convention (30 October – 9 November 2006) (2006 SC C&R) and paras 32 to 34 of the C&R of the Sixth Meeting of the SC to review the operation of 1980 and 1996 Conventions (1-10 June 2011 and 25-31 January 2012) (2012 SC C&R), available on the HCCH website at www.hcch.net under "Child Abduction Section" then "Special Commission meetings".

sometimes difficulties with fixation of crossing the State Border of Ukraine, in certain cases an information about the crossing the State Border is not available or shows only the first point of destination, usually it is Poland or Slovakia. In some cases the mother with the child moved to another State of EU and their location could not be established fast and easily, or without success. As the CA we communicate with the National Police of Ukraine in order to facilitate their search within the territory of Ukraine or abroad.

Voluntary agreements and bringing about an amicable resolution of the issues

18. How does your Central Authority (either directly or through any intermediary) take, or is considering taking, appropriate steps under **Article 7(c)** to bring about an amicable resolution of the issues? Please explain:

The CA only provides general information on mediation and the benefits of mediation. The CA informs the possible ways of obtaining the service of mediation available. Also, we informed the parties of their right to conclude the amicable agreement in any stage of the proceedings.

19. In the case that your Central Authority offers mediation services, or other alternative dispute resolution methods to bring about an amicable resolution of the issues, has your Central Authority reviewed these procedures in the light of the framework of international child abduction cases (e.g., by providing trained, specialised mediators, including with cross-cultural competence and necessary language skills⁸)?

Please specify:

Not applicable because the CA is not involved in the process of the mediation or other ADR resolution methods.

20. Should the services mentioned in the question above not yet be provided, does your Central Authority intend to provide them in the future?

Please provide comments:

This issue is not under consideration at the moment.

21. Has your State considered, or is it in the process of considering, the establishment of a central service for international family mediation to facilitate access to information on available mediation services and related issues for cross-border family disputes involving children?⁹

No

Please explain:

This issue is not under consideration at the moment. There are some mediators in Ukraine which have specialization on cross-border dispute resolution. This year is planned to teach more family mediators from Ukraine within the cooperation of EU in Mikk (Berlin).

Yes

Please explain:

Please insert text here

⁸ For reference, please see the recommendation in the Guide to Good Practice on Mediation, item 3.2, paras 98-105, "Specific training for mediation in international child abduction cases", available on the HCCH website at www.hcch.net under "Child Abduction Section" then "Guides to Good Practice".

⁹ As it has been encouraged in the Guide to Good Practice on Mediation, Chapter 4, on "Access to Mediation". paras 114-117. See also 2011 / 2012 SC C&R at para. 61.

Ensuring the safe return of children¹⁰

22. How does the competent authority in your State obtain information about the protective measures available in the requesting State when necessary to ensure the safe return of the child?

Please explain:

Ukraine is a Contracting State to the 1996 Convention. The request under Art. 31-34 could be submitted for this purpose.

23. If requested as a safe return measure (e.g., in accordance with the 1996 Convention), would your Central Authority be in a position to provide, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?

No

Yes

Please specify:

In case of obtaining the request under Art. 32 and 34 the competent authorities will take measures in order to provide a report on the situation of the child.

Information exchange, training and networking of Central Authorities

24. Has your Central Authority shared experiences with other Central Authority(ies), for example by organising or participating in any networking initiatives such as regional meetings of Central Authorities, either in person or online?¹¹

No

Yes

Please specify:

In January 2023 a Roundtable was held for the representatives of the CAs in EU countries and Ukraine, which was organized under the request of our CA by the PB. The aim of the meeting was to discuss the situation and challenges with operation of the 1980 Convention which had been raised in 2022. The possibility to discuss at the meeting with other Central authorities in Europe the current challenges of the Central authority of Ukraine is experiencing in processing return and access applications under the 1980 Convention in the light of the exceptional circumstances surrounding the war in Ukraine and to exchange views become extremely useful and helpful for enforcement of the 1980 Convention. The obtained information help us in providing assistance to the left-behind parents from Ukraine who are seeking the return of their children to Ukraine.

Case management and collection of statistical data on applications made under the Convention

25. Has your Central Authority developed any protocols or internal guidelines for the processing of incoming and outgoing cases?

No

Yes

Please specify and share the relevant instruments whenever possible:

¹⁰ See Art. 7(2)(h) of the 1980 Convention.

¹¹ See, in particular, Chapter 6.5, on twinning arrangements, of the Guide to Good Practice – Part I – Central Authority Practice, available on the HCCH website at www.hcch.net (see path indicated in note 8).

In 2022 the special section was created on the webpage of the Centre for Free Legal Aid: https://wiki.legalaid.gov.ua/index.php/Вивезення_за_кордон_дітей_громадян_України_та_їх_повернення_в_Україну._Право_батьків_на_доступ_до_дитини.

The applicants could find all information about the Convention, the order of submission of return or access applications as well as all necessary forms of applications.

26. Does your Central Authority operate a case management system for processing and tracking incoming and outgoing cases?

- No
 Yes

Please specify:

[Please insert text here](#)

27. Does your State collect statistical data on the number of applications made per year under the 1980 Convention (e.g., number of incoming and / or outgoing cases)?¹²

- No
 Yes

In case this information is publicly made available, please share the links to the statistical reports:

The statistical data are included in the annual report of the Ministry of Justice of Ukraine on its activity each year.

Transfrontier access / contact¹³

28. Since the 2017 SC, have there been any significant developments in your State regarding Central Authority practices, legislation, procedural rules or case law applicable in cases of transfrontier access / contact?

- No
 Yes

Please specify:

In 2018 the Law of Ukraine “On Enforcement Proceedings” was amended. The changes have foreseen the possibility of enforcement of the court decisions on access.

In accordance with Article 64-1 of the Law the enforcement agent checks the enforcement by the debtor of the decision at the place of the meeting and time determined by the decision. In case if they are not specified by the decision, then the check is carried out at the time and place of the meeting determined by the enforcement agent. In case the debtor does not enforce the decision without valid reasons, the enforcement agent draws up an act and issues a resolution imposing a fine on the debtor in the amount determined by the first part of Article 75 of this Law. The resolution states the requirement to enforce the decision and a warning about criminal liability. In case the debtor does not enforce repeatedly the decision without valid reasons, the enforcement agent concludes an act, issues a resolution imposing a double fine on the debtor, sends a notification to the pre-trial investigation body that the debtor has committed a criminal offense, applies for a temporary restriction of the debtor’s right to leave the territory of Ukraine to the

¹² In the Country Profile for the 1980 Child Abduction Convention, question No 23(e), States are asked to inform whether statistics related to applications under the Convention are publicly available. Please note that, at its meeting of 2021, according to Conclusion & Decision (C&D) No 19, the Council on General Affairs and Policy (CGAP) mandated the discontinuance of INCASTAT.

¹³ See C&R Nos 18-20 of the 2017 SC.

court, issues a reasoned resolution on establishing a temporary restriction of the debtor's right to drive vehicles (taking into account the restrictions provided for in part ten of Article 71 of this Law) and takes other measures to enforce the decision provided for by this Law.

In the case of enforcement of the decision by the debtor, the enforcement agent draws up an act and issues a resolution on the termination of enforcement proceedings.

If the debtor prevents the creditor's meetings with the child in the future, the creditor has the right to apply to the enforcement agent with an application to resume enforcement proceedings. After the resumption of executive proceedings, the state executor shall again carry out the measures provided for in this article.

29. Has your Central Authority encountered any problems as regards cooperation with other States in making arrangements for organising or securing the effective exercise of rights of access / contact?

- No
- Yes

Please specify:

As the Central authority we could point on the problems with Spain and Belgium. These States do not initiate the court proceedings in the access cases. The CAs only inform that the applicants shall hire the lawyers in order to submit the case to the court and recommend to apply for the legal aid pursuant to the European Agreement on the Transmission of Applications for Legal Aid. We consider that this situations incurs the additional expenses to the applicants - they are obliged to prepare further package of documents and arrange the relevant translations of the documents.

30. Has your State had any challenges, or have questions arisen, in making arrangements for organising or securing the effective exercise of rights of access / contact under **Article 21** when the application was *not* linked to an international child abduction situation?¹⁴

- No
- Yes

Please specify:

Please insert text here

31. In the case of access / contact applications under **Article 21**, which of the following **services** are **provided by your Central Authority**?

Position	Services provided
A request of assistance to organise or secure effective exercise of rights of access in another Contracting Party (as requesting State)	<input checked="" type="checkbox"/> 1. Assistance in obtaining information on the operation of the 1980 Convention <input checked="" type="checkbox"/> 2. Assistance in obtaining information on the relevant laws and procedures in the requested State <input type="checkbox"/> 3. 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 checked="" type="checkbox"/> 4. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 5. 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 checked="" type="checkbox"/> 6. Assistance in providing or facilitating the provision of legal aid and advice

¹⁴ According to C&R No 18 of the 2017 SC, "The Special Commission agrees that an application to make arrangements for organising or securing the effective exercise of rights of access / contact under Article 21 can be presented to Central Authorities, independently of being linked or not, to an international child abduction situation."

	<input type="checkbox"/> 7. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input type="checkbox"/> 8. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 9. Provision of regular updates on the progress of the application <input type="checkbox"/> 10. Other, please specify: <p style="text-align: center;">Please insert text here</p>
<p>A request of assistance to organise or secure effective exercise of rights of access in your State (as requested State)</p>	<input checked="" type="checkbox"/> 1. Providing information on the operation of the 1980 Convention and / or the relevant laws and procedures in your State <input checked="" type="checkbox"/> 2. 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 checked="" type="checkbox"/> 3. Assistance in providing or facilitating the provision of legal aid and advice <input checked="" type="checkbox"/> 4. Assistance in obtaining private legal counsel or mediation services available in your State <input type="checkbox"/> 5. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 6. Regular updates on the progress of the application <input checked="" type="checkbox"/> 7. Other, please specify: <p>The assistance in initiating judicial proceedings is provided by the CA in cases the applicant did not hire a private lawyer or the requesting State did not made the reservation pursuant to Art.42 of the Abduction Convention.</p>

32. Should your State also be a Contracting Party to the 1996 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?

- No
 Yes

Please specify:
 Please insert text here

Special topics

Obtaining the views of a child in a child abduction case

33. When obtaining the views of a child in a child abduction proceeding in your State’s jurisdiction, what are the elements normally observed and reported by the person hearing the child (e.g., expert, judge, guardian *ad litem*? (E.g., the views of the child on the procedures, the views of the child on the subject of return, the maturity of the child, any perceived parental influence on the child’s statements)?

Please explain:

The child who has attained the age and degree of maturity at which it is appropriate to take account of its views can be heard in the return proceedings.

Pursuant to Article 45 of the Civil Procedural Code of Ukraine, during the consideration of a case, in addition to the rights and obligations specified in Article 43 of this Code, a minor also has the following procedural rights:

- 1) to express his/her opinion directly or through a representative or legal representative and receive his/her assistance in expressing such an opinion;
- 2) to receive information about the trial through a representative or legal representative;
- 3) to perform other procedural rights and exercise procedural obligations foreseen by the international treaty.

The court explains to a minor child his/her rights and the possible consequences

of the actions of his/her representative or legal representative, in case he or she can understand their significance due to age.

The court promotes the creation of appropriate conditions for the exercise of the rights of a minor child.

By the Order of the Ministry of Justice of Ukraine were approved the Standards of Quality of Granting of Free Secondary Legal Aid in Civil, Administrative Proceedings and Representation in Criminal Proceedings (hereinafter - the Standards).

The purpose of the Standards is, in particular, well-timed and high-quality granting of the required amount of free secondary legal aid.

Compliance with the Standards is mandatory for attorneys while providing free secondary legal aid. According to the Standards, if a lawyer finds that a legal representative is acting, in particular, against the interests of the minor he or she represents, the lawyer takes all available measures to protect the client's legal rights and interests, in particular, notifies the guardianship authority, police etc.; draws up and sends to the Koordinative Center of Providing of Free Legal Aid (special body which coordinates providing of the free legal aid in Ukraine) the relevant legal opinion on the impossibility of representation in this case.

34. Are there are any procedures, guidelines or principles available in your State to guide the person (e.g, expert, judge, guardian *ad litem*) in seeking the views of the child in a child abduction case?

- No
 Yes

Please specify:

Please insert text here

Article 15

35. As requesting State (outgoing applications), how often have judicial or administrative authorities in your State received requests for Article 15 decisions or determinations?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

36. As requested State (incoming applications), how often have judicial or administrative authorities in your State requested Article 15 decisions or determinations?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

37. Please indicate any good practices your State has developed to provide as complete as possible information in the return applications as required under Article 8 with a view to speed up proceedings?

Please indicate:

Please insert text here

38. Considering C&R No 7 of the 2017 SC,¹⁵ what information do you suggest adding to the Country Profile for the 1980 Convention, either as requested State or requesting State in relation to Article 15?

Please insert your suggestions:
Please insert text here

Relationship with other International Instruments on human rights

39. Has your State faced any challenges, or have questions arisen, in processing international child abduction cases where there was a **parallel refugee claim** lodged by the taking parent?

- No
 Yes

If possible, please share any relevant case law or materials that are relevant to this type of situation in your State or, alternatively, a summary of the situation in your State:

Please insert text here

- Do not know

40. Has the concept of the **best interest of the child** generated discussions in your State in relation to child abduction proceedings? If it is the case, please comment on any relevant challenges in relation to such discussions.

- No
 Yes

Please provide comments:
Please insert text here

Use of the 1996 Convention¹⁶

41. If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention (please comment where applicable below):

(a) providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**)

Please insert text here

(b) providing for the recognition of urgent protective measures by operation of law (**Art. 23**)

Please insert text here

(c) providing for the advance recognition of urgent protective measures (**Art. 24**)

Please insert text here

(d) communicating information relevant to the protection of the child (**Art. 34**)

Please insert text here

(e) making use of other relevant cooperation provisions (e.g., **Art. 32**)

Please insert text here

¹⁵ See C&R No 7: “The Special Commission recommends amending the Country Profile for the 1980 Convention to include more detailed information on the Article 15 procedure. It is further recommended that an Information Document on the use of Article 15 be considered with, if necessary, the assistance of a small Working Group.”

¹⁶ For this part of the Questionnaire, the [Practical Handbook on the Operation of the 1996 Child Protection Convention](#) can provide helpful guidance, available on the HCCH website at [under “Child Protection Section”](#).

42. If your State is a Party to the 1996 Convention, does your State make use of the relevant cooperation provisions (e.g., Art. 32) to provide, if requested, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?¹⁷

- No
 Yes

Please specify:

As the CA to the 1996 Convention (before 01.01.2023) we have received requests under Article 32 of the 1996 Convention on obtaining the report on the situation of the child concerning whom the return cases under 1980 Convention was pending by the CA.

Primary carer and protective measures

43. Are you aware of any cases in your State where a primary carer taking parent, for reasons of personal security (e.g., domestic or family violence, intimidation, coercive control, 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 were some cases. In such cases it was mentioned by the abductor parent in her (mostly its woman) written explanation these reasons as refusal on return. Usually the court mentioned such family circumstances but it was not the reason on rejection to satisfy the return of the child to the state of habitual residence of the child.

44. Would the authorities of your State consider putting in place measures to protect the primary carer upon return in the requesting State if they were requested as a means to secure the safe return of the child?

Please explain and provide case examples where possible:

No. Another court proceedings should be initiated in this regard.

45. In cases where the return order was issued together with a protective measure to be implemented upon return, are you aware of any issues encountered by your State in relation to the enforcement of such protective measures?

- No
 Yes

Please explain and distinguish between such measures being recognised and enforced under the 1996 Convention:

Please insert text here

46. In cases where the return order was issued together with an undertaking given by either party to the competent authority of the requested State, are you aware of any issues encountered by your State in relation to the enforcement of such undertakings?

- No

¹⁷ See C&R No 40 of the 2017 SC: “The Special Commission notes that many Central Authorities may provide certain degrees of assistance (both when the 1980 Convention and / or the 1996 Convention apply), both to individuals within their own State and to foreign Central Authorities on behalf of an individual residing abroad. Requests for assistance may encompass such matters as: securing rights of access; the return of children (both when the 1980 Convention and / or the 1996 Convention apply); the protection of runaway children; reporting on the situation of a child residing abroad; *post-return reports for children returned to their habitual residence*; the recognition or non-recognition of a measure taken abroad (advanced recognition); and, the enforceability of a foreign measure of protection.” (Emphasis added.)

- Yes
Please specify:
Please insert text here

47. If your State is a Contracting Party to the 1996 Convention, is Article 23 of that Convention being used or considered for the recognition and enforcement of undertakings given by either party while returning a child under the 1980 Convention?

- No
 Yes
Please specify:
Article 23 could be used for the recognition and enforcement of the order on protection measures.

N/A

48. In cases where measures are ordered in your State to ensure the safety of a child upon return, does your State (through the Central Authority, competent Court or otherwise) attempt to monitor the effectiveness of those measures upon the child's return?

- No
 Yes
Please specify:
Please insert text here

International family relocation¹⁸

49. 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:
The specific procedures for international family relocation has not been adopted. According to Article 16 of the Law of Ukraine of "Protection of Childhood" a child whose parents live in different states has the right to regular personal relations and direct contact with both parents. The child and his/her parents have the right to freely enter and leave Ukraine for family reunification in accordance with the procedure established by law. Parents, other family members and relatives, in particular those who live in different states, should not prevent each other from exercising the child's right to contact with them, are obliged to guarantee the child's return to the place of permanent residence after exercising the right to contact, not to allow an illegal change of her place of residence. Article 16-1 of the Law prescribed the measures and guarantees of ensuring the execution of the court decision on the implementation of the child's right to contact, determined by the court in each specific case, are:
the obligation of the person who is in contact with the child to pay the expenses related to the child's relocation and accommodation, as well as, if necessary, any other person who accompanies the child, to inform the person with whom the child

¹⁸ See the C&R of the 2006 SC at paras 1.7.4-1.7.5, C&R No 84 of the 2012 SC, and C&R No 21 of the 2017 SC, the latter of which says: "The Special Commission recalls the importance of securing effective access to procedures to the parties in international family relocation cases. In this regard, the Special Commission notes that: i) mediation services may assist the parties to solve these cases or prepare for outcomes; ii) the Washington Declaration of 25 March 2010 on Cross-border Family Relocation may be of interest to competent authorities, in particular in the absence of domestic rules on this matter. The Special Commission recommends joining the 1996 Convention."

lives about the place the child's stay during the exercise of the right to contact, to appear in person together with the child to the child protection authority with the periodicity determined by the court;
 prohibition of changing the child's place of residence during the exercise of the right to contact;
 realization of the right to contact with the child on the territory of a foreign state, subject to the submission of a document confirming the recognition of the decision of the court of Ukraine on contact with the child on the territory of another state to the child protection authority at the place of residence of the child;
 other measures provided for by law.

Ukraine is contracting state to the 1996 Convention and Article 35 of the 1996 Convention is applicable to the cases of family relocations and measures of protection.

In case of necessity the court decision concerning contact could be enforced under Article 24 of the Hague Child Protection Convention, the enforcement will be organized in accordance with Article 64-1 of the Law of Ukraine "On Enforcement Proceedings".

Publicity and debate concerning the 1980 Convention

50. Considering any potential impact on its practical operation, has your State had any recent publicity (positive or negative) or has there been any debate or discussion in your national parliament or its equivalent about the 1980 Convention?

- No
 Yes

Please indicate the outcome of this debate or discussion, if any:
 Please insert text here

51. By what methods does your State disseminate information to the public and raise awareness about the 1980 Convention?

Please explain:

The information about the 1980 Convention is available in Internet. In 2022 the special section was created on the webpage of the Centre for Free Legal Aid:
https://wiki.legalaid.gov.ua/index.php/Вивезення_за_кордон_дітей_-_громадян_України_та_їх_повернення_в_Україну._Право_батьків_на_доступ_до_дитини.

The applicants could find all information about the Convention, the order of submission of return or access applications as well as all necessary forms of applications.

PART II – TRAINING, EDUCATION AND POST-CONVENTION SERVICES

Training and education

52. Please provide below 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:

Please provide details:

Annual meeting for the territorial departments and the officers in charge who are dealing with the return and access applications are organized by the CA. We discuss the practical issues of operation of the Convention in Ukraine. As the CA we determine the problems and gives the recommendation on better operation of the Convention.

The tools, services and support provided by the PB

53. Please comment or state your reflections on the specific tools, services and support provided by the PB to assist with the practical operation of the 1980 (and 1996) Conventions, including:

- a. The Country Profile available under the Child Abduction Section, including the addition and / or revision of its questions.

We consider the Country Profile is very important. As the CA we regularly apply to the Country Profiles of another States.

- b. INCADAT (the international child abduction database, available at www.incadat.com). It is very usefull source.

- c. *The Judges' Newsletter* on International Child Protection - the HCCH publication which is available online for free;²⁰

Please insert text here

- d. The specialised “Child Abduction Section” of the HCCH website (www.hcch.net);

The specialised section is very useful source for practitioners.

- e. Providing technical assistance and training to Contracting Parties regarding the practical operation of the 1980 (and 1996) Conventions. Such technical assistance and training may involve persons visiting the PB or, alternatively, may involve the PB (including through its Regional Offices) organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;

The Ukrainian CA appreciates such assistance. As was mentioned before in 2023 the Roundtable was organized by the PB to discuss the operation of the 1980 Convention and the challenges for the CA because of war.

- f. Encouraging wider ratification of, or accession to, the 1980 (and 1996) Conventions, including educating those unfamiliar with the Convention(s);²¹

Please insert text here

²⁰ Available on the HCCH website at 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.

²¹ Which again may involve State delegates and others visiting the PB or, alternatively, may involve the PB organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the 1980 (and 1996) Conventions and participating in such conferences.

- g. Supporting communications between Central Authorities, including maintaining updated contact details on the HCCH website or intervening to facilitate contact in cases where obstacles arise.

Please insert text here

- h. 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 or intervening to facilitate contact in cases where obstacles arise.

Please insert text here

- i. Responding to specific questions raised by Central Authorities, Hague Network Judges or other operators regarding the practical operation or interpretation of the 1980 (and 1996) Conventions.

Please insert text here

Guides to Good Practice under the 1980 Convention

- 54. For any of the Guides to Good Practice²² which you may have used to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State please provide comments below:

- a. Part I on Central Authority Practice.

Please insert text here

- b. Part II on Implementing Measures.

Please insert text here

- c. Part III on Preventive Measures.

Please insert text here

- d. Part IV on Enforcement.

Please insert text here

- e. Part V on Mediation

Please insert text here

- f. Part VI on Article 13(1)(b)

Please insert text here

- g. Transfrontier Contact Concerning Children – General Principles and Guide to Good Practice

Please insert text here

- 55. How has your Central Authority ensured that the relevant authorities in your State have been made aware of, and have had access to the Guides to Good Practice?

²² All Parts of the Guide to Good Practice under the 1980 Convention are available on the HCCH website at www.hcch.net under “Child Abduction Section” then “Guides to Good Practice”.

Please insert text here

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

No

57. In what ways have you used the *Practitioner's Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children*²³ to assist in improving the practical operation of the 1980 Convention in your State?

Please insert text here

Other

58. What other measures or mechanisms would you recommend:

a. to improve the monitoring of the operation of the 1980 Convention;

The Questionnaire could be evaluated with the aim to monitor the narrow topics of concerns in the operation of the 1980 Convention. This will allow to determine the issues of concerns in the period between the SC meetings.

b. to assist States in meeting their Convention obligations; and

We suppose that in the period of time between the SC meetings could be arranged under the auspices of PB HCCH to consider certain topics or issues that appear in regard to application of the Convention due to the available resources (1 or 2 times between the meetings of SC).

During the meetings the actual topics could be discussed.

c. to evaluate whether serious violations of Convention obligations have occurred?

The monitoring of the issues could be arranged by the proposition to the CAs to inform for example once per year about the issues that the CA has concerns if any.

²³ The *Practitioner's Tool* is available at the HCCH website at www.hcch.net under "Child Abduction Section" then "Guides to Good Practice".

PART III – NON-CONVENTION STATES

59. Are there any States that you would particularly like to see become a Contracting 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:

[Please insert text here](#)

60. Are there any States which are not Party to the 1980 Convention or not Members of the HCCH that you would like to see invited to the SC meeting in 2023?

Please indicate:

[Please insert text here](#)

The “Malta Process”²⁴

61. Do you have any suggestions of activities and projects that could be discussed in the context of the “Malta Process” and, in particular, in the event of a possible Fifth Malta Conference?

Please explain:

[Please insert text here](#)

²⁴ The “Malta Process” is a dialogue between certain Contracting 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 HCCH website at www.hcch.net under “Child Abduction Section” then “Judicial Seminars on the International Protection of Children”.

PART IV – PRIORITIES AND RECOMMENDATIONS FOR THE 2023 SC AND ANY OTHER MATTERS

Views on priorities and recommendations for the SC

62. Are there any particular issues that your State would like the SC meeting to discuss in relation to the 1980 Convention?

Please specify and list in order of priority if possible:

Application of Article 13 1 (b) - the ground for refusal to return because of war
1 - year period established by Article 12 for refusal to return the child and formal approach to this period
Removal and retention under the 1980 Convention. The scope and the issues of application.

63. Are there any proposals your State would like to make concerning any particular recommendation to be made by the SC?

Please specify:

Taking into account the challenges that Ukraine faced during the last year and because of ongoing war we consider that the SC should pay attention to the issue of the family abduction in this circumstances as well as all the benefits which could be gained from the Abduction Convention`s mechanism of prompt return of the displaced children.

The Hague Child Abduction Convention is universally accepted instrument that serve to the purpose of the child`s return in the cases of the family child abduction, including during and after armed conflicts.

The common solution and approach should be followed in order to grant the applicants the possibility to use the benefits of the Child Abduction Convention`s instruments to be sure that the return application could be submitted as soon as the war the period of temporary protection for people fled from the war ends.

Bilateral meetings

64. Should your State be interested in having bilateral meetings during the SC meeting, please indicate, for the PB's planning purposes, an estimate of how many States with which it intends to meet:

Please insert number:
Yes. In particular Spain

Any other matters

65. States are invited to comment on any other matters which they may wish to raise at the 2023 SC meeting concerning the practical operation of the 1980 Convention.

Please provide comments:
Please insert text here