

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

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

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

1. Recent developments in your State

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

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

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

On the 17th of October, 2014, the High Specialized Court of Ukraine on Considering Civil and Criminal Cases (hereinafter "the HSCU") delivered the ruling "On case law analysis of the application the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (the Hague Convention)", and then forwarded to the appeal courts of Ukraine. This document grounded on provisions of the national legislation of Ukraine and legal acts, regulated the childhood protection as well as on international treaties of Ukraine in this field.

The HSCU's ruling among other contains the information regarding the understanding the term "place of habitual residence" in the context of the Hague Convention in particular, stated that it is necessary to take into account circumstances such as a registration of a child at the place of residence, social binds of a child (attendance at a pre-school institution or at a school), medical insurance etc. In case of absence of an evidence concerning social

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

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

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

adaptation of a child before the child's removal from a State of his/her place of habitual residence it is necessary to take into account circumstances, which preceded the removal of a child, including parents' intentions and plans concerning the place of habitual residence and measures taken immediately before the removal of a child to Ukraine (decision of Pecherskyi District Court of the city of Kyiv of 05.06.2013 in the case № 2-4237/12).

The HSCU also mentioned in its ruling that for the purposes of the Hague Convention, a parent (or any other person, who has a right of custody of a child) has no right to decide unilaterally to change a place of residence of a child or to remove a child indefinitely to another place, including removal of a child to another State or not to return a child to the State of a place of his/her habitual residence.

Also, it was stated that the provisions of the Hague Convention are not applicable to the cases, where a child is removed or retained by a person, who has no rights of custody of a child. These cases will constitute a criminal offence (however, please, note that in accordance with the comment to Article 146 of the Criminal Code of Ukraine cases of abduction of a child by a parent, adoptive parents (including those, who are deprived of parental rights) or by other persons, to whom the child is handed over for upbringing under the procedure, prescribed by the law, as well as the abduction of a child by his/her close relatives (mother, adoptive parents, guardians, brother, sister, grandfather, grandmother) do not constitute a crime).

Moreover, the HSCU described particularities of considering cases under the Child Abduction Convention, including terms of consideration, documents to be provided to a court, evaluation of evidence, who is obliged to provide the court with an evidence, jurisdiction of Ukrainian courts to consider such cases, grounds, under which Ukrainian courts may reject a claim on return of the minor, foreseen by Article 12, 13 and 20 of the 1980 Hague Child Abduction Convention, etc.

On the 1st of January, 2017, the HSCU issued further conclusions "Case law analysis of the application of the Convention on the Civil Aspects of International Child Abduction of 25 October 1980".

This document was prepared in order to clarify the issues for application by Ukrainian courts during civil proceedings pursuant to the Convention on the Civil Aspects of International Child Abduction of 25 October 1980 under the information mentioned in the previous generalization.

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

There are no any other significant developments passed by the Legislative or Executive Powers of Ukraine.

2. **Issues of compliance**

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

- No
 Yes, please specify:

The CA of Ukraine has systematic problems in achieving successful co-operation with the CA of Spain, in particular, the Spanish Central Authority does not inform on the current state of cases, outgoing from the CA of Ukraine. Also, the Spanish Central Authority requires to indicate obligatory the exact address, where a child lives in Spain, and when the applicant does not know the exact address so it is impossible to obtain any assistance of the Central Authority in establishing the child's whereabouts on the territory of the Kingdom of Spain including information of whether the child is still in Spain or has already departed.

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

- No
 Yes, please specify:
 Please insert text here

3. The role and functions of Central Authorities designated under the 1980 Convention⁴

In general

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

- No
 Yes, please specify:

It is difficult to achieve effective communication and co-operation with the Central Authority of the Kingdom of Spain.

Also applications and supported documents, coming from Macedonia and Brazil, fail to meet the requirements of the legislation of Ukraine even when the CA of Ukraine requests from the Central Authorities of Macedonia and Brazil. Thus, we cannot initiate the court proceedings.

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

- No
 Yes, please specify:

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

- No
 Yes, please specify:

It is difficult to execute courts' return decisions because of many reasons:

1) the applicant do not come to Ukraine for enforcement procedures (the personal participation in the enforcement actions is obligatory under the Law of Ukraine "On enforcement proceedings");

2) the abducting parent hides together with a child and do not use any cards or other mean, which could help the National Police of Ukraine to establish the whereabouts of the abducting parent and a child within the territory of Ukraine;

3) long term of the consideration of the case by the national courts.

Legal aid and representation

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

- No
 Yes, please specify:

In return cases, outgoing from CA of Ukraine to the CA of the USA, the US advocates refused more than three times to handle return cases, what caused the considerable time delays.

In the access cases, outgoing from the CA of Ukraine to the CA of Israel, after the request for legal aid was sent to the CA of Israel, we were not receiving the reply for 6 months.

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

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

⁵ See paras 1.1.4 to 1.1.6 of the "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility*

- No
 Yes, please specify:

The free legal aid is not foreseen by the legislation of the Russian Federation and of the Republic of Kazakhstan, so applicants must hire an advocate for their own costs.

Thus, if an applicant has no costs it is impossible to start return proceedings in a court in these countries.

Locating the child

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

- No
 Yes, please specify the challenges encountered and what steps were taken or are considered to be taken to overcome these challenges:

The CA of Ukraine as a requesting Authority encountered challenges to locate a child in the Kingdom of Spain. The Interpol of Ukraine provided an information about the presumable child's whereabouts in Spain, but the Central Authority of the Kingdom of Spain replied that there is no such street in the mentioned city or province and required to provide an exact address of the child's location in Spain. The Spanish Central Authority did not inform the CA of Ukraine whether it took measures in order to locate the child and as a result it is impossible to start the return proceedings for two years.

The CA of Ukraine as a requested Authority encountered challenges to locate a child in Ukraine when a taken parent does not reside at the place of registration and is not registered at the place of his/her new location and does not use any cards or otherwise avoid tracing by the National Police of Ukraine. In such cases the CA of Ukraine requests the State Border Service of Ukraine to check whether the child is still in Ukraine, and asks the requesting Central Authority to provide the CA of Ukraine with a new information about the possible child's location in Ukraine, if any.

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

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

The Interpol, the National Police of Ukraine, the State Border Service of Ukraine (to check whether a child entered or left the territory of Ukraine), the Ministry of Social Affairs of Ukraine (to check the data in the Register of the temporarily displaced persons from the temporarily occupied territories), the Ministry of Science and Education of Ukraine (to check in schools).

Information exchange, training and networking of Central Authorities

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

- No
 Yes, please specify:

the Federal Republic of Germany, the Czech Republic, the United States of America

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

- No

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

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

Yes, please specify:

Conference on the Child Abduction Issues in the European Judicial Space, hosted by the Ministry of Justice of the Italian Republic and the European Commission within the Italian Presidency

Statistics⁷

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

The last time the statistics was submitted for 2015 and it is expected also to submit the Ukrainian statistics for 2016 in the nearest time.

Prompt handling of cases

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

No
 Yes, please specify:

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

Some of foreign Central Authorities do not use e-mail communication, so it's the main reasons of delay of the communications, for instance in some cases there are no all necessary documents or their translations into the Ukrainian language, stitched and sealed by a translator (requirements for the court proceedings), or if an application and supporting documents are translated into the English language it takes quite time to translate the documents into the Ukrainian language.

4. **Court proceedings&promptness**

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

Yes
 No, please indicate if such arrangements are being contemplated:
[Please insert text here](#)

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

No
 Yes, please explain:

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

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

The drafting is pending to amend the Civil Procedural Code, some other laws of Ukraine to improve application of the Hague Abduction Convention in Ukraine.

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

In most cases defendants and private attorneys of applicants use to request a court to

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

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

obtain and consider evidence and facts, which are not related to the provisions of the 1980 Hague Child Abduction Convention.

in this regard the consideration of a case is postponed for 2-3 months every time.

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

No, please explain:

A court usually orders immediate protective measures under an additional petition of the CA of Ukraine to order immediate protective measures and only in case of an applicant asks for the protective measures.

Yes, please explain:

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

Yes

No, please explain:

There is no Network Judges in Ukraine yet.

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

Yes

No, please explain:

Please insert text here

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

There is no such experience in Ukraine.

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

*Methods for ensuring the safe return of children*¹⁰

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

There were no any amendments to the legislation of Ukraine concerning the safe return of children to a requesting State.

According to the standing practice and in order to secure the best interests of a child, almost in all cases children are usually returned to a place of their habitual residence with a taken parent or a left-behind parent.

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

The CA of Ukraine did not meet such cases. However, if we have such case we will ask a requesting CA to ensure that the child is going well.

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

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

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

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

Depending on the nature of a concern CA of Ukraine may involve a Service on Children Issues or other competent authorities to take necessary measures or initiate investigations.

Use of the 1996 Convention to ensure a safe return

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

- No
 Yes, please explain:
 Please insert text here

Protection of primary carer

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

In such cases the CA of Ukraine submits a claim to a court and an abducting person must provide a court with evidence of any kind of violence and harm and the competent court, investigating all evidence, will deliver a decision in a case.

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

In case if a court established some kind of violence or harm the court more likely will not deliver a return decision, bearing in mind Article 13 (b) of the 1980 Hague Child Abduction Convention.

Apart from this, the legislation of Ukraine does not provide for provision, which would allow to protect a taken parent and a child and to ensure their safe return to a requesting State.

Post-return information

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

The CA of Ukraine would support a recommendation that States Parties should co-operate to provide each other with follow-up information on such matters.

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

- No
 Yes, please explain:
 Please insert text here

6. Voluntary agreements and mediation

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

The representatives of local Territorial Departments of Justice contact an abducting parent, explains provisions of the 1980 Hague Child Abduction, proposes to return voluntarily a child to a State of his/her habitual residence or to achieve with a left-behind parent an amicable agreement.

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

There is a draft Law of Ukraine "On mediation".

The Guide to Good Practice on Mediation is supposed to be used in preparing the minimal standards of qualification requirements for mediators in the Hague Convention cases.

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

No, please explain:

Nowadays we do not consider the possibility to build up a Central Contact Point, but the CA of Ukraine together with mediators intend to create a Register of Mediators available for cross-border family conflicts resolution, where a child is involved.

Yes, please explain:

Please insert text here

7. Preventive measures

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

No

Yes, please describe:

No information

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

Yes

No, please explain:

Please insert text here

8. The Guide to Good Practice under the 1980 Convention

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

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

The CA of Ukraine used this Guide during implementation for the first time in 2006 and uses now in order to improve the internal procedure of the practical operation of the 1980 Hague Child Abduction Convention.

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

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

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

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

- b. Part II on Implementing Measures. Please explain:

The CA of Ukraine used the Guide while preparing the documents for implementation of the Hague Child Abduction Convention after accession to it in 2006.

- c. Part III on Preventive Measures. Please explain:

The preventive measures pursuant to the Part III of the Guide are not implemented in Ukraine. However the Guide was used in drafting a law to amend the Civil Procedural Code (not finalised yet).

- d. Part IV on Enforcement. Please explain:

Not yet.

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

All relevant authorities have access to the Guide on the web-site of the Hague Conference, Child Abduction Section: HCCH publications.

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

No comments

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

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

No

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

There are no discussions or disputes in the Ukrainian Parliament concerning the 1980 Hague Convention, but some parliamentaries in case of receiving statements of applicants practice to sent to the CA of Ukraine the requests for information or reaction.

Sometimes, the abduction cases are interested for Ukrainian journalists who make stories for the news show, or the issue may be arised in come talk shows on TV.

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

TV and radio comments, articles in the print press, web-site of the Ministry of Justice of Ukraine.

PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION

10. **Transfrontier access / contact**¹⁶

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

No

Yes, please explain:

Please insert text here

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

Since 2011/2012 the important development has not been made in our State yet.

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

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

- a. the granting or maintaining of access rights;
No
- b. the effective exercise of rights of access; and
No
- c. the restriction or termination of access rights.
No

Please provide case examples where possible.
[Please insert text here](#)

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

[The General Principles and Guide were used during implementation of the Hague Child Abduction Convention after accession to it.](#)

11. International family relocation¹⁸

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

[No developments](#)

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

12. Non-Convention cases and non-Convention States

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

[China, Yemen, Saudi Arabia, Algeria, Egypt, Azerbaijan, United Arab Emirates, Libya](#)

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

[China, Yemen, Saudi Arabia, Algeria, Egypt, Azerbaijan, United Arab Emirates, Libya](#)

*The "Malta Process"*¹⁹

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

¹⁸ See the Conclusions and Recommendations of the 2006 Special Commission meeting at paras 1.7.4 to 1.7.5:
"1.7.4 The Special Commission concludes that parents, before they move with their children from one country to another, should be encouraged not to take unilateral action by unlawfully removing a child but to make appropriate arrangements for access and contact preferably by agreement, particularly where one parent intends to remain behind after the move.
1.7.5 The Special Commission encourages all attempts to seek to resolve differences among the legal systems so as to arrive as far as possible at a common approach and common standards as regards relocation."

¹⁹ The "Malta Process" is a dialogue between certain States Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and addressing the problems posed by international abduction between the States concerned. For further information see the Hague Conference website at

12.2 In relation to the "Malta Process":

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

No comments

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

No

Yes, please explain:

[Please insert text here](#)

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

[Please insert text here](#)

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

13. Training and education

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

After the accession of Ukraine to the 1980 Hague Convention the CA of Ukraine cooperated with the German Foundation for International Legal Co-operation with the support of the Permanent Bureau of the Hague Conference and a set of seminar for judges and other related officials were held to explain the particularities of the Hague cases.

As a result, the judicial practice became noticeably better and the level of understanding of the aims of the 1980 Hague Convention rose.

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

In general

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

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

[It is very helpful and we regularly consult this page.](#)

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

[The CA of Ukraine refers sometimes to this information.](#)

[We note that the information is well structured, and if there is a necessity to get to know the judicial practice of foreign States concerning particular issues.](#)

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

< www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

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

No information whether Ukrainian courts consults with the Newsletters.

- d. The specialised "Child Abduction Section" of the Hague Conference website (< www.hcch.net >);
The CA of Ukraine consult this information often.
- e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);²²
We only submit the information, but do not use.
Please, note, that this year we have a problem with submitting correct the information, because there is not a full list of States, in relations between Ukraine and which the 1980 Hague Child Abduction Convention is applied, as the Kazakhstan is absent.
- f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.²³ Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;
The CA of Ukraine thankful to the HCCH for participation in events, arranged by Ukraine for the Ukrainian judges and other related officials.
- g. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);²⁴
- h. Supporting communications between Central Authorities, including maintaining their contact details updated on the HCCH website;
Updated information about contact details if updated is very important for prompt cooperation between Central Authorities.
- i. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges
There is no such Judges in Ukraine yet.

Other

14.2 What other measures or mechanisms would you recommend:

- a. To improve the monitoring of the operation of the Conventions;
It would be very useful to have in the Child Abduction Section an information available on procedure for obtaining a free legal aid in the State Parties, as well as description of internal procedures of handling of incoming cases.
- b. To assist States in meeting their Convention obligations; and
- c. To evaluate whether serious violations of Convention obligations have occurred?

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

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

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

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

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

15. Views on priorities and recommendations for the Special Commission

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

Discussing of issues concerning the preventive measures, to be taken in order to prevent the abduction, abiding the terms of consideration of cases by courts, Direct Judicial Communication, applying of Article 13 (a) of the Hague Child Abduction Convention, enforcement of return orders - challenges and tools.

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

16. Any other matters

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