

Juin / June 2009



**Groupe de travail sur la médiation dans le cadre du processus de Malte  
Questionnaire**

*établi par le Bureau Permanent*

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**Working Party on Mediation in the Context of the Malta Process  
Questionnaire**

*drawn up by the Permanent Bureau*

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Questionnaire**

*drawn up by the Permanent Bureau*

**Identification**

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The Permanent Bureau kindly requests responses to the Questionnaire to be sent to < secretariat@hcch.net > by 20 July 2009 at the latest.

I – EXISTING STRUCTURES	
1. Are there existing mediation services / structures in your country for <b>international</b> family disputes involving children?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
2. If so, are the mediation services / structures provided:	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Please specify: ..... .....
b) by NGOs?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Please name them and give details of the services they provide: <b>reunite</b> International Child Abduction Centre: International Social Services. See websites for further details <a href="http://www.reunite.org/">www.reunite.org/</a> and <a href="http://www.issuk.org.uk/">www.issuk.org.uk/</a>
3. If there are mediation services / structures in your country for <b>international</b> family disputes, how can parties to such disputes access mediation?	<input checked="" type="checkbox"/> The parties can apply to participate in mediation services. <input checked="" type="checkbox"/> A referral to mediation by a judicial or administrative authority is possible. <input checked="" type="checkbox"/> Other. Please specify: Self referral to NGO

## II – SCENARIO – CURRENT APPROACH IN NON-HAGUE CONVENTION CASES

How would the following scenario currently be approached in your country?

Parents with shared custody of their minor child split up, and one parent takes the child to your country with the intention of settling there without the permission and contrary to the wishes of the other parent. The left-behind parent would like the child to be returned or to have regular contact with the child. (The Hague Child Abduction Convention is not in force between the States involved.)

1. What course of action would currently be recommended to the left-behind parent in your country (being that to which the child has been taken) in such a situation?

Please specify:

In general they should seek advice from a specialist UK lawyer. Contact **reunite** International Child Abduction Centre. Contact local Embassy in UK (if appropriate) for assistance. Contact Legal Services Commission to check if eligible for legal aid.

But depending on the scenario the best course of action will differ. If the left behind parent has a contact order in their own country they may be able to apply for enforcement of that order under the 1980 European (Council of Europe) Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children (the 1980 Luxembourg Convention) if that Convention is in force for their country as it is for the UK. If the 1980 Luxembourg Convention is in force for their country and the left behind parent has a contact order they should apply to the England and Wales Central Authority (or Scotland or Northern Ireland Central Authority as the case may be) for enforcement.

Otherwise the left behind parent can apply to the court in England and Wales for a contact order or, if they are seeking to have the child live with them, for a residence order and an order for leave to remove the child from England and Wales.

2. Would your country, being that to which the child has been taken, assist the left-behind parent in any way?

- No
- Yes, by facilitating contact with information-giving bodies
- Yes, by referring the left-behind parent to existing mediation services for international family disputes
- Yes, by giving legal advice\*(see below)
- Yes, by giving practical assistance to the parent
- Yes, by taking other measures. Please

	<p>specify:</p> <p>*The left behind parent (including those from non-Hague countries) may be eligible for legal aid in the UK. This is means and merits tested.</p>
3. Does a central contact point exist in your country for such cases?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Please specify:</p>
4. Are there NGOs in your country that help parents in such situations?	<p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes. Please specify:  <b>reunite</b> International Child Abduction Centre and International Social Services</p>
5. If you were to identify the main problems that the left-behind parent might have to face in your country (being that to which the child has been taken) with her / his wish to have contact with the child / to have the child returned, what would they be?	<p>(Comment – it is difficult to offer feedback on this question without a specific scenario in mind, but we offer the following )</p> <p><input checked="" type="checkbox"/> Lack of specific structures for international family disputes</p> <p><input type="checkbox"/> Inefficiency of existing structures</p> <p><input type="checkbox"/> Lengthy processes under the existing structures</p> <p><input checked="" type="checkbox"/> Language problems</p> <p><input checked="" type="checkbox"/> Legal obstacles to agreed solutions</p> <p><input type="checkbox"/> Problems because of parallel asylum procedures regarding the other parent and child</p> <p><input checked="" type="checkbox"/> Difficulties in obtaining information on your legal system</p> <p><input type="checkbox"/> Problems locating the child within your country</p> <p><input checked="" type="checkbox"/> High costs of available mediation services</p> <p><input checked="" type="checkbox"/> Other. Please specify:</p> <p>There is no single UK government agency with responsibility for inward abductions from non-Hague countries.</p>
<b>III – EXISTING RULES / LEGISLATION ON FAMILY MEDIATION</b>	
Is family mediation regulated in your country?	<p><input checked="" type="checkbox"/> No.</p> <p><input type="checkbox"/> Yes, there is general legislation on mediation, which also applies to family mediation. Please specify:  .....  .....</p> <p><input type="checkbox"/> Yes, there is specific legislation on family mediation. Please specify:  .....</p>

	..... [ ] Other. Please specify: ..... .....
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**IV - ADDITIONAL REMARKS**

Further remarks or questions:	..... ..... .....
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Thank you.