

**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.

Name of State or territorial unit:¹	Peru
<i>For follow-up purposes</i>	
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PART I: RECENT DEVELOPMENTS²

1. Recent developments in your State

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

- No
 Yes, please specify:

In the year 2015, the Ministry of Women and Vulnerable Populations approved the General Directive No. 007-2015-MIMP "Guidelines of the Peruvian Central Authority for the Administrative Treatment of Applications for Return and International Visitations Regime for Children and Adolescents" through Resolution No. 141-2015-MP. The Directive represents a great development in the field of protection of the rights of children and adolescents.

The instrument regulates the action of the Central Authority, keeping as its central pivot the best interests of the child. The best interests of the child represent the principle and norm which shall prevail in every decision adopted in the administrative branch.

The reason for which it was decided to develop the aforementioned Directive, was that the Peruvian Central Authority had warned- on multiple occasions- of conflicts between the application of the 1980 Hague Convention and the 1989 Convention on the Rights of the Child. Being Peru signatory of the latter human rights treaty, the necessity to rely on an instrument which protects children and adolescents from evident risks they would be exposed to in return cases in the administrative process, was determined through judicial instance.

- Since 2014 the Central Authority, in coordination with the Liaison Judge, has been promoting in the justice courts of the country the reactivation of the designation of specific courts to hear international return proceedings concerning children and adolescents.

- At the judicial level, albeit not specifically in relation to international return proceedings, the System of Electronic Notifications was created in 2015. It represents a significant time saving measure for the notifications of judicial decisions which is being gradually implemented in the Justice Courts of the country.

- Since 2015 the Peruvian Judicial Authority has been implementing a videoconference system, mainly used for hearings in criminal cases. Nevertheless, in January 2017 the first videoconference for the hearing of an international return case in the Justice Court of Pirua took place, thanks also to the wide collaboration of the Central Authority of Mexico. This GOOD PRACTICE has been made known to family judges, in order to be replicated.

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

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

- The Peruvian Central Authority, in cases in which it represents the applicant and in coordination with the applicant, has negotiated and obtained visit and/or communication regimes with the child, (as precautionary or provisional means), with the aim of guaranteeing the right of the child or adolescent to maintain direct contact with both parents whilst the central process is being handled (pursuant to Article 7b of the Convention). This action has been taken in cases concerning Ecuador, Germany, Brasil, USA, Argentina, Italy and Chile.

1.2 Please provide a brief summary of any significant decisions concerning the interpretation and application of the 1980 Convention rendered since the 2011 / 2012 Special Commission by the relevant authorities³ in your State including in the context of the 20 November 1989 United Nations Convention on the Rights of the Child and relevant regional instruments.

Practicing as the Peruvian Central Authority for the 1980 Hague Convention is one of the functions of the General Directorate for Children and Adolescents , which on its turn is the technical body of the National Comprehensive Child and Adolescent Care System. The latter ensures the observance of the norms contained within the Convention on the Rights of the Child, the Peruvian Children and Adolescents Code and the national legislation on the matter.

In this sense, the General Directorate offers specific attention to the international abduction issue, prioritizing the best interests of the child in the administrative, besides having a preventive role before the parental alienation syndrome, family violence and other forms of violence that affect the child or adolescent.

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.

The General Directorate for Children and Adolescents is well aware that appeals cause excessive delays, especially when on cassation, and it has consequently drawn up a proposal for the new Code of Children and Adolescents that provides for not applying the extraordinary appeal on cassation for cases of international abduction.

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:

- Central Authority of Ecuador: they do not answer to our e-mails and their telephone numbers are not operational. This prevents the timely follow-up of cases.

-Central Authority of Argentina: They do not provide information on the progress of the applications we send them. Usually the General Defender of the Argentine Nation contacts the applicants directly, considering it a good practice. Nonetheless, in our condition of Central Authority we lose information and many times we do not get to know when a case is closed. The Argentinian Central Authority does not monitor or report on the progress of applications they receive.

- We have had this kind of problems in the past with the Central Authority of the Dominican Republic, Venezuela; and to a lesser extent with the Central Authority of Colombia.

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

No

Yes, please specify:

Additionally to what stated in point 2.1, we wish to express our concern about the applications the Argentinian Central Authority refers to us. Instead of collaborating, they make us work double the amount as the applications that they refer are presented with inaccurate information, blurs, the applicants' story is not readable etc. We therefore have to ask them to send us another copy. What we get out of it is that they do not offer an adequate guidance to the applicants.

³ The term "relevant authorities" is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1980 Convention. Whilst in the majority of States Parties such "authorities" will be courts (*i.e.*, judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION
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3. The role and functions of Central Authorities designated under the 1980 Convention⁴

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:

As noted in point 2.1, we have serious problems with the Central Authority of Ecuador concerning answers to our communications, unless they proceed to close the case. The same situation has come up with Colombia, the Dominican Republic and Venezuela.

With Argentina, the sponsorship is in charge of a public defender; it is however appreciated that communication between this defender and the central authority is not fluent, causing serious inconveniences to provide us with information on the requests sent by the Peruvian authority.

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:

-In February of this year the Central Authority of Ecuador closed a case because the Judicial Defender indicated that a Peruvian boy had been in that country for more than three years. This information did not take into account the Ecuadorian migratory movement of the child. Nevertheless, we acknowledge that the father had been transferring the child between Ecuador and Colombia (and vice versa), as can be verified in the migration report of his last departure. For this reason we sent a request for return to the latter country.

The lack of communication from the Ecuadorian Central Authority, in contravention of subsection i) of Article 7 of the Convention, adds up to the aforementioned situation.

In relation to the same case, also the Central Authority of Colombia has not informed us on the progress of the case. The applicant mother travelled there to impel her case personally, and was unfortunately informed that they had only remitted an official notification to the Police, and there was no evidence that the Central Authority had further boosted the case.

The localization of children in these countries is extremely complicated and, in most part, it is due to the lack of communication of these Central Authorities.

- An important challenge that has been presented is that of ensuring the "safe return" under Article 7.h of the Convention. We had some cases in which the mother, in the execution of the sentence, had to return with her child; nevertheless she did not have any assurance that she and her child would survive in the other country: she had no dwelling, job, financial income or child support. She would not even have any family network that supports her, and in many cases she was facing tenure processes which, not having financial means, she was not able to face in equal conditions. Because of this, in some cases we have asked for the applicant parent to provide the mother financial support for some months, until she finds a job or gets provisional subsidies from the social services. Nevertheless, we have not obtained a suitable answer from the Central Authorities of the applicant countries, for example Chile and Spain.

We have received unsatisfactory answers such as: "If she took the child with her, let her pay everything now".

In addition, in these situations, the conclusions and recommendations reached at the meeting held in Panama last March have been received, surprising that, provided that the return to the mother is granted, certain measures will be granted, among which a "refuge".

The fact that a person has to go to a shelter tells us in advance that it is not the right place for her to return with her child and in that sense, we consider that the conditions of inequality would be absolute for that woman who moves with her children. We refer to a

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

woman since there are no shelters for men victims of gender violence. We feel it is a challenge to work to ensure that mothers' returns with their children are truly safe in the future.

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:

- This Central Authority has warned that in many countries, the courts do not stop the proceedings of tenure or custody, as ordered by Article 16. Peruvian judges - in most cases - abide by this provision; however, in the USA the Central Authority cannot guarantee that an American judge paralyzes the proceedings, and the same happens in Italy, Germany and other countries.

This condition does not guarantee the execution of the measure because if the mother comes to the country with her child they will immediately remove them without the possibility for her to do anything. It would be a totally inequitable move.

- The location of the children and that the central authorities guarantee the safe return.

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:

It does not generate delays, because the Peruvian Central Authority directly provides the legal advice and judicial representation in cases of international return. The Peruvian State has implemented the agreement and ensures the applicants access to justice.

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

No

Yes, please specify:

We experience many issues with countries that have made a reservation to Article 26. Many of the applicants in our country do not have enough economic resources to hire a private lawyer abroad. Lawyers' fees in North America, Europe and Oceania are very high and this prevents Peruvian applicants from having access to justice. There are two cases that have been going on for three years and for which lawyers cannot be found. There is no reciprocity.

In the same sense, we acknowledge a great problem when many years elapse without the parents obtaining legal financial support abroad and the application remains ongoing. In our opinion, a request for return that is not processed due to lack of legal sponsorship should be closed because it is also against the best interests of the child. It is required that for cases such as that described, the central authority of the USA establish from what time it should be closed, if one does not get to get a lawyer and not for lack of interest.

Locating the child

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

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:
 We refer to points 2.1, 3.1 and 3.2

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:

This Central Authority has worked for many years with Interpol Peru. At one time this institution refused to support us, and we proceeded to inform them that it was the obligation of all public entities to comply with the 1980 Hague Convention. Notwithstanding this, we are aware that they cannot assist in cases outside Lima. They have alleged that they do not have the economic or human resources to search for children.

In the last two years, we have started working with the Disappeared Persons Division of the National Police of Peru, who have also requested us to send our orders to the General Directorate of the National Police of Peru and they are responsible for deriving the Requirements to the different Commissariats at the national level. Although the police stations make efforts to search, the limitations of human resources and logistics do not allow a quick action. On the other hand, the search with discretion is not assured.

Information exchange, training and networking of Central Authorities

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

- No
 Yes, please specify:

Training events and exchange of experiences with the Central Authority of Uruguay and the United States have been co-organized.

These events have generated spaces for discussion and learning for members of the Central Authorities, and especially for the Peruvian judicial and prosecutorial authorities responsible for administering justice in the matter of international abduction.

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

- No
 Yes, please specify:

We have held a videoconference with the participation of specialists from the Inter-American Children's Institute (INN), attached to the Organization of American States.

Likewise, in two events organized for Peruvian judges and prosecutors, we had the participation of the Representative for Latin America of the 1980 Hague Convention.

Statistics⁷

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

From the period 2011/2012 to 2015, we have not received requests for statistical information from the Hague Conference. It is only in June 2016 that we were asked for such information on the occasion of the 7th Meeting of the Special Commission scheduled for October of this year. The information was forwarded.

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:

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

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

We refer to the answer provided in point 1.1

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

- Usually one has problems to locate the parents who have transferred or retain their children in Peru. The situation becomes more complicated if the parents live outside Lima. We have to wait almost always for our summons to be returned to us to verify if the requested person lives in that address. If this is not the case, the police are asked to provide support.

- We currently have several cases whose administrative process has been suspended at the request of the same parents who wish to reach an amicable agreement. Unfortunately, negotiations extend over time and we may have an inactive request for more than 6 months.

- There are also cases in which we wait a long time (more than 3 months) to be sent additional documentation of a case or, to confirm if the applicant wishes to continue with the procedure. These situations delay the administrative processing of cases.

- When the application is for the US the applicants can take up to two years and still not find a lawyer to represent them because of the lawyers' rates, which remain very high for Peruvians notwithstanding the special rates offered to them

- In the same sense, access to justice in countries that refer cases to an Office of the Attorney General may take an average of two years. Example: Brazil.

4. **Court proceedings & promptness**

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

Yes

No, please indicate if such arrangements are being contemplated:

Since 2003, the Judiciary has ordered that the presidents of the country's 33 courts should designate the family, mixed or civil courts that must hear the cases brought under the 1980 Hague Convention in their respective jurisdictions. From 2013 onwards, the Central Authority, in coordination with the liaison judge, has reactivated this provision, and in this way the Courts annually send us the resolutions where they designate the competent court for each judicial year.

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:

The judicial process to which the requests of the 1980 Hague Convention are subject is the Single Process established in the Code of Children and Adolescents for all cases involving children and adolescents. This process, although short on paper, in practice, due to innumerable factors, does not meet the established deadlines. We can affirm that with the procedural burden and the limitation of human and logistic resources, it is impossible in Peru to resolve the Hague Convention cases in 6 weeks in the first instance.

Another factor is that under this procedure, cases can arrive in cassation to the Supreme Court, where, on average, they take at least 1 year to be resolved.

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:

- At the administrative level, as already mentioned in point 1.1, the Ministry of Women and Vulnerable Populations approved in 2015 the Guidelines for the Administrative Treatment of Return Requests and the International Visitation Regime for Children and Adolescents, which has allowed, among other benefits, to shorten the time to process the administrative stage of applications.

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

- In the judicial procedure, modifying the procedure followed for the 1980 Hague Convention cases, requires a Law, a proposal that has been included in the Draft New Code of Children and Adolescents, which must be issued by the Congress of the Republic.

In 2008, a Special Review Commission of the Code of Children and Adolescents was formed, which included the Ministry of Women and Social Development (at that time). Since then, several bills have been submitted that incorporate a Chapter on International Abduction of Children and Adolescents, which establishes a special summary procedure. Nonetheless, up to date its approval has not been possible.

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

The main reasons for the delay in the resolution of these cases are:

A) The immense procedural burden of family courts in Peru, especially in cases of Family Violence and Nourishment (which respond to important social problems in the country), and the scarcity of human and logistic resources to attend to them. This generates a great delay in processing international return proceedings. At best, a case of The Hague can take in first instance about 6 months; in average proceedings take about 1 year.

B) The Family Judges' ignorance of the 1980 Hague Convention, especially outside Lima.

C) The continuous strikes of the Peruvian judiciary

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

No, please explain:

Please insert text here

Yes, please explain:

- Measure of protection of impediment of exit from the country: the Central Authority requests this measure when filing the claim, and it is then ordered by the court in the first resolution that issues the measure, admitting the application.

- Provisional measure of visits / contact: the Central Authority generally requests it when the applicant parent comes to Peru, generally to attend the Single Hearing. Likewise, the communication regime (via telephone or computerized means) is requested in cases where it is difficult for the requesting parent to move to the country to visit his / her child.

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

Yes

No, please explain:

The vast majority of courts are fairly formal when processing trials and use formal channels. What we have achieved with very few courts (Court of El Santa, San Juan de Lurigancho, Piura, Ayacucho) is to maintain direct communication via email or telephone for the promotion of the proceedings under the 1980 Hague Convention.

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:

Yes, our country has a liaison judge appointed by the Network of Liaison Officers of the 1980 Hague Convention.

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 this year 2017, we had a case in which our country acted as required and in which the judge ordered that both the Peruvian Central Authority and the requesting Central Authority (Spain), establish certain conditions for the safe return of the girl. (Ordered that through the Central Authority, the procedures should be carried out before the family protection services of the requesting country to obtain the provision of a temporary sum of money, so that the mother can take charge of her and her daughter's basic needs, seen that she has no family support, until she gets work in that country. To date, the request is still in

process, because the requesting Central Authority said that such request should be performed by the mother once she arrives in Peru, and that they could not do anything about it).

5. **Ensuring the safe return of children**⁹

*Methods for ensuring the safe return of children*¹⁰

5.1 What measures has your Central Authority taken to ensure that the recommendations of the 2006 and 2011 / 2012 Special Commission meetings¹¹ regarding the safe return of children are implemented?
See point 5.3

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 Peruvian Central Authority, in the cases that have been requested, has requested the requesting Central Authority to deal with the child protection services of its country and the necessary measures that may allow the safe return of the child. However, we have never obtained a satisfactory response or action; on the contrary, the requesting Central Authorities have demanded the immediate return and that the sentence be executed without taking any measures that guarantee the safe return that we requested. (Complemented by last response paragraph 3.2) We are concerned about the conditions raised at the Panama meeting regarding the return of mothers to their children.

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?

Being the Peruvian Central Authority is one of the functions of the General Directorate for Children and Adolescents - DGNNA - of the Ministry of Women and Vulnerable Populations, and as such it is the Rector for the integral treatment of children and adolescents. In that sense, when it is required, it coordinates with the Directorate of Tutelary Investigation and with the National Program against Family and Sexual Violence the follow-up support of children and adolescents who return to our country, in order to verify their adaptation.

If necessary, the Peruvian Central Authority - DGNNA - may request the intervention of these two services or those that are necessary to protect children from any risk.

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:

The Ministry of Foreign Affairs is leading an intersectoral board to assess adherence to the 1996 Convention.

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.

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

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

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

We have had some cases with Spain, Ecuador and Colombia.

When the parent / guardian refuses to return, in the presence of a final judgment, the Central Authority requests the court to use the warnings established by article 181 of the Code of Children and Adolescents, such as progressive fines, detention up to 24 hours and, in a restrictive manner and evaluating the specific case, as long as the physical and emotional integrity of the child or adolescent is not violated; the search of the place can be requested. Likewise, if these warnings do not obtain results, copies of what was requested are sent to the Public Prosecutor's Office to initiate the criminal proceedings for disobedience to the Authority.

In the last 6 years the search of dwellings was requested and realised in one occasion only, namely in the case of a child who was to return to Colombia. This diligence was successful, because the mother traveled to Peru a few days previously and reestablished contact with her son of 4 years. It was a peaceful experience and without major effects on the child.

To date, a process is under way in Ecuador, where the father has refused to comply with the sentence ordering the return of the child to that country. In 2016 a forced entry was attempted, without success. A new search request has been filed and is still being processed.

There is a case with Colombia in which the mother refused twice to give her daughter to her father to return to that country. In 2013 a criminal proceeding was initiated for disobedience to the authority, which is still in process. From 2014 to 2016 it was impossible to contact the father and the closure of the case was ordered. However, in that same year - 2016- the father reappeared and requested the execution of the sentence. He has been informed that a parent-daughter re-attachment process will be requested.

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.

A few judges establish in their return judgments the form of execution, specifying that the child or adolescent should return with the primary caregiver. In some cases, when the primary caregiver does not have family support or income in the requesting state, they have indicated that the applicant father will cover travel and installation expenses.

It is complemented with answer of 5.2

Post-return information

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

The Peruvian Central Authority, in certain cases, has requested the requesting Central Authority to monitor the child / adolescent who returned, in order to provide support through the protection services or verify their family integration through a social visit. These requirements have been met in Argentina and Costa Rica, both by regular mail and by electronic mail. However, no response has ever been received.

In cases where we have acted as the Requesting Authority and a Central Authority has requested a social report on the welfare of the child who has returned to Peru we have complied with submitting the respective report. Example: requests from the Central Authority of Argentina.

A permanent concern of the Peruvian Central Authority is to safeguard the best interests of the child - General Comment 14, Committee on the Rights of the Child - in this sense, it would agree on a recommendation of cooperation for the follow-up of return measures.

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:

We consider this to be a positive measure

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:

The Central Authority of Peru believes that trying the voluntary return stage is an excellent opportunity to know the substance of the controversy between the parents, which allows a better evaluation of the possible intervention of other authorities, if applicable.

According to our internal directive, we contact the people required by sending trades or by phone calls. If the people live in Lima, they are summoned to our office for an interview and to explain the legal scope of the Hague Convention, we answer their questions and they are asked whether they wish to return to the country of habitual residence. The same procedure applies to people who live in the province; however, for geographical reasons, the interviews are via telephone and are complemented by emails that support our intervention.

If the person agrees to return with his / her child to the country of habitual residence, we communicate this decision to the requesting Central Authority and request that the other parent supports in everything necessary to facilitate the return.

If, on the other hand, the person does not agree to return, it is explained that the request will be transferred to the Judicial Branch, where s/he must prove the risk to which his/her children would be exposed or other relevant cause. The Central Authority attaches to the application the documentation provided by the requested person.

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

In Peru, we do not have the normative or logistic conditions to carry out a mediation in cases of international abduction; the Central Authority promotes in all cases an amicable settlement between the parties, and in cases where there is a good disposition, we facilitate the contact between the two and their lawyers in order to reach agreement.

Also, in order to give legal validity to the agreement, we suggest to go to an Extrajudicial Conciliation Center to formalize it- the agreement is then executable.

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

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

No, please explain:

This possibility has not been considered to date. However, we think it is best that they agree in the judicial process.

Yes, please explain:

Please insert text here

7. Preventive measures

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

No

Yes, please describe:

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:

We are not able to answer this question for the moment.

8. The Guide to Good Practice under the 1980 Convention

8.1 In what ways have you used the Parts of the Guide to Good Practice¹⁵ to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State?

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

Please insert text here

b. Part II on Implementing Measures. Please explain:

Please insert text here

c. Part III on Preventive Measures. Please explain:

Please insert text here

d. Part IV on Enforcement. Please explain:

The Peruvian Central Authority has implemented the agreement in daily practice and, depending on the case, applies the relevant chapter of the Guide to Good Practice, Incadat and other documents related to our work.

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?

As part of the common practice of the Peruvian Central Authority, in the last years, in the demand for international return, the judges are provided with the link of the Hague Conference and Incadat. Likewise, through the follow-up actions of cases before the Courts of Justice in the country, judges are recommended to review the official page of the Hague Conference, the Guide to Good Practice and other related documents.

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

No.

9. Publicity and debate concerning the 1980 Convention

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

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

¹⁵ All Parts of the Guide to Good Practice under the 1980 Convention are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

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 1980 Hague Convention is little known in our country, as well as its correct application. In addition, the 1980 Hague Convention does have a negative impact on the persons who have transferred the children to Peru due to domestic violence in the requesting country, because they seek protection and refuge in their native country. Peruvian authorities, such as the Congress, the Ombudsman's Office and NGOs, often support the actions of the people required and question the work done by the Central Authority of Peru because the Ministry of Women and Vulnerable Populations (of which the Central Authority is a member), has the function of providing protection to victims of family violence.

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

The Central Authority has information leaflets on the 1980 Hague Convention, which have been distributed to the various Peruvian consulates in the world.

Likewise, through the annual events that we perform for judges and operators involved with the problem of international abduction, the Central Authority disseminates the knowledge of this international instrument and related ones.

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

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

- No
 Yes, please explain:
[We refer to point 1.1](#)

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.

[We refer to the last paragraph of point 1.1](#)

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"¹⁷ to assist in transfrontier contact / access cases in your State? Can you suggest any further principles of good practice?

[Please insert text here](#)

11. International family relocation¹⁸

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:

- The Peruvian Central Authority also provides guidance to parents who are not yet involved in a return procedure on how the Hague Convention works and the legal consequences it entails. Our internal regulation empowers us to take preventive measures

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

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

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

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

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."

against an illegal transfer case (in case of high probability). For example, we can send an official notification to Migrations to register a warning of exit impediment, which - to clarify - only has referential quality because if the person trying to go out with the child has all the documentation in order, there would be no valid basis to prohibit the departure. In any case, it helps us to "warn" the immigration authority to be careful about possible abduction.

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:

- Not today. In 2014 we supported, with the support of the Ministry of Foreign Affairs of Peru, the acceptance of the Republic of South Korea's accession to the Convention. At that time, we had received a request for the return of children who were unlawfully detained in South Korea and we were unable to recover them because the Convention was not in force between the two States. Currently, we are processing an application for international visiting regime for the same case, that we consider will not proceed because they have made their reservation and the Peruvian applicant does not have the means to hire a lawyer.

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

Please insert text here

*The "Malta Process"*¹⁹

- 12.2 In relation to the "Malta Process":

- a. Do you have any comment to make on the "Principles for the Establishment of Mediation Structures in the context of the Malta Process" and the accompanying Explanatory Memorandum?²⁰
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 Conventions?
- No
 Yes, please explain:
Please insert text here
- c. What is your view as to the future of the "Malta Process"?
Please insert text here

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

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

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

13. Training and education

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

The Central Authority of Peru has a permanent concern to disseminate and support the academic training of judges and prosecutors responsible for resolving cases of international abduction. Each year it organizes a National Meeting for these authorities with the aim of strengthening their capacities and optimizing the implementation of the 1980 Hague Convention. The event is carried out with the participation of experts in Family Law and specialists in the protection of Rights of Children and adolescents.

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.
[Please insert text here](#)
- b. INCADAT (the international child abduction database, available at < www.incadat.com >).
[Please insert text here](#)
- c. *The Judges' Newsletter* on International Child Protection - the publication of the Hague Conference on Private International Law which is available online for free;²¹
[Please insert text here](#)
- d. The specialised "Child Abduction Section" of the Hague Conference website (< www.hcch.net >);
[Please insert text here](#)
- e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);²²
[Please insert text here](#)
- f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.²³ Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;
[Please insert text here](#)
- g. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);²⁴
[Please insert text here](#)
- h. Supporting communications between Central Authorities, including maintaining their contact details updated on the HCCH website;
[Please insert text here](#)
- 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

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

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

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

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

We are permanently finding ourselves spreading the tools provided by the Permanent Bureau. In the same way, each judge is provided with a CD that allows them to be aware of jurisprudence and recent information on international abduction.

Other

14.2 What other measures or mechanisms would you recommend:

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

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

15. Views on priorities and recommendations for the Special Commission

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

1. Safe Return: Experiences should be exchanged on how States ensure the return of a child to his / her country of habitual residence and discuss whether these measures provide effective protection for the child.

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