

**QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF  
THE 1980 CONVENTION**

Wherever your replies to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 1980 Convention, **please provide a copy of the referenced documentation** in (a) the original language and, (b) wherever possible, accompanied by a translation into English and / or French.

<b>Name of State or territorial unit:<sup>1</sup></b>	The Russian Federation
<i>For follow-up purposes</i>	
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**PART I: RECENT DEVELOPMENTS<sup>2</sup>**

**1. Recent developments in your State**

1.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding the legislation or procedural rules applicable in cases of international child abduction. Where possible, please state the reason for the development in the legislation / rules, and, where possible, the results achieved in practice (e.g., reducing the time required to decide cases).

No

Yes, please specify:

In accordance with Federal Law № 102-FZ of May 31, 2011 "On the Accession of the Russian Federation to the Convention on the Civil Aspects of International Child Abduction", the Russian Federation became a party to the 1980 Convention, which entered into force within the territory of the Russian Federation on October 1, 2011.

The Federal Law № 126-FZ "On Amending the Legislative Acts of the Russian Federation in Connection with the Accession of the Russian Federation to the Convention on the Civil Aspects of International Child Abduction" came into force on May 5, 2014. This Federal Law amended the Civil Procedural Code of the Russian Federation (introduced Chapter 22.2. "The Procedure of Consideration of Applications On the Return of the Child or On the Implementation of the Rights of Access to the Child On the Basis of the International Treaty of the Russian Federation", which regulates the procedural peculiarities of the court proceedings on the return of children on the basis of the international treaty), the Federal Law № 229-FZ of October 2, 2007 "On the Enforcement Proceedings", and the Federal Law № 118-FZ of July 21, 1997 "On Bailiffs", regulating the peculiarities of the search of children.

1.2 Please provide a brief summary of any significant decisions concerning the interpretation and application of the 1980 Convention rendered since the 2011 / 2012 Special Commission by the relevant authorities<sup>3</sup> in your State including in the context of the 20

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

<sup>2</sup> This Part of the Questionnaire is intended to deal primarily with the developments in law and practice relating to international child abduction and international child protection which have occurred in your State since the Sixth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (1-10 June 2011 and 25-31 January 2012) (hereinafter "the 2011 / 2012 Special Commission"). However, if there are important matters which you consider should be raised from *prior to* the 2011 / 2012 Special Commission, please provide such information here.

<sup>3</sup> The term "relevant authorities" is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1980 Convention. Whilst in the majority of States

November 1989 United Nations Convention on the Rights of the Child and relevant regional instruments.

According to Article 244.11 (1) of the Civil Procedural Code of the Russian Federation (hereinafter - the CPC RF) an application for return of the child wrongfully removed to the Russian Federation or retained in the Russian Federation or effective exercise of rights of access in regard to that child on the basis of an international treaty of the Russian Federation shall be submitted to the court by a parent or other person considering that the defendant has violated his rights of custody or rights of access, or is submitted to the court by the prosecutor.

In accordance with Article 244.11 (2) of the CPC RF: a centralized jurisdiction has been established for the courts that address the court cases within the scope of the 1980 Convention. Depending on the whereabouts of the child the request on the return of the child or on the exercise of the right of access shall be submitted to either of 8 court: Tverskoy district court of Moscow, which is located at the address: 127051, Moscow, Tsvetnoy Boulevard, 25A (Central Federal District); Dzerzhinsky district court of St. Petersburg, which is located at the address: 191123, St. Petersburg, Vosstanya St., 38 (Northwestern Federal District); Pervomaisky district court of Rostov-on-Don, which is located at the address: 344029, Rostov-on-Don, Metallurgicheskaya St., 29 (Southern Federal District); Pyatigorsky city court, which is located at the address: 357500, Universitetskaya St., 34 A (North Caucasian Federal District); Kanavinsky district court of Nizhny Novgorod, which is located at the address: 603950, Nizhny Novgorod, Iyulskikh dney St., 2 (Volga Federal District); Zheleznodorozhny district court of Yekaterinburg, which is located at the address: 620141, Yekaterinburg, Pekhotintsev St., 23 (Ural Federal District); Central district court of Novosibirsk, which is located at the address: 630099, Novosibirsk, Gorkogo St., 89 (Siberian Federal District); Central district court of Khabarovsk, which is located at the address: 680038, Khabarovsk, Serysheva St., 60 (Far Eastern Federal District).

If the child`s whereabouts on the territory of the Russian Federation are unknown, the application for the return of the child or effective execution of access rights shall be submitted to the relevant competent court, envisaged in part 2 of the present Article, in accordance with the last known place of residence of the child in the Russian Federation or to the last known place of residence of the defendant in the Russian Federation (part 3 of Article 244.11).

According to Article 244.17 (1) of CPC RF an appeal or submission to the court decision in the case on the return of the child or on effective exercise of rights of access may be filed within ten days from the date of the making of final decision of the court.

Under Article 244.17 (2) of CPC RF the case for the return of the child or of effective exercise of the rights of access received through the appeal or the submission shall be considered in a period not exceeding one month from the date of its receipt by the court of appeal.

At the same time, in accordance with Article 244.18 (1) of the CPC RF a procedural appeal to the first instance court ruling in the case on the return of the child or on effective exercise of rights of access may be filed by parties or other individuals participating in the case, while the prosecutor may initiate appellate submission within 10 days after the first instance court decision in accordance with rules established in Chapter 39 of the CPC RF. In accordance with Article 244.18 (2) of the CPC RF a procedural appeal, submission, mentioned in part 1 of this Article, shall be considered in a period not exceeding 10 days since the case to the appeal proceedings was submitted.

The judicial decisions can also be appealed to the court of cassation and supervision all of the way to the Supreme Court of the Russian Federation (Chapters 41 - 41 of the CPC RF).

In accordance with Article 376 (2) of the CPC RF judicial rulings may be appealed against with a court of the cassation instance within six months as from the date when they enter into legal force, provided that the persons cited in part 1 of this Article have exhausted the other ways of appealing against a judicial rulings established by the CPC RF before the date when it enters into legal force.

Under Article 320 (2) of the CPC RF appeals, appellate submissions on the district court decisions shall be considered by the supreme court of a republic, the territorial or regional court, the court of a city of federal importance, the court of an autonomous region, the

court of an autonomous area.

The term for appealing against the decision commences from the date of the decision issued in its final form and for a cassation appeals – from the date when the court ruling comes into force.

Currently, the Central Authority of the Russian Federation is drawing up a collection to be published (in Russian and in English) of most important decisions on returning the child or on enforcing the right of access to the child rendered by the courts of the Russian Federation.

As of today, there is a number of court decisions of denying the return of children to the foreign state and the return of children to the territory of habitual residence in Spain, the UK, Estonia and a few more states; some of these decisions have been implemented, others are yet on the enforcement.

1.3 Please provide a brief summary of any other significant developments in your State since the 2011 / 2012 Special Commission relating to international child abduction.

Currently, the Central Authority of the Russian Federation monitors more than 270 cases in scope of the 1980 Convention and the 1996 Convention in regard to children who have been removed to Russia or from Russia. For most of these cases the claim for the return of children under the 1980 Convention was not applied. In approximately 15% of them, the competent courts of the Russian Federation decided to satisfy the claim on the return of the child or to refuse to satisfy the claim on the return of the child, as well as the exercise of the right of access to the child. At the same time, a peaceful settlement of the conflict was achieved in a number of cases.

## 2. **Issues of compliance**

2.1 Are there any States Parties to the 1980 Convention with whom you are having particular challenges in achieving successful co-operation? Please specify the challenges you have encountered and, in particular, whether the problems appear to be systemic.

No

Yes, please specify:

[Please insert text here](#)

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

No

Yes, please specify:

[Please insert text here](#)

## PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION

### 3. **The role and functions of Central Authorities designated under the 1980 Convention**<sup>4</sup>

*In general*

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

No

Yes, please specify:

[Please insert text here](#)

3.2 Have any of the duties of Central Authorities, as set out in **Article 7** of the 1980 Convention, raised any particular problems in practice either in your State, or in States Parties with whom you have co-operated?

No

Yes, please specify:

[Please insert text here](#)

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

3.3 Has your Central Authority encountered any challenges with the application of any of the 1980 Convention provisions? If so, please specify.

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

#### *Legal aid and representation*

3.4 Do the measures your Central Authority takes to provide or facilitate the provision of legal aid, legal advice and representation in return proceedings under the 1980 Convention (**Art. 7(2)-(g)**) result in delays in proceedings either in your own State, or, where cases originate in your State, in any of the requested States you have dealt with?

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

3.5 Are you aware of any other challenges in your State, or, where cases originate in your State, in any of the requested States you have dealt with, regarding the obtaining of legal aid, advice and / or representation for either left-behind parents or taking parents?<sup>5</sup>

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

#### *Locating the child*

3.6 Has your Central Authority encountered any challenges with locating children in cases involving the 1980 Convention, either as a requesting or requested State?

- No  
 Yes, please specify the challenges encountered and what steps were taken or are considered to be taken to overcome these challenges:  
[Please insert text here](#)

3.7 Has your Central Authority worked with any external agencies to discover the whereabouts of a child wrongfully removed to or retained within your State (e.g., the police, Interpol, private location services)?

- No  
 Yes, please share any good practice on this matter:

[In accordance with the Federal Law of the Russian Federation of May 5, 2014 № 126-FZ "On Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Accession of the Russian Federation to the Convention on the Civil Aspects of International Child Abduction" \(hereinafter - the 2014 Law\), which amended Federal Law № 229-FZ of October 2, 2007 "On The Enforcement Proceedings" \(hereinafter - the 2007 Law and Federal Law № 118-FZ of July 21, 1997 "On Bailiffs", the Federal Bailiffs Service of the Russian Federation \(hereinafter - the FBS of Russia\) is to determine the location of the minor under the request of the Central Authority of the Russian Federation for the search of a child.](#)

[According to the amendments introduced by the 2014 Law to the 2007 Law, the Central Authority forward to the FBS of Russia an executive document-request of the Central Authority appointed in the Russian Federation to ensure the fulfillment of obligations under the international treaty of the Russian Federation, on the search for the child wrongfully removed to the Russian Federation or retained within the Russian](#)

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<sup>5</sup> See paras 1.1.4 to 1.1.6 of the "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (30 October – 9 November 2006) (hereinafter referred to as the "[Conclusions and Recommendations of the 2006 Special Commission](#)") and paragraphs 32 to 34 of the "[Conclusions and Recommendations of the Special Commission to review the operation of the Hague Convention of 19 October 1980 on Jurisdiction, Applicable law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children \(1-10 June 2011 and 25-31 January 2012\)](#)" (hereinafter the "C&R of the 2011/2012 Special Commission") (available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Special Commission meetings").

Federation (hereinafter - the request of the Central Authority for the search of a child).

The request of the Central Authority for the search of a child contains:

1) the title and the contact address of the authority that issued the request, the name and initials of the official;

2) the date of receipt of the application for the return of a child wrongfully removed to the Russian Federation or a child retained within the Russian Federation or the exercise of access rights to a child on the basis of an international treaty of the Russian Federation;

3) the information about the child: surname, name, patronymic (if available), date and place of birth, available information on his/her place of residence and other information that may help to locate the child;

4) the information about the person with whom the child may be: the surname, name, patronymic (if any), date of birth (if known), available information about the place of residence and (or) the place of residence, the location of his/her property, place of work and other information that may help to locate the child;

5) the date of issuance of the request of the Central Authority for the search of a child (part 6 of Article 13 of the 2007 Law).

The execution writs containing the requirements on the return on the basis of the international treaty of the Russian Federation of a child wrongfully removed to the Russian Federation or a child retained within the Russian Federation shall be presented for execution within one year from the date of entry into legal force of the court ruling (part 1 of Article 21 of the 2007 Law).

The request of the Central Authority for the search of a child shall be forwarded by the Central Authority designated in the Russian Federation to ensure the fulfillment of obligations under the international treaty of the Russian Federation to the structural unit of the bailiffs of the territorial bodies of the Federal Bailiff Service at the last known place of residence of a child in the Russian Federation or to the last known place of residence of the person with whom a child may be, or at the location of the property of this person or at the last known place of stay of the child (part 5.1 of Article 30 of the 2007 Law).

The claim of the plaintiff and the writ of execution containing the request for the return of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation or the request of the Central Authority for the search of a child shall be transferred to the bailiff no later than the day following the day of their admission to the bailiff's office (part 7.1 of Article 30 of the 2007 Law).

The bailiff within three days from the date of receipt of the writ of execution may decide on refusal to initiate enforcement proceedings if the writ of execution containing the request for the return of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation and if the child has reached the age at which the international treaty is not applicable to him/her (paragraph 10, part 1 of Article 31 of the 2007 Law).

The application for clarification of the provisions of the writ of execution, the manner and procedure of its execution is considered by the court, other authority or official issuing the writ of execution within ten days from the date of its receipt. The application for clarification of the provisions of the writ of execution containing a request for the return of a child wrongfully removed or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation, the manner and procedure for the execution of the said writ of execution shall be considered by the court that issued the writ of execution, within five days from the date of receipt of this application (part 2 of Article 32 of the 2007 Law).

In accordance with paragraph 6 of part 3 of Article 35 of the 2007 Law execution of enforcement actions and of measures of compulsory execution on non-working days established by the federal law or other normative legal acts, as well as on working days from 10 p.m. to 6 a.m. are allowed only in urgent cases, including cases of execution of the request of the Central Authority for the search of a child, as well as the requirement contained in the writ of execution on the return of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation.

According to paragraph 8 of part 2 of Article 43 of the 2007 Law, enforcement proceedings shall be terminated by the bailiff if the writ of execution contains a request for the return of a child a child wrongfully removed to the Russian Federation or retained within



the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation and if the child has reached the age at which the international treaty is not applicable to him/her.

In order to ensure the fulfillment of obligations under the international treaty of the Russian Federation, the bailiff announces the search of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the exercise of access rights to a child on the basis of a request of the Central Authority for the search of a child (paragraph 1.2 of Article 65 of the 2007 Law).

On its own initiative or at the application of the plaintiff, the bailiff announces the search of a child on the writ of execution containing a request for removal or transfer of a child, the procedure for communication with a child, or the request for the return of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation (part 4 of Article 65 of the 2007 Law).

According to part 6 of Article 65 of the 2007 Law, the decision to search of a defendant or his property or to refuse to declare the search shall be made by the bailiff within three days from the date of receipt of the statement of the plaintiff about the announcement of the search or from the day of the grounds for the announcement of the search appear. The decision on the search of a child or on the refusal to declare such search shall be made by the bailiff within 24 hours from the date of receipt of the application of the plaintiff to declare the search or from the day the grounds for the announcement of the search.

In accordance with part 9 of Article 65 of the 2007 Law, copies of the decision of the bailiff to search of or refuse to declare the search shall be sent to the parties to the enforcement proceedings not later than the day following the day of its issuance. In the lack of information on the whereabouts of the defendant, a copy of the decision of the bailiff shall be sent to the last known place of residence or place of stay of the defendant. A copy of the child's search decision shall be also sent to the custody and guardianship authorities at the place of residence of the child no later than the day following the day of its issuance. A copy of the decision to search of a child wrongfully removed to the Russian Federation or retained within the Russian Federation shall be sent to the custody and guardianship authority at the last known place of the child's stay and to the Central Authority appointed in the Russian Federation to ensure the fulfillment of obligations under the international treaty of the Russian Federation, no later than the day following the day of its issuance.

If the wanted defendant, his property or child is found within the territory out of the powers of the bailiff who announced the search, the chief bailiff of the subject (the main bailiff of the federal subjects) of the Russian Federation at the location of the defendant, his property or the child organizes an immediate communication on this, including through the Internet, to the territorial body of the Federal Bailiff Service at the place where the search was announced, and also interaction with the custody and guardianship authorities to transfer the child, who was found out as a result of the search, to a legal representative, guardian or custodian to whom the child must be transferred in pursuance of the requirement of the writ of execution (part 12 of Article 65 of the 2007 Law).

If a child, whose search is carried out on the basis of a request of the Central Authority for the search of a child is found, the bailiff who carries out the search immediately notifies the custody and guardianship authority at the child's location and the Central Authority appointed in the Russian Federation to ensure the fulfillment of the obligations under the international treaty of the Russian Federation. After the discovery of the child, the enforcement proceedings shall be terminated in accordance with para. 1, part 1 of Article 47 of this Federal Law (part 13.1 of Article 65 of the 2007 Law).

According to part 14 of Article 65 of the 2007 Law, when the child whose search is carried out, is found, the bailiff who carries out the search immediately notifies the custody and guardianship authorities at the child's location and takes measures to transfer the child to the legal representative, guardian or custodian to whom the child must be transferred pursuant to the requirements of the writ of execution. In case of impossibility to transfer immediately of the child to the said legal representative, guardian or custodian, the bailiff transfers the child to the custody and guardianship authorities at the child's location, and immediately notifies the said legal representative, guardian or custodian. When the child whose search is carried out on the writ of execution, containing a request for the return of a child wrongfully removed or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation, is found, the bailiff informs immediately the custody and guardianship

authorities at the child`s location and the Central Authority appointed in the Russian Federation to ensure the fulfillment of the obligations under the international treaty of the Russian Federation.

1. The removal of the child and his transfer are carried out with the obligatory participation of the custody and guardianship authority and the person to whom the child is transferred. If necessary, the bailiff also involves a representative of the internal affairs bodies, a child psychologist, a doctor, a teacher, an interpreter and other specialists to participate in the enforcement proceedings.

2. On the facts of the removal and transfer of the child, the bailiff draws up a report.

3. Execution of the requirement of the writ of execution on the procedure for communication with the child includes the provision by the bailiff of unimpeded communication of the plaintiff with the child in accordance with the procedure established by the court.

4. When executing the writ of execution containing a request for communication with the child, the bailiff must establish that the defendant does not interfere with the communication of the plaintiff and the child. After the establishment of this fact, the bailiff executes the enforcement proceedings in accordance with paragraph 1, part 1 of Article 47 of this Federal Law if it is necessary to re-execute and apply enforcement measures, the decision of the bailiff to terminate the enforcement proceedings shall be canceled on the application of the plaintiff by the senior bailiff or his deputy.

5. The provisions of this Article shall be applied to the execution of documents containing the requirements for the return of a child wrongfully removed or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation. The bailiff informs the Central Authority appointed in the Russian Federation to ensure the fulfillment of obligations under the international treaty of the Russian Federation, the progress of enforcement proceedings by sending copies of decisions made in the enforcement proceedings, no later than the day following the day of their issuance (Article 109.3 of the 2007 Law).

According to paragraph 7, part 5 of Article 112 of the 2007 Law, the executive fee is not collected in cases where enforcement proceedings are instituted at the request of the Central Authority for the search of a child.

#### *Information exchange, training and networking of Central Authorities*

3.8 Has your Central Authority shared its expertise with another Central Authority or benefited from another Central Authority sharing its expertise with your Central Authority, in accordance with the Guide to Good Practice – Part I on Central Authority Practice?<sup>6</sup>

- No  
 Yes, please specify:

The bilateral meetings of the Central Authorities for the 1980 Convention are held regularly, including an annual meeting of the Russian-French Commission on the Protection of the Rights of Children in Family Conflicts.

Twice in a year, the Central Authority of the Russian Federation organizes international educational conferences and seminars on best practices in the application of the 1980 Convention and 1996 Convention.

On a regular basis and in working order the Central Authorities exchange data on the national legislation of the States Parties to the 1980 Convention. In its practical activities, the Central Authority of the Russian Federation may request additional information not only on certain issues related to the case, but also excerpts and clarification of the legislation of a foreign state.

In its turn, the Central Authority of the Russian Federation is ready to provide any information regarding the case under consideration or the norms of Russian legislation. Any information, including excerpts from the legislation, is provided with a translation into English.

3.9 Has your Central Authority organised or participated in any other networking initiatives between Central Authorities such as regional meetings via conference call or videoconference?

- No

<sup>6</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice". See, in particular, Chapter 6.5 on twinning arrangements.

Yes, please specify:

Representatives of the Russian Central Authority take part in events organized by foreign Central Authorities and diplomatic missions devoted to a wide range of topics for the children`s protection.

Every year representatives of the Central Authority of the Russian Federation participate in events organized by the Central Authorities of the States Parties to the 1980 Convention, as well as by regional offices or partners. In turn, the Central Authority of the Russian Federation, in cooperation with the "Federal Institute of Mediation" (hereinafter – FIM of Russia) and the Russian Peoples` Friendship University (hereinafter – RUDN University), conducts conferences and seminars with a wide range of participants, including representatives of the Central Authorities of the States Parties to the 1980 Convention.

From October 13 to October 14, 2015, RUDN University hosted the international seminar "Exchange of experience in the application of the 1980 Convention on the Civil Aspects of International Child Abduction and the 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children". This seminar was organized by the Ministry of Education and Science of the Russian Federation in conjunction with RUDN University and the FIM of Russia. Discussion of actual issues in the practice of the application of both highly socially significant Conventions and the exchange of experience between participating States and competent government authorities is an essential for the effective implementation of these international instruments, which eventually are aimed at strengthening the protection of children`s rights in transnational family disputes . More than 150 participants were registered to participate in the seminar, including representatives of the Central Authorities for the 1980 Conventions and 1996 Convention of Israel, the USA, Finland, the Czech Republic, as well as representatives of the Embassies of Australia, the UK, Germany, Spain, Italy, the USA, France, the Czech Republic, Switzerland, Estonia, Japan. In addition, representatives of the Russian judicial bodies, custody and guardianship authorities of the federal subjects of the Russian Federation, as well as the human rights ombudsmen and children`s rights ombudsmen of the federal subjects of the Russian Federation, as well as academics of the Institute of State and Law of the Russian Academy of Sciences, of the Institute of Legislation and Comparative Law under the Government of the Russian Federation and of RUDN University participated also at the seminar.

### *Statistics<sup>7</sup>*

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

In the long term, the Central Authority of the Russian Federation plans to post these statistics, but to date, the amount of practice is too small for a quantitative analysis of cases of the 1980 Convention.

### *Prompt handling of cases*

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

No

Yes, please specify:

The maximum terms for consideration of applications of citizens are established in the Federal Law № 59-FZ of May 2, 2006 "On the Procedure for Considering Applications of Citizens of the Russian Federation" (hereinafter - the 2006 Law), in accordance with paragraph 1 of Article 9 of which an application submitted to a state body, a local government body or an official in accordance with their competence shall be subject to mandatory review. Written application received by a state body, a local government body or an official in accordance with their competence shall be considered within 30 days from the date of registration of a written application (part 2 of Article 9 of the 2006 Law).

A state body, a local government body or an official at the request of a state body, local government or an official forwarded in accordance with the established procedure must provide within 15 days all documents and materials necessary for

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



consideration of the appeal, except documents and materials, which contain information on a state secret or other secret protected by federal law, and for which a special procedure is enshrined (part 2 of Article 10 of the 2006 Law).

At the same time, the deadline for consideration of applications does not depend on the applicant's citizenship. The Central Authority of the Russian Federation in order to speed up the procedures considers documents sent by e-mail. The contacts of the staff of the Central Authority providing regular counselling to applicants on the execution of the 1980 Convention in the Russian Federation are at free access.

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

In order to prevent delays in the circulation of citizens and state bodies, the Central Authority of the Russian Federation carries out, together with official correspondence, phone and e-mail consultations on any questions of applicants and foreign state bodies.

#### 4. **Court proceedings & promptness**

4.1 Has your State limited the number of judicial or administrative authorities who can hear return applications under the 1980 Convention (*i.e.*, concentration of jurisdiction)?<sup>8</sup>

Yes

No, please indicate if such arrangements are being contemplated:

[See paragraph 1.2.](#)

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

No

Yes, please explain:

In accordance with paragraph 2 of Article 244.15 of the CPC RF the application for the return of a child wrongfully removed to the Russian Federation shall be considered by the court within a period not exceeding forty two days from the day the application was accepted by the court, including the period for the case preparing to the trial and drawing up a reasoned decision.

4.3 If your response to the previous question is No, does your State contemplate implementing mechanisms to meet the requirement of prompt return under the 1980 Convention (*e.g.*, procedures, bench-books, guidelines, protocols)?

No, please explain:

[Please insert text here](#)

Yes, please explain:

[Please insert text here](#)

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

[Please insert text here](#)

4.5 Do your courts regularly order immediate protective measures when initiating the return procedure, so as to prevent a new removal and minimize the harm to the child (*e.g.*, prohibit removal of the child from the jurisdiction, retain documentation, grant provisional access rights to the left-behind parent)?

No, please explain:

Yes, please explain:

The possibility to take urgent temporary measures while considering the claim for determining the place of residence of the child is provided for by the legislation of the Russian Federation. After initiation of procedures for the return of the child, the court may take measures to protect the child, which include measures specified in Article 244.13 of the CPC RF. In accordance with this Article, along with other measures to secure an action

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<sup>8</sup> See, [The Judges' Newsletter](#) on International Child Protection – [Vol. XX / Summer-Autumn 2013](#) the special focus of which was "Concentration of jurisdiction under the *Hague Convention of 25 October 1980 on the civil aspects of International Child Abduction* and other international child protection instruments".

in accordance with Chapter 13 of the CPC RF, the judge may prohibit the respondent before the entry into legal force of the court decision on the case of the return of the child or the exercise of the access rights to change the child`s place of residence or temporarily restrict his/her departure from the Russian Federation. According to paragraph 2 of part 1 of Article 140 of the CPC RF, the respondent may be prohibited from performing certain actions.

According to paragraph 6.1 of Article 152 of the CPC RF when considering disputes about children at the request of the parents (one of the parents) in the preliminary court session, the court with the obligatory participation of the custody and authority is entitled to determine the place of residence of children and (or) the procedure for exercising parental rights for the period until the court decision comes into force. On these issues, a determination shall be made if there is a positive opinion of the custody and guardianship authority and with due consideration of the views of the children. When there are circumstances indicating that the change of the children`s place of residence for the period prior to the entry into force of the relevant judicial decision is contrary to the interests of the children, the court determines the place of residence of children until the date of entry into legal force of the judicial decision to determine their actual place of residence.

According to part 3 of Article 65 of the FC RF at the request of the parents (one of them) in the order established by the civil procedural law and in the lack of an agreement between the parents, the court, based on the interests of the children and taking into account the opinion of the children, with the obligatory participation of the custody and guardianship authority, the court has the right to determine the place of residence of children for the period until the entry into legal force of the court decision on the determination of their place of residence.

As part of the execution of enforcement proceedings, the bailiff of the FBS of Russia has the right to issue a resolution on the temporary restriction on the departure of the defendant from the Russian Federation (paragraph 15 of Article 64 of the 2007 Law) upon the request of the plaintiff or his own initiative.

According to Article 21 of the Federal Law of August 15, 1996 №114-FZ "On the procedure for leaving the Russian Federation and entry into the Russian Federation" if one of the parents, adoptive parents, guardians or custodians declares their disagreement with the departure of a minor Russian citizen from the Russian Federation, the issue of the possibility of his/her departure from the Russian Federation shall be resolved by the court. The procedure for filing an application for disagreement on the departure of a minor Russian citizen from the Russian Federation shall be established by the competent federal executive body.

According to Article 244.13 of the CPC RF, if necessary, the judge may prohibit the defendant before the entry into force of the court`s decision in the case of the return of the child or the exercise of access rights to change the child`s place of residence and temporarily restrict his/her departure from the Russian Federation.

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

Yes

No, please explain:

If necessary, the court is entitled to request the Central Authority of the Russian Federation to provide additional information on the case. In turn, the Central Authority of the Russian Federation may request a foreign Central Authority to provide the necessary information on the case. The direct communication between the Russian courts and the courts of the States Parties to the 1980 Convention is limited for technical reasons, as well as due to a lack of appropriate initiative of the foreign courts.

4.7 If your State has not designated a sitting judge to the International Hague Network of Judges does your State intend to do so in the near future?

Yes

No, please explain:

At present, this issue is in the consideration at the interdepartmental level.

4.8 Please comment upon any cases (whether your State was the requesting or requested State), in which the judge (or decision-maker) has, before determining an application for return, communicated with a judge or other authority in the requesting State regarding the

issue of the child's safe return. What was the specific purpose of the communication? What was the outcome?

In accordance with the established jurisprudence during the period of consideration of the case on the return of the child or on the exercise of access rights, the judge may apply to the Central Authority of the Russian Federation for obtaining additional documentation on the case. In this case, the Central Authority of the Russian Federation shall promptly contact the relevant foreign Central Authority for further information. In case of receipt of such information it will be promptly sent to the authorized Russian court, the judge of which may attach the specified document to the materials of the case. For its part, the Central Authority of the Russian Federation provides all possible assistance in the circulation of foreign Central Authorities of the States Parties to the 1980 Convention.

## 5. **Ensuring the safe return of children**<sup>9</sup>

*Methods for ensuring the safe return of children*<sup>10</sup>

5.1 What measures has your Central Authority taken to ensure that the recommendations of the 2006 and 2011 / 2012 Special Commission meetings<sup>11</sup> regarding the safe return of children are implemented?

The Central Authority is not authorized with the appropriate powers to enforce judicial decisions. The Central Authority can only inform the applicant on the process of enforcing a court decision on the return of the child by the FBS of Russia.

In accordance with Article 1 of the Federal Law of July 21, 1997 № 118-FZ "On Bailiffs" and Article 5 of the Federal Law № 229-FZ of October 2, 2007 "On the Enforcement Proceedings", compulsory execution of court decisions relates to the functions of the FBS of Russia, acting in accordance with strict regulations, providing for temporary restrictions and requirements for the correspondence of performance to established criteria.

According to paragraph 1 of Article 244.16 of the CPC RF, the decision of the court in the case of the return of a child wrongfully removed or retained within the Russian Federation or the exercise of access rights to a child on the basis of the international treaty of the Russian Federation must comply with the requirements set forth in Chapter 16 of this Code and contain a justification for the child's return to the state of habitual residence in accordance with the international treaty of the Russian Federation, the procedure for the return of the child, an indication of the distribution of court costs and expenses related to the return of the child, or the justification for refusing the child's return to the state of habitual residence according to the international treaty of the Russian Federation and an indication of the distribution of court expenses.

5.2 In particular, in a case where the safety of a child is in issue and where a return order has been made in your State, how does your Central Authority ensure that the appropriate child protection bodies in the *requesting* State are alerted so that they may act to protect the welfare of a child upon return (until the appropriate court in the requesting State has been effectively seised)?

The FBS of Russia adopted the Methodological recommendations on the organization of the work of the bailiff on execution of international obligations in the framework of the enforcement proceedings of July 30, 2014 № 0007/18 limiting the terms of the child's search and approving the procedure for the search for a child. However, if necessary, the Central Authority may request the Central Authority of the State Party to the 1980 Convention to provide relevant information on the competent authorities for the protection of the child's rights.

According to paragraph 7.1 of Article 30 of the Federal Law № 229-FZ of October 2, 2007 "On the Enforcement Proceedings", the request of the Central Authority on the search of a child sent to the FBS of Russia containing a demand for the return of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the

<sup>9</sup> See **Art. 7(2) h)** of the 1980 Convention.

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

<sup>11</sup> See the [Conclusions and Recommendations](#) of the Special Commission of 2006 (*supra.* note 5) at paras 1.1.12 and 1.8.1 to 1.8.2 and 1.8.4 to 1.8.5 and the Appendix to the Conclusions and Recommendations and the Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra.* note 5).at paras 39-43.

exercise of access rights to a child on the basis of the international treaty of the Russian Federation shall be transmitted to the bailiff no later than the day following the day of his admission to the bailiff`s unit. At the same time, in accordance with para.14 of Article 30 of Federal Law № 229-FZ of October 2, 2007 "On the Enforcement Proceedings", the bailiff does not set a time limit for the voluntary return of the child. The decision to search of a defendant or his property or to refuse to declare the search shall be made by the bailiff within three days from the date of receipt of the statement of the plaintiff about the announcement of the search or from the day of the grounds for the announcement of the search appear (paragraph 6 of Article 65 of the Federal Law of October 2, 2007 № 229-FZ "On the Enforcement Proceedings"). Copies of the decision of the bailiff to search of or refuse to declare the search shall be sent to the parties to the enforcement proceedings not later than the day following the day of its issuance. In the lack of information on the whereabouts of the defendant, a copy of the decision of the bailiff shall be sent to the last known place of residence or place of stay of the defendant. A copy of the child`s search decision shall be also sent to the custody and guardianship authorities at the place of residence of the child no later than the day following the day of its issuance. A copy of the decision to search of a child wrongfully removed to the Russian Federation or retained within the Russian Federation shall be sent to the custody and guardianship authority at the last known place of the child`s stay and to the Central Authority appointed in the Russian Federation to ensure the fulfilment of obligations under the international treaty of the Russian Federation, no later than the day following the day of its issuance (paragraph 9 of Article 65 of the Federal Law of the Russian Federation of October 2, 2007 № 229-FZ "On the Enforcement Proceedings").

5.3 Where there are concerns in the requested State regarding possible risks for a child following a return, what conditions or requirements can the relevant authority in your State put in place to minimise or eliminate those concerns?

If the requested state is the Russian Federation, when there is a risk of causing harm to the child, the FBS of Russia seeks explanations on the ways of compulsory enforcement of the judgment in the competent court of the Russian Federation, and may also request the interested state bodies responsible for ensuring the best interests of the child. At the same time, if necessary, the Central Authority of the Russian Federation has the right to apply also to the custody and guardianship authorities of the Russian Federation on an urgent basis.

The following Articles of the FC RF cover the protection of children from domestic violence: Article 56 speaks of the child`s right to protection of their legitimate rights and interests, including the right to protection from abuse from parents (or persons substituting them); Article 69 deals with the conditions of deprivation of parental rights; Article 70 stipulates the procedure for deprivation of parental rights; Article 71 contains the consequences of deprivation of parental rights; Article 72 regulates the conditions for the restoration of parental rights; Article 73 considers the restriction of parental rights issues; Article 77 provides for taking the child away if there is a direct threat to a child's life or health. In accordance with paragraph 2 of Article 9 of the Federal Law of June 24, 1999 № 120-FZ "On The Basis Of Child Neglect And Juvenile Delinquency Prevention System" bodies and the system for preventing child neglect and juvenile delinquency within their competence, are obliged to ensure that the rights and legitimate interests of minors, protecting them from all forms of discrimination, physical or mental violence, injury, abuse, sexual or other exploitation, identify minors and families in dangerous situation, as well as to immediately inform the relevant competent authorities for protection of rights and legitimate interests.

*Use of the 1996 Convention to ensure a safe return*

5.4 If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**), in providing for their recognition by operation of law (**Art. 23**), and in communicating information relevant to the protection of the child (**Art. 34**)?

No

Yes, please explain:

Please insert text here

*Protection of primary carer*

5.5 Are you aware of cases in your State where a primary carer taking parent, for reasons of personal security (e.g., domestic or family violence, intimidation, harassment, etc.) or others, has refused or has not been in a position to return with the child to the requesting State? How are such cases dealt with in your State? Please explain and provide case examples where possible.

In accordance with the established judicial practice, the parties reason the risk before the court of a threat to the life and health of the child when considering the case of his/her return. At the same time, a judge may apply for information that confirms the presence of this risk both to the parties to the case and to the competent authorities. When one of the parties declare that there is a risk to the safety of the child, depending on the degree of this risk and the availability of evidence of such risk, the judge may decide both on satisfaction and on rejecting the claim for the return of the child.

Protection of adults from domestic violence or other forms of violence is provided for by the legislation of the Russian Federation. There is no separate legislative act regulating issues of family violence alone. In the framework of criminal law, the following protection is provided: Article 116 of the Criminal Code of the Russian Federation provides for criminal liability for beatings, and Article 117 of the Criminal Code of the Russian Federation provides for punishment for committing a crime of torture.

5.6 In particular, would your authorities consider putting in place measures to protect the primary carer upon return in the requesting State as a mean to secure the safe return of the child? Please explain and provide case examples where possible.

If there is a risk of harm to the well-being of the child, the Central Authority of the Russian Federation may apply to the competent authorities for taking protective measures or for providing additional information on the child`s situation. Likewise, the applicant can apply directly to the competent authorities of the Russian Federation to provide protection measures for the child, in accordance with the legislation of the Russian Federation.

In accordance with Article 4 of the 2008 Law, the custody and guardianship authorities ensure the timely identification of persons needing to establish custody or guardianship over them and their arrangements; protection of the rights and legitimate interests of the patients; ensuring a decent standard of living for wards, etc. According to paragraph 2 of Article 56 of the FC RF a child has the right to protection from abuses on the part of the parents (or persons substituting them). In case of violation of the rights and legal interests of the child, including failure to fulfil or improper fulfilment by the parents (one of them) of the duties of upbringing, education of the child or abuse of parental rights, a child has the right to independently apply for his/her protection to the custody and guardianship authority and beginning from the age of fourteen years a child may apply to the court.

In accordance with paragraph 2 of Article 68 of the FC RF if the court establishes that neither the parents nor the person who has the child is unable to ensure the child`s proper upbringing and development, the court will transfer the child to the care of the custody and guardianship authority. According to paragraph 4 of Article 74 in the case of restriction of the parental rights of both parents, the child is transferred to the care of the custody and guardianship authority. However, in accordance with paragraph 5 of Article 71 of the FC RF if the child cannot be transferred to another parent, or if the parents` rights of both parents are denied, the child shall be transferred to the care of the custody and guardianship authority.

According to Article 121 of the FC RF to protect the rights and interests of children in cases of death of parents deprived of their parental rights, restriction of their parental rights, recognition of parents incapable, illness of parents, prolonged absence of parents, refusal of parents to raise children or to protect their rights and interests, including the failure of parents to take their children from educational institutions, healthcare organizations, organizations providing social services or similar organizations, to create the acts or omissions of parents conditions representing a threat to the life or health of children or impede their normal upbringing and development, as well as in other cases, the lack of parental care is assigned to the custody and guardianship authorities.

In accordance with paragraphs 1, 2 and 3 of Article 13 of the Federal Law of April 24, 2008 № 48-FZ "On Custody and Guardianship" (hereinafter - the 2008 Law), parents may



file a joint application with the custody and guardianship authority for the appointment of their custodian and guardian to their child for a period when, for valid reasons, they cannot fulfil their parental responsibilities, with the indication of a specific person. In the act of the custody and guardianship authority on the appointment of the custodian and guardian, upon the application of the parents, the duration of the powers of the custodian guardian must be indicated. The sole parent of a minor child is entitled to determine, in case of his/her death, the custodian or guardian to a child.

The parent can make a relevant order in the application submitted to the custody and guardianship authority in the child`s place of residence. A parent`s application in the event of his/her death for the determination a guardian to a child must be signed by the parent with his/her own hand, indicating the date of the statement. A guardian in respect of a minor citizen who has reached the age of fourteen years may be appointed by the custody and guardianship authority upon the application of such minor citizen with indication of a specific person.

In addition, in accordance with the Regulation on the activities of organizations for orphans and children left without parental care, and on the placement of children left without parental care, approved by Decree № 481 of the Government of the Russian Federation of May 24, 2014, in the case if it is not possible for children to immediately appoint a guardian or guardian in the manner prescribed by Article 12 of the 2008 Law, children are placed under supervision in organizations for orphans temporarily, for a period until they are placed in a family.

#### *Post-return information*

5.7 In cases where measures are put in place in your State to ensure the safety of a child upon return, does your State (through the Central Authority, or otherwise) attempt to monitor the effectiveness of those measures upon the child`s return? Would you support a recommendation that States Parties should co-operate to provide each other with follow-up information on such matters, insofar as is possible?

If there is a need to obtain additional information on the conditions of life and health, of upbringing and education of the child, at the request of the applicant, the foreign Central Authority, the competent authorities of the Russian Federation, the Central Authority carries out an information exchange on the child`s situation.

5.8 If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for requesting a report on the situation of the child upon return to the State of habitual residence (**Art. 32-(a)**)?

- No  
 Yes, please explain:  
 Please insert text here

## **6. Voluntary agreements and mediation**

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

To all participants of cross-border family disputes, the Central Authority of the Russian Federation proposes a mediation procedure carried out by specialists of the FIM of Russia. One of the tasks of the FIM of Russia established under the Ministry of Education and Science of the Russian Federation is to assist in the work of the Central Authority of the Russian Federation in organizing and ensuring the conduct of mediation procedures in the settlement of family disputes of citizens raising children if they apply to the Ministry of Education and Science of the Russian Federation and with the consent of both parties.

Mediators of the FIM of Russia carry out their professional activities in accordance with the fundamental principles of mediation established in the following acts:

- Federal Law № 193 of July, 27, 2010 "On Alternative Procedure Of Dispute Resolution With Participation Of A Mediator" (Mediation Procedure), which is in force within the Russian Federation since January 1, 2011

(<http://www.mediacia.com/files/Documents/zakon%201.pdf?PHPSESSID=924u67vum80qb8s5hd931o9u14>; [http://www.mediacia.com/files/Documents/Law\\_eng1.pdf](http://www.mediacia.com/files/Documents/Law_eng1.pdf));  
Code of Conduct for Mediators of the Russian Federation  
(<http://www.mediacia.com/files/Documents/Codex.pdf>);

- Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Mediation  
([http://www.hcch.net/upload/guide28mediation\\_ru.pdf](http://www.hcch.net/upload/guide28mediation_ru.pdf);  
[http://www.hcch.net/upload/guide28mediation\\_en.pdf](http://www.hcch.net/upload/guide28mediation_en.pdf)).

All the services of mediation procedures to resolve family disputes coming to the Central Authority and considered under the 1980 Convention and the 1996 Convention, provided by the professional mediators of the Institute on the free of charge basis and in Russian, English, French and German.

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

The principles set forth in the Guide to Best Practices of Mediation are applied in the work of the FIM of Russia. Specialists of the FIM of Russia have a special education, skills and abilities necessary in the practical work of the mediator. Mediation is carried out on a free basis, in each case by specialists of both sexes. Mediation is conducted in Russian, English, French and German. If necessary, an interpreter is available. Taking into account the specifics of the resolution of family disputes, the accompanying cultural aspects are considered. Mediation is carried out only with the voluntary consent of both parties of the conflict. If necessary, it is possible to conduct co-mediation and mediation at a distance with the use of technical means of communication. The mediation procedure is possible at any stage of the proceedings.

6.3 Has your State considered or is it in the process of considering the establishment of a Central Contact Point for international family mediation to facilitate access to information on available mediation services and related issues for cross-border family disputes involving children, or has this task been entrusted to the Central Authority?<sup>13</sup>

No, please explain:

[Please insert text here](#)

Yes, please explain:

Information on the activities of the FIM of Russia is available in free access. The Russian Federal Institute of Mediation provides an approbation of the implementation of mediation procedures in conjunction with foreign media services.

## 7. **Preventive measures**

7.1 Has your State taken steps to advance the development of a travel form under the auspices of the International Civil Aviation Organisation?<sup>14</sup>

No

Yes, please describe:

[Please insert text here](#)

7.2 Regardless of whether the International Civil Aviation Organisation adds the development of a travel form to its work programme, would your State support the development of a non-mandatory model travel form under the auspices of the Hague Conference?

Yes

No, please explain:

In each specific case, the court decides on who pays for travel expenses in connection with the return of the child. At the same time, the Central Authority of the Russian Federation does not provide financial assistance in connection with travel expenses

<sup>12</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice".

<sup>13</sup> As it has been encouraged in the Guide to Good Practice on Mediation, Chapter 4, on "Access to Mediation". par. 114-117. See also Conclusions and Recommendations of the 2011 / 2012 Special Commission (*supra*. note 5) at par. 61.

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

related to the return of the child. The Central Authority of the Russian Federation is also not empowered to issue any migration documents to enable the parties or the child to return to a foreign state.

## **8. The Guide to Good Practice under the 1980 Convention**

8.1 In what ways have you used the Parts of the Guide to Good Practice<sup>15</sup> to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State?

a. Part I on Central Authority Practice. Please explain:

The Central Authority of the Russian Federation is implementing the recommendations of the Guide to Good Practice. The competence of the Central Authority, which exercises the functions of the 1980 Convention, is imposed on the Ministry of Education and Science of the Russian Federation in accordance with the Russian Government Decree № 1097 of 22 December 2011 "On the Central Authority Fulfilling Responsibilities Imposed On it by the Convention on the Civil Aspects of International Child Abduction". The Central Authority of the Russian Federation receives, confirms and works with applications for the return of a child wrongfully removed to the Russian Federation or retained within the Russian Federation or the exercise of access rights to a child. Applications can be received by post, e-mail and fax. Each application is registered with the registration number and registration date. The time for consideration of the application is 30 days, however, as a rule; the specialists of the Central Authority of the Russian Federation try to take the necessary measures within the framework of the case in the accelerated terms. If necessary, for example, when the 12-month deadline for filing an application for the return of the child is prompt, or in any other emergency, the requests are considered expedited. The Central Authority also informs the Russian court examining the case of custody or determining the place of residence of the child, in accordance with Article 16 of the 1980 Convention.

The Central Authority of the Russian Federation shall notify the Central Authority of foreign state of acceptance of any actions within the framework of the case consideration. After the receipt of the application for the 1980 Convention, the Central Authority of the Russian Federation requests the FBS of Russia to search of the removed child. At the same time, if the applicant does not have doubts about the location of the child, the Central Authority of the Russian Federation informs on the Russian court in which the applicant can apply for the protection of his parental rights. In the lack of information in the application, the Central Authority of the Russian Federation shall request the Central Authority of the foreign state for providing additional information to speed up the search of a child. After receipt of the relevant information on the location of the child within the territory of the Russian Federation, the Russian Central Authority of the Russian Federation sends it to the Central Authority of the foreign state. Although the Central Authority of the Russian Federation is not authorized to participate in the court proceedings, it nevertheless provides information support to the parties, the court, as well as to any interested parties.

In accordance with part 2 of Article 244.19 of the CPC RF copies of the court's decisions on the application for the return of the child or on the exercise of the rights of access to a child shall be handed to the applicant or sent to him no later than the day following the day of the relevant determination. Copies of the decision of the court in the case of the return of the child or the exercise of the rights of access to a child shall be sent to the persons participating in the case, but not present at the hearing, and to the Central Authority no later than the day following the day of the adoption of the court decision in the final form (paragraph 4 of Article 244.19 of the CPC RF). A copy of the court decision shall be sent by the Central Authority of the Russian Federation with an enclosed short translation into English to the Central Authority of the foreign state.

If necessary, the Central Authority of the Russian Federation shall request the competent custody and guardianship authorities of the Russian Federation to provide a report on the state of health, on the living and upbringing conditions of the child.

If the requesting party is the Russian Federation, the Central Authority, upon receipt of an application for the return of the child or the exercise of access rights to a child, shall forward the request and the documents attached thereto with translation into English or the official language of the requested state to the Central Authority of the foreign state. The Central Authority of the Russian Federation shall inform the applicant on any measures

<sup>15</sup> All Parts of the Guide to Good Practice under the 1980 Convention are available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice".

taken by the Central Authority of the requested state.

b. Part II on Implementing Measures. Please explain:

The Supreme Court of the Russian Federation in its work with competent Russian courts relies, among other things, on the provisions of the guidelines distributed along with other methodological materials by the Central Authority of the Russian Federation.

The Central Authority of the Russian Federation carries out the information support activities for the competent authorities under the 1980 Convention as well as interacts with all competent authorities of the Russian Federation and information exchange with other Central Authorities of the States Parties to the 1980 Convention. Throughout the territory of the Russian Federation, the provisions of the 1980 Convention are applied uniformly. Moreover, the provisions of the 1980 Convention were implemented in the current Russian legislation.

c. Part III on Preventive Measures. Please explain:

Judicial bodies and other competent authorities of the Russian Federation implement the Guide in their practice. The provisions of the 1980 Convention are implemented in the legislation of the Russian Federation. In accordance with paragraph 1 of Article 61 of FC RF of the Russian Federation, both parents have equal rights and bear equal responsibility for their children (parental rights). At the same time, the removal of the child by one of the parents is not a crime and is not prosecuted by the criminal legislation of the Russian Federation.

d. Part IV on Enforcement. Please explain:

Judicial bodies and other competent authorities of the Russian Federation implement in practice the recommendations of the Guidelines. Copies of the judgments in the cases of the return of the child or the exercise of access rights to a child are forwarded to all the parties concerned, as well as to the Central Authority of the Russian Federation. In accordance with Article 2 of the Federal Law № 229-FZ of October 2, 2007 "On the Enforcement Proceedings", the tasks of enforcement proceedings are the correct and timely execution of judicial acts, acts of other bodies and officials, and in cases provided for by the legislation of the Russian Federation, the execution of other documents to protect violated rights, freedoms and legitimate interests of citizens and organizations, as well as to ensure the fulfilment of obligations under international treaties of the Russian Federation. The FBS of Russia, in accordance with Article 1 of the Federal Law of July 21, 1997 № 118-FZ "On Bailiffs" is entrusted with the task to enforce the judicial acts, as well as acts stipulated by the Federal Law № 229-FZ of October 2, 2007 "On the Enforcement Proceedings".

8.2 How have you ensured that the relevant authorities in your State have been made aware of, and have had access to, the Guide to Good Practice?

The Central Authority of the Russian Federation ensures through the regular information exchange and meetings that the competent Russian authorities are informed on the provisions and the application of the 1980 Convention. Information on the 1980 Convention is also posted on the official website of the Ministry of Education and Science of the Russian Federation.

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

Please insert text here

## 9. **Publicity and debate concerning the 1980 Convention**

9.1 Has the 1980 Convention given rise to (a) any publicity (positive or negative) in your State, or (b) any debate or discussion in your national parliament or its equivalent?

No

Yes, please indicate the outcome of this debate or discussion, if any:

The conferences, seminars, meetings of experts, which discuss the application of the 1980 Convention are regularly organized on the territory of the Russian Federation.

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

The Central Authority, competent organizations, non-profit organizations, other interested structures organize regularly the training courses, seminars, expert meetings, at which information exchange is carried out on the best international practices of the 1980 Convention's execution.

<b>PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION</b>
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**10. Transfrontier access / contact<sup>16</sup>**

10.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding Central Authority practices, legislation, procedural rules or case law applicable in cases of transfrontier contact / access?

No

Yes, please explain:

According to part 1 of Article 61 of the Family Code of the Russian Federation (hereinafter – the FC RF), parents have equal rights and bear equal responsibility in regard to their children (parental rights). The procedure for communication between the parent and the child can be established through the courts.

10.2 Please indicate any important developments in your State, since the 2011 / 2012 Special Commission, in the interpretation of **Article 21** of the 1980 Convention.

The Central Authority of the Russian Federation considered a number of applications for access rights' execution under the 1980 Convention. In part of them in order to better fulfil the rights of access of the abandoned parent to a child within the territory of the Russian Federation, the custody and guardianship authorities have been involved, including professional psychologists to establish contact between the parent and the child.

10.3 What problems have you experienced, if any, as regards co-operation with other States in respect of:

- a. the granting or maintaining of access rights;  
[Please insert text here](#)
- b. the effective exercise of rights of access; and  
[Please insert text here](#)
- c. the restriction or termination of access rights.  
[Please insert text here](#)

Please provide case examples where possible.

[Please insert text here](#)

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

The "General Principles and Guide to Good Practice" was taken into account in the practice of the Central Authority of the Russian Federation. In accordance with part 1 of Article 55 of the FC RF a child has the right to communicate with both parents, grandfather, grandmother, brothers, sisters and other relatives. The divorce of the parents, recognition of it as invalid or separation of parents does not affect the rights of a child.

In the case of separation of parents, a child has the right to communicate with each of them. The child has the right to communicate with his/her parents also if they live in

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

<sup>17</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice".



different states.

## **11. International family relocation<sup>18</sup>**

11.1 Since the 2011 / 2012 Special Commission, have there been any significant developments in your State regarding the legislation, procedural rules or case law applicable to international family relocation? Where possible, please explain these developments in the legislation, procedural rules or case law:

Legislation of the Russian Federation, taking into account the provisions of the 1980 Convention, creates conditions and procedures for international family reunification. According to part 2 of Article 54 every child has the right to live and be educated in the family, as far as possible, the right to know his/her parents, the right to care from them, the right to live together with them, except when it is contrary to his/her interests.

The child has the rights to be educated by his/her parents, ensuring his/her interests, comprehensive development and respect for his/her human dignity.

In the absence of parents, when there is the deprivation of their parental rights and in other cases of loss of parental care, the right of a child to be raised in the family is provided by the custody and guardianship authority in the procedure established by Chapter 18 of the FC RF.

In accordance with part 2 of Article 65 of the FC RF the place of residence of children when the separation of parents is established by agreement of the parents.

In the absence of an agreement, the dispute between the parents shall be resolved by the court taking in keeping with the interests of the children and taking into account the their opinion. At the same time, the court takes into account the attachment of the child to each of the parents, brothers and sisters, the age of the child, the moral and other personal qualities of the parents, the relationship existing between each parent and the child, the possibility of creating the child`s conditions for upbringing and development (occupation, material and marital status of parents, etc.).

In accordance with Article 66 of the FC RF:

1. The parent, residing apart from the child, shall have the right to communicate with the child and to take part in his upbringing and in resolving the issue of the child's receiving an education. The parent, with whom the child lives, shall not prevent the child's communication with the other parent, unless such communication damages the child's physical and mental health or his moral development.

2. The parents shall have the right to conclude a written agreement on the way the parent, residing apart from the child may execute his parental duties. If the parents cannot reach an agreement, the dispute shall be resolved in court with the participation of the guardianship and trusteeship body, upon the claim of the parents (of one of them). On parents' demand (one of them) in order, provided by the civil procedure legislation, the court with the obligatory participation of the custody and guardianship authority has the right to determine the way of fulfilling of parental rights during the period before the court decision is entered into force.

3. In the case of non-abidance by the court decision, the measures, stipulated by the civil procedural legislation, shall be applied to the guilty parent. In the case of persistent non-fulfilment of the court decision, the court shall have the right, upon the claim of the parent residing apart from the child, to take a decision on passing the child over to him; proceeding from the child's interests and taking into account the child's opinion.

4. The parent residing apart from the child shall have the right to get information on his/her child from educational establishments and medical centres, from institutions for social protection of the population and also from other similar institutions. The information may be refused only if the parent presents a threat to the child's life and health. The refusal to provide information may be disputed in court.

In accordance with part 2 of Article 14 of the Federal Law № 62-FZ of May 31, 2002

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<sup>18</sup> See the Conclusions and Recommendations of the 2006 Special Commission meeting at paras 1.7.4 to 1.7.5:

"1.7.4 The Special Commission concludes that parents, before they move with their children from one country to another, should be encouraged not to take unilateral action by unlawfully removing a child but to make appropriate arrangements for access and contact preferably by agreement, particularly where one parent intends to remain behind after the move.

1.7.5 The Special Commission encourages all attempts to seek to resolve differences among the legal systems so as to arrive as far as possible at a common approach and common standards as regards relocation."

(as amended on May 1, 2016) "On the Citizenship of the Russian Federation", foreign citizens and stateless persons residing in the territory of the Russian Federation are entitled to apply for citizenship of the Russian Federation in a simplified manner, without observing the condition on the term of residence established by clause "a" of part one of Article 13 of this Federal Law, if the said citizens and persons:

b) are married to a citizen of the Russian Federation for at least three years;

c) have a child who is a citizen of the Russian Federation - if the other parent of that child who is a citizen of the Russian Federation has died or has been recognized by a decision of a court that has entered into legal force as missing incompetent or incapacitated, deprived of parental rights or restricted in parental rights.

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

### 12. Non-Convention cases and non-Convention States

12.1 Are there any States that you would particularly like to see become a State Party to the 1980 Convention? If so, what steps would you suggest could be taken to promote the Convention and encourage ratification of, or accession to, the Convention in those States? Please explain:

The Central Authority of the Russian Federation is awaiting a declaration recognizing the accession of foreign states that became parties to the 1980 Convention earlier than Russia, but to date have not recognized its accession. At the same time, it is possible to note the following states whose accession to the 1980 Convention is expected by the Central Authority of the Russian Federation due to the large volume of cross-border disputes: Egypt, Syria and Turkey.

12.2 Are there any States which are not Parties to the 1980 Convention or not Members of the Hague Conference that you would like to see invited to the Special Commission meeting in 2017?

The Central Authority of the Russian Federation supports the participation of any states that currently are not parties to the 1980 Convention.

*The "Malta Process"*<sup>19</sup>

12.2 In relation to the "Malta Process":

- a. Do you have any comment to make on the "Principles for the Establishment of Mediation Structures in the context of the Malta Process" and the accompanying Explanatory Memorandum?<sup>20</sup>

Please insert text here

- b. Have any steps been taken towards the implementation of the Malta Principles in your State and the designation of a Central Contact Point, in order to better address cross-border family disputes over children involving States that are not a Party to the 1980 and 1996 Hague Conventions?

No

Yes, please explain:

Specialists of the FIM of Russia conduct a mediation procedure in any family conflicts. Even if the state is not a party to the 1980 Convention, the Central Authority of the Russian Federation suggests that the parties the mediation

<sup>19</sup> The "Malta Process" is a dialogue between certain States Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and addressing the problems posed by international abduction between the States concerned. For further information see the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

<sup>20</sup> The Principles and Explanatory Memorandum were circulated to all Hague Conference Member States and all States participating in the Malta Process in November 2010. They are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

procedure in order to resolve their dispute.

- c. What is your view as to the future of the "Malta Process"?

The Central Authority of the Russian Federation positively assesses the steps taken in the framework of the "Malta Process". With the large number of states that are not Parties to the 1980 Convention, and also due to cultural and legal differences and at the same time the difficulties in resolving family conflicts, the Central Authority of the Russian Federation welcomes the development of this mechanism aimed at establishing a dialogue among States Parties to the 1980 Convention and states that did not accede to the 1980 Convention. A particularly significant factor is the support for the achievement of the child's rights. states of bilateral agreements on family issues and the protection of the child's rights.

**PART VI: TRAINING AND EDUCATION AND  
THE TOOLS, SERVICES AND SUPPORT PROVIDED  
BY THE PERMANENT BUREAU**

**13. Training and education**

13.1 Can you give details of any training sessions / conferences organised in your State to support the effective functioning of the 1980 Convention, and the influence that such sessions / conferences have had?

The bilateral meetings of the Central Authorities of the Russian Federation and France, Finland, Switzerland and other countries were held. Representatives of the Central Authority of the Russian Federation provide assistance in organizing training courses for lawyers in the application of the 1980 Convention. The Central Authority of the Russian Federation organizes regularly international educational conferences and seminars.

With the direct support of the Central Authority of the Russian Federation, conferences and seminars are held on the bases of the FIM of Russia and RUDN University. These events aim to familiarize judges, custody and guardianship authorities, children's rights ombudsmen, their representatives and other stakeholders with the main provisions of the 1980 Convention, with the peculiarities of conventional legal regulation, and the most common difficulties in the practice of execution of the 1980 Convention.

**14. The tools, services and support provided by the Permanent Bureau**

*In general*

14.1 Please comment or state your reflections on the specific tools, services and support provided by the Permanent Bureau to assist with the practical operation of the 1980 and 1996 Conventions, including:

- a. The Country Profile available under the Child Abduction Section.

It is used by the Central Authority of the Russian Federation and other competent bodies in daily work on the application of the 1980 Convention. On June 23, 2016, the Country Profile was published. At the same time, in order to clarify some issues of legislation and practice of foreign states, the Central Authority of the Russian Federation is also studying published Country Profiles of other states.

- b. INCADAT (the international child abduction database, available at < [www.incadat.com](http://www.incadat.com) >).

It is used by the Central Authority of the Russian Federation and other competent bodies in daily work on the application of the 1980 Convention. The materials on Russian judicial decisions are planned for publication.

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

The relevant information is taken into account by the competent authorities in

<sup>21</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" and "Judges' Newsletter on International Child Protection". For some volumes of *The Judges' Newsletter*, it is possible to download individual articles as required.

the daily work on the application of the 1980 Convention.

- d. The specialised "Child Abduction Section" of the Hague Conference website (< www.hcch.net >);  
It is used by the Central Authority of the Russian Federation and other competent authorities in the daily work on the application of the 1980 Convention.
- e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);<sup>22</sup>  
INCASTAT is used by the Central Authority of the Russian Federation and other competent authorities in the daily work on the application of the 1980 Convention.
- f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.<sup>23</sup> Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;  
The Central Authority of the Russian Federation is ready to participate in the implementation of technical consultations on the basis of the HCCH.
- g. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);<sup>24</sup>  
For its part, the Central Authority of the Russian Federation is ready to provide all possible assistance in providing informative assistance to involve more states in the process of accession to the 1980 Convention.
- h. Supporting communications between Central Authorities, including maintaining their contact details updated on the HCCH website;  
The Central Authority of the Russian Federation is ready to participate in the development of the information interaction between the Central Authorities of the States Parties to the 1980 Convention. The contact details of the representatives of the Central Authority are freely available.
- i. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges  
In the long term, the Central Authority of the Russian Federation is ready to consider this issue.

*Other*

14.2 What other measures or mechanisms would you recommend:

- a. To improve the monitoring of the operation of the Conventions;  
Please insert text here
- b. To assist States in meeting their Convention obligations; and  
Please insert text here
- c. To evaluate whether serious violations of Convention obligations have occurred?  
Please insert text here

<b>PART VII: PRIORITIES AND RECOMMENDATIONS FOR THE SPECIAL COMMISSION AND ANY OTHER MATTERS</b>
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<sup>22</sup> Further information is available via the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "INCASTAT".

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

<sup>24</sup> Which again may involve State delegates and others visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences.

**15. Views on priorities and recommendations for the Special Commission**

15.1 Which matters does your State think ought to be accorded particular priority on the agenda for the Special Commission? Please provide a brief explanation supporting your response.

[Please insert text here](#)

15.2 States are invited to make proposals concerning any particular recommendations they think ought to be made by the Special Commission.

[Please insert text here](#)

**16. Any other matters**

16.1 States are invited to comment on any other matters which they may wish to raise concerning the practical operation of the 1980 Convention.

[Please insert text here](#)