

## CHILE

### The applications

#### 1. The number of applications

According to the Central Authority for Chile, they received 7 incoming return and 4 incoming access applications in 1999, making a total of 11 incoming applications. Additionally, they made 5 outgoing return but no outgoing access applications in that year. Altogether, therefore, the Central Authority for Chile handled 16 new applications in 1999.

#### 2. The Contracting States which made the applications

##### (a) Incoming return applications

Requesting States

	Number of Applications	Percent
Argentina	3	43
USA	2	29
Italy	1	14
Sweden	1	14
<b>Total</b>	<b>7</b>	<b>100</b>

Noticeably, 3 of the 7 applications came from Chile's neighbouring South American State, Argentina.

##### (b) Incoming access applications

The 4 access applications came from 4 different Contracting States, namely, Argentina, The Netherlands, Sweden and the USA. With the exception of The Netherlands, all these Contracting States also made return applications in that year.

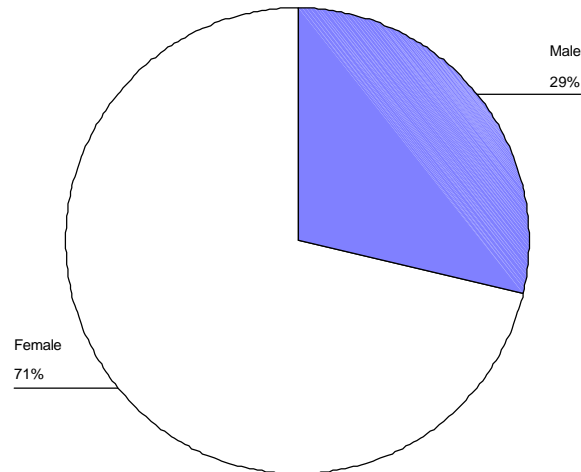
### The taking person / respondent

#### 3. The gender of the taking person / respondent

##### (a) Incoming return applications

Gender of the Taking Person

	Number	Percent
Male	2	29
Female	5	71
<b>Total</b>	<b>7</b>	<b>100</b>



The proportion of female taking persons, at 71%, was similar to the global norm of 69%.

***(b) Incoming access applications***

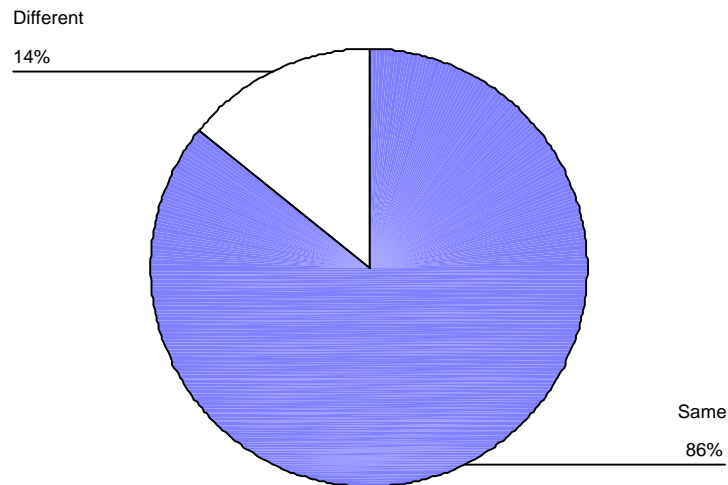
3 of the 4 respondents in access applications were females. Globally, 86% of respondents were female.

**4. The nationality of the taking person / respondent**

***(a) Incoming return applications***

**Taking Person Same Nationality as Requested State**

	Number	Percent
Same Nationality	6	86
Different Nationality	1	14
<b>Total</b>	<b>7</b>	<b>100</b>



86% of taking persons had Chilean nationality. This figure is significantly higher than the global average where 52% of taking persons had the nationality of the requested State.

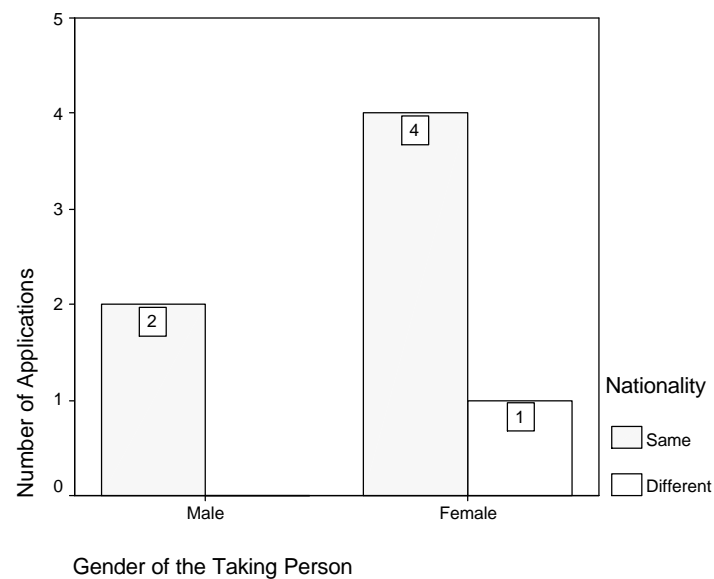
#### ***(b) Incoming access applications***

All 4 of the access applications involved respondents who had Chilean nationality. Globally, the proportion of respondents with the same nationality as the requested State was 40%.

Combining return and access applications, only 1 of the 11 taking persons / respondents did not have Chilean nationality.

### **5. The gender and nationality of the taking person / respondent combined**

#### ***(a) Incoming return applications***



Both the male taking persons and 4 of the 5 female taking persons had the nationality of the requested State. Globally, 53% of males and 52% of females had the nationality of the requested State.

## The children

### 6. The total number of children

There were 14 children involved in the 7 return applications and 5 children involved in the 4 access applications. Altogether, therefore, 19 children were involved in new incoming applications received by Chile in 1999.

### 7. Single children or sibling groups

#### *(a) Incoming return applications*

Single Child or Sibling Group

	Number	Percent
Single Child	4	57
Sibling Group	3	43
<b>Total</b>	<b>7</b>	<b>100</b>

Number of Children

	Number	Percent
1 Child	4	57
2 Children	1	14
4 Children	2	29
<b>Total</b>	<b>7</b>	<b>100</b>

The tables above show that 57% of applications involved single children, which is a little below the global norm of 63%. Globally, over 93% of applications involved no more than 1 or 2 children whereas in applications to Chile the proportion is lower at 71%. Nevertheless, the numbers are small making it difficult to draw meaningful conclusions.

#### *(b) Incoming access applications*

3 of the 4 access applications involved single children. Globally, 69% of applications for access involved a single child.

## 8. The age of the children

### *(a) Incoming return applications*

**Age of the Children**

	Number	Percent
0-4 years	5	36
5-9 years	6	43
10-16 years	3	21
<b>Total</b>	<b>14</b>	<b>100</b>

The proportion of children in the different age categories follows the global pattern.

### *(b) Incoming access applications*

**Age of the Children**

	Number	Percent
0-4 years	1	20
5-9 years	1	20
10-16 years	3	60
<b>Total</b>	<b>5</b>	<b>100</b>

3 of the 5 children involved in access applications were aged between 10 and 16 years. This differs from the global norm where 29% of children were in this age group.

## 9. The gender of the children

### *(a) Incoming return applications*

**Gender of the Children**

	Number	Percent
Male	9	64
Female	5	36
<b>Total</b>	<b>14</b>	<b>100</b>

The proportion of male children involved in applications to Chile was 64%, which was higher than the global norm of 53%.

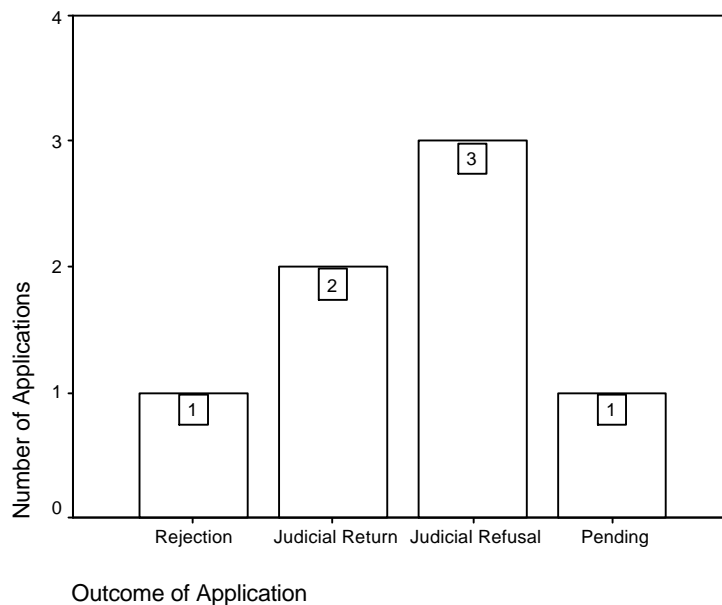
**(b) Incoming access applications****Gender of the Children**

	Number	Percent
Male	4	80
Female	1	20
<b>Total</b>	<b>5</b>	<b>100</b>

As with return applications, the percentage of male children was higher than the global norm. 4 of the 5 children involved in access applications to Chile were male, which is higher than the global norm of 50%.

**The outcomes****10. Overall outcomes****(a) Incoming return applications****Outcome of Application**

	Number	Percent
Rejection	1	14
Voluntary Return	0	0
Judicial Return	2	29
Judicial Refusal	3	43
Withdrawn	0	0
Pending	1	14
Other	0	0
<b>Total</b>	<b>7</b>	<b>100</b>



There were no voluntary returns, and 2 judicial returns making an overall return rate of 29% compared with a global norm of 50%. 5 of the 7 applications went to court 2 of which resulted in an order to return and 3 of which resulted in a judicial refusal to return, globally 74% of applications going to court ended in the return of the child. 1 application was rejected and another application was still pending. This case was pending an appeal as at the 30<sup>th</sup> June 2001.

### ***(b) Incoming access applications***

Access was judicially granted in 2 of the 4 applications, judicially refused in a third application, and the other application was still pending as at 30<sup>th</sup> June 2001.

## **11. The reasons for rejection and judicial refusal**

### ***(a) Incoming return applications***

One application was rejected on the basis of the applicant having no rights of custody and also because of Article 35.<sup>1</sup>

All 3 of the judicial refusals were based on more than one reason. One application was refused because of Article 13 b and the objections of sibling children aged between 8 and 12 years. Another application was refused on the basis of Article 13 a consent and the applicant having no rights of custody. The third application was refused on the basis of Article 13 a consent and the objections of a child aged between 11 and 12 years. In all 3 of the judicial refusals, the taking person was a female with Chilean nationality.

<sup>1</sup> The Convention was not in force at the relevant time between the relevant States.

## **Speed**

### **12. The time between application and outcome**

#### ***(a) Incoming return applications***

The mean number of days to judicial return in the 2 relevant applications was 92 days. This was faster than the global mean of 107 days. In the three judicially refused applications, the mean number of days to settlement was 159 days, which was similar to the global norm of 147 days. Each of the three judicial refusals were the result of an appeal.

#### ***(b) Incoming access applications***

2 of the 3 judicial decisions in the access applications took over 6 months, the other decision was decided in 6-12 weeks.

### **13. Appeals**

#### ***(a) Incoming return applications***

All 3 of the judicial refusals were appeal cases, each upholding a first instance decision to refuse return. This is a high proportion of appeals at 60% of all court cases, compared with a global norm of 14%. Considering that appeals were involved, the average time from application to outcome at 159 days compared favourably to the global norm of 176 days for judicial refusals on appeal.

The application which was still pending was pending an appeal.