

Questionnaire concerning the Practical Operation of the 1980 Child Abduction Convention

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

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

PART I – PRACTICAL OPERATION OF THE 1980 CONVENTION

Recent developments in your State²

1. Since the 2017 SC, have there been any significant developments in your State regarding the **legislation** or **procedural rules** applicable in cases of international child abduction? Where possible, please state the reason for the development and the results achieved in practice.

- No
 Yes

Please specify:

[Please insert text here](#)

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

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

[It was not necessary to adopt new procedures or practises, as it was also the practice of the Israel Central Authority \(hereinafter: ICA\) prior to the Covid-19 pandemic to process cases received by email.](#)

- b) Participation of the parties and the child (e.g., appearance in court proceedings, mediation);
[No changes](#)

- c) Promoting mediation and other forms of amicable resolution;
[No changes](#)

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

² This Part of the Questionnaire is intended to deal primarily with the developments in law and practice relating to international child abduction which have occurred in your State since the Seventh Meeting of the Special Commission (SC) to review the operation of the 1980 Abduction Convention and the 1996 Child Protection Convention (held from 10 to 17 October 2017) (“2017 SC”).

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

- d) Making arrangements for organising or securing the effective exercise of rights of access, including while pending return proceedings;
No changes
- e) Obtaining evidence by electronic means;
No changes
- f) Ensuring the safe return of the child;
The ICA continues to accompany the process of the safe return of the child through close coordination with other authorities that might have to be involved, including police and welfare authorities. No changes had to be made as a result of the pandemic.
- g) Cooperation between Central Authorities and other authorities;
Since the pandemic, the ICA has made more use of video conference with other Central Authorities, in order to resolve difficulties and promote expeditious handling of cases. It has found that video conference can be far more effective than telephone conversations.
- h) Providing information and guidance for parties involved in child abduction cases;
The ICA continues to provide information and guidance for parties throughout the handling of the case - we have not found there to be a necessity for changes as a result of the pandemic.
- i) Other, please specify.
Please insert text here

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

Case Name	Court Name	Court Level	Brief summary of the ruling
Anonymous v. Anonymous	Family Court of Tel Aviv	First Instance	The Court dealt with a petition concerning the return of a 6 year old child to Russia, against the backdrop of the ongoing war between Russia and Ukraine. The mother is a Russian citizen, the father is a Ukrainian citizen and both parents hold Israeli citizenships. The couple and their child lived in the Ukraine till 2016, and then emigrated to Israel. In 2020 the family moved to Russia, with the father and the minor moving to Ukraine in 2021 and finally back to Israel in 2022. The Court dealt with the question of whether the minor was abducted from her habitual residence in Russia and whether the outbreak of war should prevent the minor’s return to Russia. The Court determined that per Article 20, it was not ascertained that the

⁴ The term “relevant authorities” is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1980 Convention. Whilst in the majority of Contracting Parties such “authorities” will be courts (i.e., judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

			<p>return of the minor to Russia violates human rights or the fundamental principles of the State of Israel, as no evidence was presented by the father to suggest grave risk or harm. Specifically, a concern regarding Western sanctions on Russia affecting access to healthcare and medicine was refuted. As such, the Court ruled that the minor will be returned to Russia, and custody will be decided by local courts.</p>
<p>Family Appeal 7918/21</p>	<p>Supreme Court of Israel</p>	<p>Final Appellate Level</p>	<p>. In Family File 24437-09-21, the Court dealt with the battle over a six-year-old boy who was the sole survivor of a cable car accident in Italy. The minor lived with his family in Italy before the horrific accident, after which the Italian Courts appointed his aunt who also resides in Italy as his legal guardian. However, the minor was secretly brought to Israel by his grandfather, causing the aunt to petition the Israeli Courts for the return of the child under the Convention. The Court ruled that per Article 3, the minor was wrongfully removed from his habitual residence. The Court rejected the grandfather's claim under Article 13(b) that the minor would be exposed to a grave risk upon his return to Italy. The Court emphasized that the risk pertains to a risk that would arise from returning to the specific country from which the minor was taken, and not pertaining to a risk that may arise from returning the minor to the person from whom he was taken. As such, claims about custody, parental ability of the guardian or parental behavior will not be taken into consideration during a procedure covered under the Convention. The Court ruled that the minor will return to Italy with his aunt.</p> <p>An appeal of the judgment was heard in Family Appeal 2852-11-21. The Court dealt with the question of whether the habitual residence should be determined by a factual and substantial examination of the circumstances, or whether an independent examination of parental intent should be the determining factor. The Court clarified that the former, factual and substantial approach takes precedence over the</p>

			<p>latter, while parental intent is still taken into consideration in the grander scheme of facts and circumstances. Pertaining to this case, the Court ruled that although the parents are deceased, their intentions are to be taken into consideration. Moreover, the Court dealt with a question of the right of custody, per Article 5 to the Convention. Specifically, whether such rights can be given to one who is not the parent, in this case, the aunt. In light of Articles 3 and 8 of the Convention, the Court decided that any person or entity can be given the right of custody, and therefore the minor was removed from the aunt, in breach of her custody rights.</p> <p>This decision was further appealed to the Supreme Court, Family Appeal 7918/21. The Supreme Court held again that the minor must return to Italy and that no exceptions under the Convention can be applied to prevent his return.</p>
<p>Family Appeal 10701-04-20</p>	<p>District Court of Tel Aviv</p>	<p>Second instance (Appeal)</p>	<p>The parents, Israeli citizens, had moved to the United States for reasons related to the father's work. The child was subsequently born in the US in and obtained U.S. citizenship (her sole citizenship). Both parties had work visas for the United States and were working there. The parents and child came to Israel in November, 2019 (the child was age one) to deal with visa-related matters, with return tickets to the US for February, 2020. The mother refused to return to the United States. The father commenced proceeding for the return of the child in the Family Court of Tel Aviv, which on 20 April, 2020 ordered the return of the child to the United States, ruling that the child's habitual residence was in the United States and that the mother had not proven a defence under Article 13(b). The mother appealed to the Tel Aviv District court which rejected her appeal on 17 April, 2020.</p> <p>On the issue of habitual residence, the District Court cited precedent of the Supreme Court of Israel which ruled that a determination of habitual residence is a purely factual examination which must be broad and inclusive. The overall facts shall</p>

			<p>certainly include the parents' intentions and the decisions they made, however no independent outside weight should be given to their intentions for examining the facts. The intention is also part of the factual picture. Naturally, the intention datum refers the examination to the parents. Here too the true weight should be given to the precise term Habitual Residence of the Child - which places the child in the limelight. The District Court accepted the lower court's finding and ruled that on the facts of the case, the child's habitual residence was in the United States, that the move to the US was not for a short-term period but rather indefinitely.</p> <p>On this issue of Article 13(b), the mother had stated that she would not return to the US and that there would therefore be a grave risk of harm to the child as a result of the separation from the mother. The District Court accepted the findings of the Family Court and ruled that such damage is under the control of the mother who could return to the United States, and is not damage that would constitute an exception to return. The damage pursuant to article 13(b) is the severe and exceptional damage that the minor will incur due to return to the country of origin. The Family Court had quoted the Guide to Good Practice on Article 13(b), specifically that a taking parent should not, through mere unwillingness to return, be allowed to create a situation that is potentially harmful to the child, and then rely on it to establish the existence of a grave risk to the child.</p> <p>The court further rejected the mother's claimed that the return of the child to the United States would place the child at a grave risk of harm due to the corona virus, taking into account that the virus existed in both countries and that the child had appropriate health insurance in her State of habitual residence.</p> <p>Please insert text here</p>
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4. Please provide a brief summary of **any other significant developments** in your State since the 2017 SC.

Issues of compliance

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

- No
 Yes

Please specify the challenges encountered:

- 1) Significant communication difficulties with some requested Central Authorities (see paragraph 13), which result in significant and harmful delays in the case.
- 2) Difficulties in securing legal representation in the requested State (see paragraph 15)
- 3) Difficulties in locating abducted children (see paragraph 17).
- 4) Difficulties in obtaining information about the operation of the Convention in some States, especially States that have not provided a Country Profile to the HCCH website
- 5) Extremely lengthy legal proceedings in some Contracting States. Proceedings continue for months if not years.
- 5) Lack of effective and/or efficient mechanisms/procedures for enforcement of orders for return, such that orders are not enforced and the children do not return.

In all of these examples, the problems are systemic in the particular states and appear to be a result of insufficient implementing legislation, lack of familiarity/understanding of the Convention by Central Authorities, courts and/or other authorities involved in the operation of Convention, and/or lack of cooperation/coordination between the relevant authorities in the state.

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

- No
 Yes

Please specify:

- 1) In one case the requested Central Authority, after receiving the request and engaging in some communication (which communication was difficult to obtain and took a significant amount of time), simply stopped communicating and stopped processing the case. This is a State that did not make the reservation to the third paragraph of Article 26 of the Convention and the left-behind parent cannot afford private counsel. The case therefore has not been able to proceed in court.
- 2) Some foreign courts have rejected requests for return of children on the basis that the child has settled in his new environment, in cases where the proceedings were initiated within a year from the date of alleged wrongful removal/retention.
- 3) Courts in some Contracting States consider citizenship of the taking parent as a determinative factor, ruling that they cannot "extradite" a citizen of their own States.
- 4) In some states, constitutional challenges can be made in constitutional courts with respect to the Hague Convention proceedings at any stage of the proceedings (including during the proceedings and after a judgment has issued), and with no limit to the number of challenges that can be filed. This results in extreme delays in the Hague Convention proceedings. In one case, the proceedings were delayed to the point that one of the children eventually turned 16, such that the Convention ceased to apply to her. It appears that the constitutional courts have no mandate to handle such cases expeditiously, thus preventing the courts hearing the Hague Convention cases from conducting expeditious proceedings.
- 5) Courts in some states approach child abduction cases as custody cases, taking into consideration factors such as parental capability, which parent can offer a better home for the child, etc. This is also seen in expert reports, where the expert engaged

in a full analysis of the child's overall and long-term best interests, rather than focusing on particular defences under the Convention

6) Reversal of onus under Article 13(b), wherein the taking parent makes very general claims or no claims at all but the taking parent is then required to prove that there is no risk.

Addressing delays and ensuring expeditious procedures

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

Central Authority

- No
 Yes
 Procedure not yet revised

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

Please insert text here

Judicial proceedings

- No
 Yes
 Procedure not yet revised

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

Enforcement

- No
 Yes
 Procedure not yet revised

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

Please insert text here

Mediation / ADR

- No
 Yes
 Procedure not yet revised

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

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

Please insert text here

Court proceedings and promptness

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

- No
 Yes

Please specify:

Israel's Family Court Regulations 2020 (as in the preceding Civil Procedure Regulations (Amendment of 1995) provide a fast-track procedure for 1980 Hague Convention cases, including strict time frames for setting of hearing dates, filing Responses, and the giving of a judgment, all within six weeks of the date that the Petition for Return was filed in Court. Appeals must be filed within one week of the judgment, with a hearing date to be set within 10 days from the date of the filing of the appeal, and a judgment to be given within 30 days of filing the appeal.

Israeli courts tend to give detailed orders with respect to the return, including a provision for involvement of the police and welfare authorities if necessary. If the taking parent does not cooperate with the return order, the Central Authority will coordinate the execution of the order with the police and welfare authorities. Orders for return are therefore swiftly enforced.

9. If the response to question 8 above is “No”, does your State contemplate implementing mechanisms to meet the requirement of prompt return under the 1980 Convention (e.g., procedures, bench-books, guidelines, protocols)?

- No
 Please specify:
 Please insert text here
 Yes
 Please specify:
 Please insert text here

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

- No
 Yes
 Please specify:
 Israel requires legislation in order to conduct direct judicial communication. This process is under review. In the interim, communication has been done on an informal basis when possible in the particular circumstances of the case.

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

- No
 Yes
 Please specify:
 Please insert text here

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

12. Please comment upon any cases (where your State was the requested State) in which the judge (or decision-maker) has, before determining an application for return, communicated with a judge or other authority in the requesting State regarding the issue of the child's safe return. What was the specific purpose of the communication? What was the outcome?

Please insert text here

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

In general

13. Have any of the duties of Central Authorities, as set out in **Article 7** of the 1980 Convention, raised any particular problems in practice either in your State, or in Contracting Parties with which your State has cooperated?

- No
 Yes

Please specify:

1) The ICA continues to experience significant communication difficulties with some Central Authorities. This includes failure to respond to communications in a timely manner or at all; failure to provide updates in cases in a timely matter or at all; continual changes in the personnel handling the cases, as a result of which significant delays are caused. Such cases have often necessitated intervention by the Ministry of Foreign Affairs, and on some occasions of the representative of the Hague Conference in the Regional Office for Latin America and the Caribbean. Such failures to communicate cause significant delays in the cases and can severely harm the left-behind parent's chances of success in a case.

2) In some Contracting States where a return order has been issued by the court, the requested Central Authority sees their role as ending with the issuing of the order, and as having no responsibility or involvement with respect to the enforcement of the return order, or at the very least monitoring the situation. There are difficulties in obtaining information with respect to the enforcement system/procedure, and the requesting Central Authority and left-behind parent are left to navigate the system in the other Contracting State with little to no direction vis-à-vis other authorities in that State with whom it is difficult to communicate. As a result, there have been a number of cases where the order for return has never been enforced. The position of the ICA is that the case does not end with the issuing of a Judgment for the return but rather with the execution of the Judgment (ie. the actual return of the child), and that even where under a Contracting State's system/legislation the execution is entrusted to other authorities, the Central Authority still has a duty to provide information concerning the execution process and to continue to remain involved in this sense until the order is executed.

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

- No
 Yes

Please specify:

1) Article 27 - in two outgoing cases, the requested Central Authority rejected the applications for reasons that, in the view of Israel's Central Authority, were legal issues

that should have been left to be addressed and decided by the courts of the requested State.

Legal aid and representation

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

- No
 Yes

Please specify:

Israel, which has made the reservation to the third paragraph of Article 26, has a very swift procedure for facilitating the provision of legal aid, legal advice and representation. The ICA maintains a list of private attorneys who handle Hague Convention cases, divided by geographical area and with notation of foreign languages. This list is on the Central Authority's website and is being added to Israel's updated country profile. Where a foreign applicant is entitled to legal aid in his/her State, attorneys are appointed very quickly through the Legal Aid Office in Israel.

However in outgoing cases, in some States there have been significant delays and obstacles in providing or facilitating provision of legal aid/legal representation for applicants from Israel. For example:

1) some States have no system for legal aid for non-citizen applicants, and have no system for pro-bono representation. As such, applicant parents who cannot afford a private attorney are unable to pursue proceedings.

2) in some States, while initial efforts may be made to find a pro bono attorney, applicants are then told to contact legal aid organizations on their own. This is very difficult for foreign applicants, who have often reported that their inquiries are not responded to. On some occasions the applicant has been unable to secure counsel and cannot pursue his/her case.

3) some States have very complicated and lengthy procedures for requesting legal aid.

4) where legal aid counsel has been secured but the applicant experiences difficulties in the representation, there have been difficulties and delays in obtaining information as to how to request alternate counsel.

5) in some States that have not made the reservation to the third paragraph of Article 26 and the Central Authority or its agent is to initiate the proceedings, there have been significant delays in initiating the proceedings.

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

- No
 Yes

Please specify:

See question 15 above.

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

Locating the child

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

- No
 Yes

Please specify the challenges encountered and what steps were taken or are considered to be taken to overcome these challenges:

As a requested State, Israel has taken many steps to ensure the most expeditious and effective measures for locating children, when necessary. State Attorney Guidelines were established many years ago, and a special liaison officer in the Israel Police was appointed, to streamline and expedite the procedures for locating children. In difficult cases, the ICA works in close coordination with the police liaison officer to ensure that all investigative methods are being utilized. In one particularly difficult case after a court order for the return of the child, the taking parent, with the assistance of unknown factions, placed the child in hiding and despite intensive and extensive investigative efforts, the Israel Police were unable to locate the child. The mother was criminally prosecuted, convicted and imprisoned as a result. The ICA also works closely with Interpol in order to locate abducted children.

In certain circumstances, the police have also been able to assist in locating children abducted to other countries through internal investigative activities and through the issuances of Yellow And Blue Notices through Interpol.

As a requesting State, the ICA's experience in outgoing cases is that in some States there are significant delays in locating the child, without any adequate explanation from the requested Central Authorities. This occurs even in cases where the application provides an exact address where the child is known to be, or a local phone number used by the taking parent, which should be able to be traced. It is unknown whether the problem is as a result of lack of action by the Central Authority or the authority responsible for locating the child, lack of coordination with the relevant authorities in the requested State or otherwise, or because the matter is being handled in a civil and not a criminal context. It seems that child abduction cases are not given sufficient priority by the relevant authorities in those states. As a result, there are significant delays in instituting legal proceedings for the return of the child, sometimes beyond a year, therefore affording the taking parent with a claim that the child has already settled in his/her new environment. Such problems are systemic.

Voluntary agreements and bringing about an amicable resolution of the issues

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

In appropriate cases, the Central Authority will write to the taking parents to inquire as to the possibility of a voluntary resolution.

19. In the case that your Central Authority offers mediation services, or other alternative dispute resolution methods to bring about an amicable resolution of the issues, has your Central Authority reviewed these procedures in the light of the framework of international child abduction cases (e.g.,

by providing trained, specialised mediators, including with cross-cultural competence and necessary language skills⁸)?

Please specify:

Please insert text here

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

Please provide comments:

At the present time, parties may apply directly to private mediators. Israel is currently examining the possibility of comprising a list of specialized and trained mediators, to whom the parties can apply.

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

No

Please explain:

The State of Israel is currently in the process of exploring the possibility of compiling a list of specialized mediators who could offer such services for cross-border family disputes.

Yes

Please explain:

Please insert text here

Ensuring the safe return of children¹⁰

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

Please explain:

The ICA, at its initiative or pursuant to the request of a court, will request such information from the requesting Central Authority.

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

No

Yes

Please specify:

At the present time Israel is not a signatory to the 1996 Convention. As such, the Central Authority under the 1980 Convention does not have a jurisdictional basis to request such information, due to privacy issues.

Information exchange, training and networking of Central Authorities

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

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

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

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

- No
 Yes

Please specify:

Plans by Israel to hold meetings with a number of other Central Authorities were curtailed and/or postponed as a result of the Covid-19 pandemic. It was, however, able to organize and/or participate in a number of meetings, including:

- 1) in-person meeting with the Central Authority for Georgia
- 2) in-person meeting with the Central Authority for Philippines
- 3) video conferences with the Central Authorities for France, Brazil, Mexico, Costa Rica, Philippines, Australia and the United States.
- 4) multi-lateral video conference between Israel, Ukraine, United States and Germany

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

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

- No
 Yes

Please specify and share the relevant instruments whenever possible:

The ICA has internal guidelines for processing cases, which provide for expeditious handling of cases at all stages, strict monitoring to avoid delays, prompt facilitation of legal representation, regular updating of requesting Central Authorities, prompt involvement of other authorities where necessary (eg. police or welfare), requesting updates on the status of court proceedings, active participation in coordinating and ensuring execution of return orders where necessary.

In addition, lawyers and legal interns receive training sessions on processing cases.

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

- No
 Yes

Please specify:

The ICA has an electronic case management system.

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

- No
 Yes

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

Please insert text here

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

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

Transfrontier access / contact¹³

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

- No
- Yes

Please specify:
Please insert text here

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

- No
- Yes

Please specify:
There is lack of uniformity as to how States interpret their obligations under Article 21 of the Convention. For example: 1) States who have not made the reservation to the third paragraph of Article 26 of the Convention will provide representation in return cases but not in access cases. 2) States who do not have expedited procedures for organizing access rights or effective mechanisms for enforcing access rights. This causes difficulty given the international nature of these cases. For example, where a parent has been told by the custodial parent that they are refusing to send the child to the other country for an annual visit, the case cannot be heard quickly enough and the parent therefore loses the visit for that year. There are often no real or effective sanctions for breach of access rights. The parent not only loses the visit, but may also suffer financial loss with respect to airline tickets/hotel reservations that weren't used.

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

- No
- Yes

Please specify:
Same as question 29 above. The issues are the same, whether or not the application was linked to an international child abduction situation.

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

Position	Services provided
A request of assistance to organise or secure effective exercise of rights of access in another Contracting Party (as requesting State)	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1. Assistance in obtaining information on the operation of the 1980 Convention <input checked="" type="checkbox"/> 2. Assistance in obtaining information on the relevant laws and procedures in the requested State <input checked="" type="checkbox"/> 3. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input checked="" type="checkbox"/> 4. Transmission of the request to the Central Authority or to the competent authorities in the requested State

¹³ See C&R Nos 18-20 of the 2017 SC.

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

	<input type="checkbox"/> 5. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input checked="" type="checkbox"/> 6. Assistance in providing or facilitating the provision of legal aid and advice <input checked="" type="checkbox"/> 7. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input type="checkbox"/> 8. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 9. Provision of regular updates on the progress of the application <input type="checkbox"/> 10. Other, please specify: Please insert text here
A request of assistance to organise or secure effective exercise of rights of access in your State (as requested State)	<input checked="" type="checkbox"/> 1. Providing information on the operation of the 1980 Convention and / or the relevant laws and procedures in your State <input type="checkbox"/> 2. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input checked="" type="checkbox"/> 3. Assistance in providing or facilitating the provision of legal aid and advice <input checked="" type="checkbox"/> 4. Assistance in obtaining private legal counsel or mediation services available in your State <input type="checkbox"/> 5. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 6. Regular updates on the progress of the application <input type="checkbox"/> 7. Other, please specify: Please insert text here

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

- No
 - Yes
- Please specify:
 Please insert text here

Special topics

Obtaining the views of a child in a child abduction case

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

Please explain:
 In Family Appeal 6426-07-21 (Haifa District Court), the Court dealt with the Article 13 exception coined as ‘the child’s objection’. The Court explained that the Court will analyze two voices: firstly, the child’s, and secondly, a certified entity (e.g. a social worker) presenting the social background the child requires. The Court emphasized that appointing a professional expert is essential in lieu of the minors’ inherent difficulties to express their independent opinion, combined with a possible psychological harm the minors might suffer if they are forced to choose between parents.

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

- No

- Yes
Please specify:
The guidelines in seeking the views of a child, specifically in terms of a child's objections, per Article 13, contain three major notions. Firstly, the minor has attained an age and a degree of maturity at which it is appropriate to take account of the subject child's views. Secondly, it is important for the Court to establish that the child has independent thought and has not been influenced by the abducting parent about their views. Thirdly and most importantly, the child must object to their return to the original state. The nature of the child's objection must be clear, strong, and resolute (for recent case law, see Family Appeal 5303/21).

Article 15

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

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

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

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

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

Please indicate:

1) The ICA ensures that all three components of the legal basis for the application are fully explained in the outgoing request, with supporting documentation where necessary. Applicant parents do not always know how to explain the legal basis, therefore the ICA ensures that they provide enough information and documentation to establish the legal bases.

2) At the time of preparing the outgoing request, the ICA checks the requested countries' Profile to see if other documents are needed or if there are specific language requirements. If there is uncertainty, the ICA will write to the Central Authority in advance in order to obtain information necessary to provide a complete application.

3) Legal representation in the requested country - the ICA will check the status table on the HCCH website and the country profile in order to learn whether the requested state made a reservation to the third paragraph of Article 26. If so, where necessary the ICA will contact the requested Central Authority prior to sending the application in order to inquire as to the process for obtaining legal aid, to obtain any necessary forms in advance or to get a list of private attorneys, depending on the situation. In this way the ICA can inform the left behind parent in advance of the requirements for qualifying for legal aid, etc., or provide a list of private attorneys in the requested country, and include this information in the application, in order to expedite the handling of the case.

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

Please insert your suggestions:
Please insert text here

Relationship with other International Instruments on human rights

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

- No
 Yes

If possible, please share any relevant case law or materials that are relevant to this type of situation in your State or, alternatively, a summary of the situation in your State: No challenges/questions have arisen in cases in Israel. However, in an outgoing case, the Hague Convention case was postponed by the court in the requested State in order to await the outcome of a refugee claim filed by the taking parent (the claims were not with respect to the left-behind parent but rather with respect to the taking parent's own family) with the relevant authorities in that State (despite the attorney's claims that such arguments could be dealt with the court under Article 13(b). This resulted in a 10-month delay in the Hague Convention proceedings. The taking parent's case was dismissed by the refugee board, as was her appeal. At that point she voluntarily returned to Israel with the children. The case causes concern, due to the delay that was caused in the Hague Convention case as a result of issues that arguably could have been deal with under Article 13(b).

- Do not know

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

- No
 Yes

Please provide comments:

In Request for Family Appeal 5041/19, the Supreme Court dealt with the question of the habitual residence of three minors whose parents resided in California but then moved to Israel and initiated divorce procedures. The parents got married in California, where all three children were born and as such hold American citizenship. The family moved to Israel in 2018 for a trial period, not before signing a document (authenticated by the consulate) declaring that the permanent residence of the minors is in fact in California. In 2019, one of the parents refused the other to take the minors to a visit in the US, which prompted a petition to the court for the return of the minors to California, as per the Convention. The Supreme Court emphasized that the Convention is intended to deal with the phenomenon where children are taken by one parent to a different country in a way that infringed upon the other parent's custody rights. The Convention places great importance on the best interest of the child and is not a tool or procedure that is meant to resolve custody or property disputes between parents. As such, it is vital that the procedure under the Convention is completed quickly and determines in which location the rest of the disputes shall be resolved. In this case, the Court held the previous instances' decisions, ordering the return of the minors to California, where custody and other matters will be decided.

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

Use of the 1996 Convention¹⁶

41. If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention (please comment where applicable below):
- (a) providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**)
 Israel recognizes the positive aspects and advantages of the 1996 Convention and is currently conducting an extensive examination of the provisions of the Convention in order to consider acceding.
- (b) providing for the recognition of urgent protective measures by operation of law (**Art. 23**)
 See answer (a) above.
- (c) providing for the advance recognition of urgent protective measures (**Art. 24**)
 See answer (a) above.
- (d) communicating information relevant to the protection of the child (**Art. 34**)
 See answer (a) above.
- (e) making use of other relevant cooperation provisions (e.g., **Art. 32**)
 See answer (a) above.
42. If your State is a Party to the 1996 Convention, does your State make use of the relevant cooperation provisions (e.g., Art. 32) to provide, if requested, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?¹⁷
- No
 Yes
 Please specify:
 Please insert text here

Primary carer and protective measures

43. Are you aware of any cases in your State where a primary carer taking parent, for reasons of personal security (e.g., domestic or family violence, intimidation, coercive control, harassment, etc.) or others, has refused or has not been in a position to return with the child to the requesting State? How are such cases dealt with in your State?
- Please explain and provide case examples where possible:
 The ICA has not experienced such cases in Israel.
44. Would the authorities of your State consider putting in place measures to protect the primary carer upon return in the requesting State if they were requested as a means to secure the safe return of the child?
- Please explain and provide case examples where possible:

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

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

In cases where it is required, the courts act to ensure the return of the child to the country from which he was abducted. As a condition for return, the courts obligate the left-behind parent to provide financial means that will allow the return of the child (flight tickets, and sometimes a ticket for the parent should s/he not be able to afford a ticket). It also obligates the LBP to provide a place for the child to live and financial support until the courts of the habitual residence can rule on such matters. The will also give orders in other matters such as visitation times with the minor, etc. For example, in Family Case 3450/07, the Family Court of Be'er Sheva ordered the abducting mother to return the child to the father, for his return to Belgium. The court ruled that should the mother notify that she agrees to accompany the child on return, the following conditions apply: the father will agree that until the court in Belgium rules on custody and visitation, the mother shall have temporary custody and the father shall meet with the child every day for a period of not less than two hours, and will undertake not to initiate criminal proceedings against the mother for what she did concerning the child up to that period. The mother's appeals to the District and Supreme Courts were dismissed, and the Supreme Court confirmed the conditions for return. Courts have always conducted themselves in this way. For example, in Request for Leave to Appeal 7994/98, in order to protect the mother who abducted the child to Israel and was the primary caregiver of the child, the Supreme Court ordered as a condition for the return of the child to the United States that until the issuing of a judgment or other decision by the authorized court in the United States, the left-behind father will pay monthly maintenance payments for the child in the amount of \$1250. As an additional condition, the maintenance for the first two months was ordered to be deposited in advance in Israel with the mother's attorney prior to her leaving Israel and would be delivered to her upon her arrival to the US. It was also ruled that should the father have filed a criminal complaint against the mother, he will inform the competent authorities in the US of its cancellation and will undertake not to initiate criminal proceedings against the mother for that case.

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

- No
 Yes

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

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

- No
 Yes

Please specify:
Please insert text here

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

- No
 Yes

Please specify:
Please insert text here

- N/A

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

No

Yes

Please specify:

Please insert text here

International family relocation¹⁸

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

Yes

Please describe such procedures, if possible:

Please insert text here

No

Please describe how the authorities deal with international family relocation cases, if possible:

There is no special procedure for handling relocation cases. In general, the decision in such cases is made according to the same criteria and procedure in which the court rules on disputes between parent moving between cities within the country. The decision will always be made according to the same criteria of the best interests of the child, however in light of the more significant consequences of relocation over a move between cities (within the country), the examination of the child's best interests will be done in a deeper and broader manner. While in the case of a change of residence within the country the court will usually be satisfied with the report of a social worker for civil procedure, in examining the best interests of the child in relocating outside the country the court will usually require an opinion of an expert, who will examine the consequences of the relocation and the significance of his separation from the parent requesting to immigrate should the court determine that it is in the best interests of the child to remain in Israel. In addition, to differentiate from a move within a country, in determining a claim for relocation the court will not permit the relocation of the child with one of the parents, without determining arrangements for contact and visitation between the child and the parent who remains in Israel and establishing mechanisms intended to guarantee their fulfillment (usually through financial collateral).

For example, in Request for Family Appeal 1273/21, the Supreme Court authorized the relocation of a child with her mother to England, after the lower courts (the Family Court and the District Court) found that it was consistent with the child's best interests. In the framework of the proceedings, reports were filed by a social worker for civil procedure, and an expert clinical psychologist who was appointed by the court to examine the child's best interests. The expert report recommended to authorize the relocation of the child, and the social worker agreed with this recommendation. The expert further found that the child identifies more with her mother, and identifies with the mother's difficulties that stem from residing in Israel and that in as much as the best possible transition conditions are planned (that include an appropriate educational framework, emotional treatment and parental guidance for the mother), the child will be able to adapt to life in England. The social worker agreed with the conclusions of the expert and pointed out in her report that the child feels closer to the mother, and that attempts to strengthen the connection between the child and

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

father were unsuccessful, amongst other reasons because not all of the recommendations given to the father to strengthen the connection were put into effect by him, and because the child is about to undergo significant changes with her transition to junior high school, such that the date of the relocation is suitable and doesn't harm the existing routine. The court conditioned the relocation of the child with the mother to England by determining a mechanism to ensure the contact between her and her father in Israel. Thus it was ordered, inter alia, that the child would visit the father for two weeks each year, in two visits, and the parties would equally bear the expense of the visits; the child will speak with the father three times per week by video; the mother will keep the father informed of every significant matter in the child's life; including matters of education and health; the mother will deposit 70,000 New Israeli shekels in the court treasury, to guarantee the fulfillment of the contact between the father and the child, so that in the event there is a significant breach, the court can forfeit a sum according to its discretion, which the father can use to act to realize his right to contact with the child in the courts in England. Insofar as the court rules that the mother is breaching the arrangements that were determined with respect to the contact between the father and child, she must return the child to live in Israel.

In every dispute involving minors, the courts endeavor to hear the cases relatively quickly, and relocation files are not different in this respect. The relevant urgency will be determined in accordance with the particular circumstances of the case (like, for example, in a case where the parent who requests the relocation plans to move to the new country near the beginning of the child's school year, and postponing the decision is likely to harm the ability of the child, should the relocation be permitted, in entering the educational system in the new country.

Publicity and debate concerning the 1980 Convention

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

- No
 Yes

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

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

Please explain:

The website of the Central Authority provides information to the public concerning the operation of the Convention. Social media is also used to raise public awareness about the Convention.

PART II – TRAINING, EDUCATION AND POST-CONVENTION SERVICES

Training and education

52. Please provide below details of any training sessions / conferences organised in your State to support the effective functioning of the 1980 Convention, and the influence that such sessions / conferences have had:

Please provide details:

- 1) A series of meetings was conducted between the Central Authority and judges in the various family court districts, in order to increase understanding of the role of the Central Authority and how it can assist the courts where necessary.
- 2) Zoom conference of the Israel Bar Association, with the participation of the Central Authority, private attorney and judge. This increased understanding of the operation of the Convention from these different perspectives.
- 3) Participation in seminars of the the Ministry of Social Welfare in order to increase understanding and cooperation between the two authorities in Hague Convention cases.
- 4) Seminar with the Legal Aid Office, to update and ensure the continuing efficient working relationship in the handling of 1980 Convention cases.

The tools, services and support provided by the PB

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

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

The ICA has found this to be an extremely valuable tool and refers to it frequently in order to understand other countries' procedures and systems and to be able to explain them to left-behind parents. The ICA finds that it is crucial to be able to provide as much information as possible to left-behind parents, in order to assist them in understanding the process. States who have newly ratified or acceded to the Convention should be encouraged to file a Country Profile as soon as possible.

- b. INCADAT (the international child abduction database, available at www.incadat.com).

INCADAT is an invaluable tool when trying to learn how certain issues under the Convention have been interpreted and adjudicated in other States. The Israel Supreme Court has made reference in judgments to INCADAT and to the section on case law analysis, for example on the issue of habitual residence.

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

The Judges' Newsletter contains very important, informative and useful articles.

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

The ICA finds this Section to be very well organized and user-friendly, and that it contains crucial information for the operation of the Convention. The ICA uses this Section on a regular basis, including: checking the Status Table to determine whether a State is a party to the Convention; learning whether a State has made a reservation to the third paragraph of Article 26; obtaining information from Country Profiles; obtaining the most recent

²⁰ Available on the HCCH website at under "Child Abduction Section" and "Judges' Newsletter on International Child Protection". For some volumes of *The Judges' Newsletter*, it is possible to download individual articles as required.

contact details for Central Authorities; accessing the Explanatory Report for interpretation of Articles of the Convention; accessing INCADAT.,

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

This is an extremely important service, both with respect to new Contracting Parties and well as Contracting Parties with respect to whom other Contracting Parties have been experiencing difficulties. On occasions when the ICA has contacted the Permanent Bureau with respect to such difficulties, the ICA has been very pleased to learn of initiatives being taken by the PB with respect to such states, including conducting judicial seminars. The ICA recently participated in a conference organized through its Regional Office - this was an excellent opportunity to share information and practises with a view to securing a more consistent implementation of the Convention amongst the member States. The twinning system that was previously established appears to be another valuable tool for providing assistance and training, however it is not known to what extent this system is being used.

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

Wider ratification/accession is very desirable. However if possible, prior to such ratification/accession, it would be important to learn whether a potential State has the ability to enact the necessary implementing legislation that would allow it to fulfill its obligations under the Convention.

Education is a key factor, and should be done if possible prior to such ratification/accession, in order to ensure proper implementation. In addition to the work being done by the PB, twinning should be encouraged, so that potential/new states can learn from the practical experience of more experienced states.

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

This is a crucial service. The ICA has unfortunately experienced and continues to experience communication difficulties with some Contracting States, including out-of-date contact details or failure to communicate/respond. The PB and its Regional Office have been extremely helpful in securing contact details and/or securing responses from non-communicative states. All such actions taken in this respect are most welcome and appreciated.

- h. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges or intervening to facilitate contact in cases where obstacles arise.

Such support is critical to the effective operation of the Convention and should continue.

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

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

Such support is critical to the effective operation of the Convention and should continue.

Guides to Good Practice under the 1980 Convention

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

- a. Part I on Central Authority Practice.

The ICA's practices are consistent with the content and spirit of the Guide. In cases where new issues or challenges arise, it refers to the Guide for assistance. Further, in cases where the ICA experiences difficulties with other Central Authorities, it will refer them to the relevant sections of the Guide in the hope of soliciting effective cooperation.

- b. Part II on Implementing Measures.

- c. Part III on Preventive Measures.

Where possible the methods in the Guide are adapted into practice. For example, parents who contact the ICA concerning a fear of abduction are told to consult with an attorney concerning the possibility of obtaining a no-exit order from the court. Further, parents who contact the ICA concerning the legality of moving abroad with their child are told to consult with an attorney, in an effort to prevent an abduction.

- d. Part IV on Enforcement.

The ICA encompasses, to the extent possible, the practices in the Guide, both in its work and in its joint work with the relevant authorities (police, social services) in endeavouring to ensure that return orders are executed as swiftly as possible.

- e. Part V on Mediation

Please insert text here

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

The Guide was distributed to the judiciary in Israel. Courts have specifically referred to and applied the Guide in relevant cases. The ICA has further brought the Guide to the attention of practitioners

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

The ICA makes efforts to help resolve cases on an amicable basis where possible.

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

The relevant authorities with whom the ICA works in implementing the Convention and executing its obligations are guided and instructed by the ICA, in accordance with the principles of the Guide to Good Practice and where relevant are provided with the guides.

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

In addition, the ICA's website is undergoing a revision which will include a link to the Guides to Good Practice.

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

Please insert text here

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

The ICA is currently reviewing the Practitioner's Tool.

Other

58. What other measures or mechanisms would you recommend:

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

1) In the ICA's experience, two of the most serious issues affecting the operation of the Convention are excessive delays in judicial proceedings and difficulties in enforcement of return orders. Israel suggests that further in-depth studies be conducted on these two issues, in order to identify the roots of the problems and consider how they can be dealt with. The statistical analysis that will be presented by Professor Lowe at the upcoming Eight Special Commission will provide an excellent basis for determining the types of delays and difficulties in enforcement, the States in which they are occurring and whether they are systemic. Consideration could then be given to setting up a further expanded study, perhaps by survey/questionnaire, including an examination of the legislative frameworks in contracting states, in order to determine how States can be encouraged to address these problems.

2) The ICA suggests that consideration be given to establishing additional regional offices of the HCCH. It notes the extensive work being done by the two regional offices in promoting understanding and uniformity in the application of the Convention in those regions and monitoring the operation of the Convention. The ICA has found it very beneficial, for example when it was able to contact and consult with the representative for ROLAC with respect to difficulties that it was experiencing in the region. In addition, in reviewing the Conclusions and Recommendations of the last Inter-American meeting of Central Authorities and Network Judges, the ICA notes that many of the issues that arose are the same issues that arise in other regions. It could therefore be beneficial, in order to monitor the operation of the Convention in other regions and to seek solutions, to consider establishing offices with representatives in those areas. Having such monitoring and such meetings through regional offices together with training seminars would greatly supplement Special Commission meetings, which take place only every 4-5 years.

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

1) Maximum use should be made of the twinning program, to assist Central Authorities, including newer ones, to gain knowledge and understanding of the operation of the Convention through experienced States, and to assist them in fulfilling their obligations

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

under Article 7, including in their work vis-à-vis other authorities/intermediaries in their States.

2) Where needed, judicial training seminars/conferences should be conducted to increase understanding of the Convention (in accordance with the points raised in response to question 6 above.

3) The ICA continues to encounter difficulties in some contracting states, which result in delayed enforcement, or no enforcement at all. Such difficulties include:

a) In some states the Central Authority considers its duties to have ended with the pronouncing of the order for return and takes the position that they have no role in the enforcement proceedings and no role in maintaining contact with the authorities responsible for execution. As set out in question 13 above, the position of the ICA is that the case does not end with the issuing of a Judgment for the return but rather with the execution of the Judgment, and that even where under a Contracting State's system/legislation the execution is entrusted to other authorities, the Central Authority still has a duty to provide information concerning the execution process and to continue to remain involved until the order is executed.

b) orders for return that merely state that the child is to be returned, without setting out the terms for the return such as an exact return date, who is to pay for the flight ticket, who is to accompany the child, etc. As a result there is sometimes confusion/disagreement as to the terms, and can necessitate the obtaining of a more detailed order, which can cause delay.

c) In some contracting States, in order to enforce a return order the left-behind parent must apply to a separate enforcement court, in which the taking parent can in effect raise the same claims in opposition that were already rejected by the court in the Hague Convention proceeding and possibly prevent the return. This lengthy and complicated process not only contravenes the provisions of the Convention but defeats its very purpose.

d) In some contracting States, if the return order is forwarded to an enforcement court for enforcement and the child himself/herself objects to the enforcement, the enforcement court can then decide not to enforce the return order, even when the court hearing the return application heard the child's objections and determine that they are not sufficient to constitute a defence under Article 13(2) of the Convention.

e) In some contracting States, if the taking parent does not comply with the order for return, the only option available to the left-behind parent is to file a complaint with the police in that country so that criminal proceedings against that parent can be considered by the prosecution authorities. The prosecution authorities then have discretion as to whether they will institute such proceedings. The very possibility of having the prosecution authorities determine whether or not they will enforce a final order of return issued by a competent court contravenes the provisions and purpose of the Convention.

Carrying out the expanded study suggested above would hopefully assist in identifying where the difficulties are occurring, provide practical examples of how enforcement can be promptly and efficiently carried out, and encourage States to make necessary changes to their systems.

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

PART III – NON-CONVENTION STATES

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

Please explain:

Please insert text here

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

Please indicate:

Please insert text here

The “Malta Process”²⁴

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

Please explain:

The ICA has a very positive view of the Malta Process as an excellent forum for ongoing discussion and development of good practices and as a platform for both Convention and non-Convention countries to come together and learn about the challenges and possible solutions available through the various instruments when handling crossborder family conflicts, taking into account the possible challenges posed by the different legal systems. The ICA strongly supports the continuation of the Malta Process as an additional process to develop and strengthen the ICA's knowledge and as a way in which to encourage the development of the necessary domestic structures.

²⁴ The “Malta Process” is a dialogue between certain Contracting Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and addressing the problems posed by international abduction between the States concerned. For further information see the HCCH website at www.hcch.net under “Child Abduction Section” then “Judicial Seminars on the International Protection of Children”.

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

Views on priorities and recommendations for the SC

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

Please specify and list in order of priority if possible:

1) Delays at various stages, including: Central Authority stage; locating of children stage; judicial proceedings. (see above)

2) Lack of and/or difficulties in enforcement of orders for return (see above)

3. Securing of legal representation in order to initiate proceedings for return. (see above)

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

Please specify:

Please insert text here

Bilateral meetings

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

Please insert number:

10

Any other matters

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

Please provide comments:

Please insert text here