

# 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.

<b>Name of State or territorial unit:</b> <sup>1</sup>	República Argentina
<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 State<sup>2</sup>

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:

In 2017, a Pilot Project for the Implementation of Mediation for the Application of International Child Abduction Conventions (<https://actualidadjuridicaonline.com/wp-content/uploads/2020/08/ADJ-0.944220001598454346-1.pdf>) was designed by the National Commission for Access to Justice of the Supreme Court as a complement to the Action Protocol for the Operation of International Child Abduction Agreements (link: <http://www.cnaj.gob.ar/cnaj/docs/nacionalConvSustraccion.pdf>).

2. Following the Covid-19 pandemic,<sup>3</sup> 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;

Applications are accepted in digital format without the need for paper support

b) Participation of the parties and the child (e.g., appearance in court proceedings, mediation);

The holding of virtual meetings has been incorporated through online videoconference platforms

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

<sup>2</sup> 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”).

<sup>3</sup> 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.

## c) Promoting mediation and other forms of amicable resolution;

The holding of virtual meetings has been incorporated with the aim of reaching a voluntary agreement through online videoconference platforms as it is suggested in the Action Protocol for the Operation of International Child Abduction Agreements (link:

<http://www.cnaj.gob.ar/cnaj/docs/nacionalConvSustraccion.pdf>).

In 2017, a Pilot Project for the Implementation of Mediation for the Application of International Child Abduction Conventions

(<https://actualidadjuridicaonline.com/wp-content/uploads/2020/08/ADJ-0.944220001598454346-1.pdf>) was designed by the National Commission for Access to Justice of the Supreme Court as a complement to the Action Protocol for the Operation of International Child Abduction Agreements (link:

<http://www.cnaj.gob.ar/cnaj/docs/nacionalConvSustraccion.pdf>).

The texts of the Pilot Project and the Action Protocol are attached to the Application forms with the aim to be considered and acknowledgeable by the competent judiciary.

## d) Making arrangements for organising or securing the effective exercise of rights of access, including while pending return proceedings;

The holding of virtual meetings has been incorporated through online videoconference platforms, as it is suggested in the Action Protocol for the Operation of International Child Abduction Agreements (link: <http://www.cnaj.gob.ar/cnaj/docs/nacionalConvSustraccion.pdf>).

## e) Obtaining evidence by electronic means;

The obtaining of evidence by digital means will depend on the regulations of the procedural codes of each jurisdiction and will depend on the specific case. However, courts tend to use electronic means to obtain evidence, such as witness testimony through different platforms.

## f) Ensuring the safe return of the child;

Technology allows the Central Authorities and Liaison Judges to maintain fluid communication to coordinate the return of the child.

## g) Cooperation between Central Authorities and other authorities;

The holding of virtual meetings has been incorporated with the aim of reviewing cases quickly and effectively.

## h) Providing information and guidance for parties involved in child abduction cases;

This Central Authority provides information and guidance by telephone, e-mail, its official website and videoconference when needed.

## i) Other, please specify.

The Central Authority has organized seminar, workshops, and conferences on the subject matter to disseminate information and good practices to competent authorities.

A handbook with international instruments, national and provincial law was published in 2022. This handbook also contained a brief introduction to the proceedings covered by the Convention.

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 authorities<sup>4</sup> in your State.

Case Name	Court Name	Court Level	Brief summary of the ruling
R. M. c/ G. S. C. E.	Sala Civil y Comercial	Tribunal Superior de Justicia de la Provincia de Córdoba	Appeal granted and return ordered; the removal was wrongful and the “Grave Risk” exception (art. 13(1)(b)) was not proven to the extent required and with the thoroughness in the analysis of the evidence required by the Convention. In the face of the alleged gender-based violence, it is inescapable that appropriate ameliorative measures be taken to ensure the child and his mother's return to France. The judgment was executed.
Defensoría de Pobres y Ausentes N° 1 s/Restitución internacional de menor	Sala B Vocalía N° 1	Tribunal de Familia de Formosa	<a href="https://www.incadat.com/es/case/1516">https://www.incadat.com/es/case/1516</a>
G. T., D. c/M. S., C.	Sala III	Cámara Civil de Neuquén	The restitution of the child was ordered by the Family Court and upheld by the Court of Appeal. Even though the “Grave Risk” exception was rejected, ameliorative measures were ordered as a condition for the safe return. The parties were referred to mediation, and an agreement was reached on all issues required as a condition for the safe return. The agreement was judicially approved.

4. Please provide a brief summary of **any other significant developments** in your State since the 2017 SC.

A National Procedural Draft Law for restitution and access proceedings is under consideration of the Executive Power.  
 Mediation was implemented in these proceedings. A Mediation Pilot Project has been developed and approved by the Commission on Access to Justice and it is currently being applied.  
 Procedural laws have been issued in nine provinces.  
 Concentration of competence was included in Law 10419 of the Province of Córdoba.

<sup>4</sup> 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.

The aforementioned Action Protocol has been supported by the Superior Courts of the Provinces.

The Central Authority is working on action protocols for civil servants in order to guarantee the correct application of the Convention.

As regard developing capacities, seminars on this subject are organized by the Central Authority periodically for judges and judicial officers along the country. Legal officers of the Central Authority have been invited to develop trainings to consular and diplomat agents to improve the application of the Convention.

The Central Authority has been promoting the application and dissemination of the Guide of Good Practices. These texts are usually attached to the Application forms.

Enforcement of Judgment: Mirror orders are issued and the Enforcement Guide is applied.

A handbook with international instruments, national and provincial law was published in 2022. This handbook also contained a brief introduction to the proceedings covered by the Convention.

Legal officers of the Central Authority have participated as co-authors in certain publications on the subject matter.

### 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:

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Some countries make a restrictive interpretation of both international restitution and cross-border contact applications. It has become very common that in allegations of gender violence pending of final resolution, the cases are refused by the Central Authority without being analysed.

Other Central Authorities interpret the Convention in a way which is not in harmony with its object and purpose. Besides this, they do not make any effort to locate the children. Furthermore, unilaterally they decide whether to appeal or not the resolutions when they are not favourable to the return of the child even though they legally represent the left behind parent.

The contact details of some Central Authorities are not updated which makes it very difficult to communicate with them.

For countries that had made reservations over article 26, it is very difficult to find attorneys to provide legal counselling.

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:

See question 3.

## 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)<sup>5</sup> 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:

Even though, the competent judicial authorities should follow the most expeditious procedural rules of each jurisdiction, there are delays in the resolution of the case.

In this regard, would be interesting to verify and confirm the scope of the Central Authority regarding the availability to proceed with notification, and identified the scope and means to obtain the proof during the procedure.

### 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:

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

Coordinating safe returns among the competent authorities who intervene in the case can cause delays, particularly due to the fact that in many occasions, the courts do not issue resolutions in this regard.

### Mediation / ADR

- No  
 Yes

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<sup>5</sup> 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.”

Procedure not yet revised

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

We don't have records on this topic

### 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:

It depends on the procedural law of each jurisdiction in Argentina. The country is organized into a federal system which means that each Province enacts its own constitution, by which it must provide for its own administration of justice. In Cordoba, for example, the procedural law includes concentration of jurisdiction, production of summary evidence, limitation of appeals and swift enforcement. Also the aforementioned Protocol contains recommendations in this sense.

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:

We are working on a national procedural law in order to shorten and streamlined the judicial processing deadlines.

10. Do the courts in your State make use of direct judicial communications<sup>6</sup> to ensure prompt proceedings?

No  
 Yes  
 Please specify:

Certain cases have made use of direct judicial communications in order to ensure the prompt proceeding, in order to accelerate the exchange of information

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

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

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<sup>6</sup> 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”.

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?

V. y S. L. case: the judge of Córdoba Province requested communication with the Italian judge prior to issuing a restitution decision, because in Italy there was a demand for a change of residence for the children and he wanted to articulate with his Italian counterpart the best way to proceed.

B.A case: In Bariloche, Province of Río Negro, the acting judge requested communication with the Northern Ireland judge to inquire about the existence of pending procedures, to inform about the restitution procedure in Argentina.

## 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:

On some occasions there are problems with the location of the children. Some countries ask for the exact location to start the case and many times the applicants do not have that information

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:

Please insert text here

### 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:

Legal representation in Argentina does not usually cause delays in the processing of the restitution claim under this jurisdiction

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?**<sup>7</sup>

<sup>7</sup> 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](http://www.hcch.net) under “Child Abduction Section” then “Special Commission meetings”.

- No  
 Yes

Please specify:

For countries that had made reservations over article 26, it is very difficult to find attorneys to provide legal counselling. Even though the legal aid is pro bono, sometime there are some expenses or administrative charges to cover, which result unaffordable for left behind parent in Argentina. Sometimes, translation issues arise.

### 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:

In some jurisdictions, until the location of the children and/or adolescents is confirmed, the process cannot be initiated, which results in excessive delays. Some foreign States don't have the means for locating children

### 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:

When it is requested by the left behind parent, the Central Authority offers a meeting space where the parties are encouraged to try to reach for a voluntary agreement.

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 skills<sup>8</sup>)?

Please specify:

The Central Authority and Liaison Judges provide training or articulate with specialized mediators to hold the meeting in order to bring about an amicable resolution of the issues. It is essential to have specialised staff in the subject in order to deal with cases in a better way.

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:

The mediation services are already being provided. They are also being development to spread amicable resolution of the cases.

<sup>8</sup> 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](http://www.hcch.net) under "Child Abduction Section" then "Guides to Good Practice".



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?<sup>9</sup>

No

Please explain:

The mediation services are already being provided. They are also being development to spread amicable resolution of the cases.

Yes

Please explain:

Please insert text here

### Ensuring the safe return of children<sup>10</sup>

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 mediation services are already being provided. They are also being development to spread amicable resolution of the cases.

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:

Even though Argentina is still under the process of ratification of the 1996 Convention, The Central Authority could provide the situation report as long as the children's care organization provides collaboration to elaborate it.

### Information exchange, training and networking of Central Authorities

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?<sup>11</sup>

No

Yes

Please specify:

The Argentine Republic has promoted the creation of the Latin American Network of Central Authorities, which purpose is to establish a permanent consultation space that is managed directly and exclusively by Central Authorities, create a board of central authorities, in the accordance with agreements in which they have been designated, hold periodic meetings at the request of the members of the Network, in order to analyze the challenges of international judicial cooperation on different topics, share good practices, promote the creation and development of international instruments on different topics, in consonance with Latin American legal traditions, address the study of international judicial cooperation from a gender perspective, promoting its mainstreaming.

<sup>9</sup> 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.

<sup>10</sup> See Art. 7(2)(h) of the 1980 Convention.

<sup>11</sup> 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](http://www.hcch.net) (see path indicated in note 8).

With these objectives, the Ministry of Foreign Affairs, International Trade and Worship organized the First Meeting of the Latin American Network of Central Authorities, between September 14 and 15, 2022, in the city of Santa Fe de la Vera Cruz, which developed successfully, in an environment of the highest respect and cordiality. In addition to the Office of International Legal Assistance, the Central Authorities of Chile and Uruguay participated in the meeting.

On that occasion, the Letter of Intent for the creation of the Latin American Network of Central Authorities was signed in Santa Fe de la Vera Cruz, September 15, 2022.

Professional profiles of the agents of the Central Authority: The professionals who work in the Central Authority participate in forums, work groups and common dialogue spaces, which makes it possible to have a fluid exchange regarding new challenges, new regulations, good practices, case management, etc. with their colleagues from around the world.

Furthermore, the professional profiles, for the most part, have postgraduate, masters and doctoral studies in related subjects, and knowledge of foreign languages: English, Italian, French and Portuguese at work level. They also participate in academic activities in related subjects, such as university teaching (undergraduate and graduate level), research, academic associations, and publications.

This has made it possible to strengthen the participation in academic activities and professional training of public officials with and towards the actors that participate in international legal cooperation mechanisms.

### 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:

Regarding the documentation management, the International Legal Assistance Directorate carries out a preliminary classification of incoming documentation and categorization of priority tasks. The documentation is manually classified into Emergency, Very Urgent, Urgent and Normal. Although an attempt is made to speed up all the requirements, given the amount of incoming and outstanding documentation, it is necessary to make this classification in order to give priority attention to cases, which, depending on the fact being investigated, the sensitivity or the measure that is requested requires its completion on the day.

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

- No  
 Yes

Please specify:

The International Legal Assistance Office is analysing how to update its computerized case management system in order to be able to provide more accurate statistics with a higher level of disaggregated data.

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)?<sup>12</sup>

- No  
 Yes

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

The International Legal Assistance Office is analysing how to update its computerized case management system in order to be able to provide more accurate statistics with a higher level of disaggregated data.

### Transfrontier access / contact<sup>13</sup>

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:

It depends on the procedural law of each jurisdiction inside Argentina. We did not have significant changes, but the advancement of technology helps to establish contact between children and non-cohabiting parents. Observations: As of 2017 there have been significant changes thanks to the advancement of technology; nowadays children have contact with the left-behind parent during the proceedings provided this is in their best interest.

Publication of the Regulatory Compendium: In 2022, the First Edition of the Regulatory Compendium of International Restitution of Children and Adolescents and the regime of international visits or cross-border contact was published. It consists of a brief introduction about the processes of international restitution and international visits, international treaties on the matter, and provincial procedural laws.

On December 15, 2021, the VIII International Legal Cooperation Seminar was held at the Manuel Belgrano Auditorium of this Ministry of Foreign Affairs, International Trade and Worship, which was attended by more than 100 people in person and more than 150 in virtual format, including judges, prosecutors, officials of foreign Representations, officials of Representations abroad, academics, legal advisers and those interested in the topics.

On September members of the restitution team participate in the International Restitution Workshop Seminar organized by the Supreme Court of Paraguay.

On November 1, 2022, the IX Seminar on International Legal Cooperation was held at the Manuel Belgrano Auditorium of this Ministry of Foreign Affairs, International Trade and Worship, which was attended by more than 180 people in person and more than 280 in virtual format, including judges, prosecutors, officials of foreign Representations, officials of Representations abroad, academics, legal advisers and those interested in the topics.

In 2022, officials from the Office of International Legal Assistance participated, as speakers, in the Conversation "Cycle of Talks on International Legal Cooperation"

<sup>12</sup> 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.

<sup>13</sup> See C&R Nos 18-20 of the 2017 SC.

organized by the Supreme Council of Justice of the Autonomous City of Buenos Aires within the framework of the Transfer Commission of the Judiciary of the Nation and the Public Ministry of the Nation to the Autonomous City of Buenos Aires.

Finally, like every year, officials from the Office of International Legal Assistance participate in training sessions for the scholarship holders of the Institute of the Foreign Service of the Nation.

Federal Institutional Reinforcement: In order to strengthen communication between the different actors involved in international legal cooperation mechanisms, National and Federal Judicial Powers of the Provinces of the Argentine Republic are being contacted in order to organize activities leading to the circulation and exchange of the aforementioned procedures and strengthen the federal link. This is important given the territorial extension of our country, the federal distribution of the administration of justice, and that any judicial body, within the framework of its powers, could request the articulation of an international legal cooperation mechanism.

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:

Some countries, have a common practice of closing cases of violence that have not been sentenced, which can make it difficult to exercise the right of contact.

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?<sup>14</sup>

- No
- Yes

Please specify:

Some countries, have a common practice of closing cases of violence that have not been sentenced, which can make it difficult to exercise the right of contact.

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 <b>another Contracting Party</b> (as requesting State)	<input checked="" type="checkbox"/> 1. Assistance in obtaining information on the operation of the 1980 Convention <input 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 <input checked="" 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

<sup>14</sup> 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 checked="" type="checkbox"/> 7. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input checked="" 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:  <p style="text-align: center;">Please insert text here</p>
<p>A request of assistance to organise or secure effective exercise of rights of access <b>in your State</b> (as requested State)</p>	<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 checked="" 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 checked="" 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: <p style="text-align: center;">Please insert text here</p>

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:

We are not a party to the 1996 Convention. However, the Convention is under the legislative approval procedure for further ratification.

### 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:

Depending on the jurisdiction, the Child's Lawyer, the Ombudsman for Minors, and/or an interdisciplinary team participate. In addition, in most of the country's jurisdictions, children are heard directly by the judge.

The Argentine Central Authority does not usually have contact with the children involved in the proceedings. Normally, the intervening courts are in charge of interviewing the children through specialized persons. If relevant issues are observed, reports can be sent to us and forwarded to the competent authority. We try to ensure that both the requested and the requesting State have the same information.

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:
- [Please insert text here](#)

**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:

Please indicate:

Pro forma forms are available on the official website, which makes it easier for the competent authorities to formulate their requests more efficiently, since they present fields to fill in with all the necessary information and the formal requirements in accordance with applicable treaties. Website: <http://www.menores.gob.ar/> (here you can access the current treaties on the matter and the forms). Furthermore, the restitution team has a cell phone on call which is available 24 hours for emergencies.

The Central Authority verifies and assists applicants in obtaining information and documents. It also checks records with local courts and protection agencies.

38. Considering C&R No 7 of the 2017 SC,<sup>15</sup> 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**

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<sup>15</sup> 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.”

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: In cases in which there is a refugee application, the intervening court does not provide information on the status of the process under the argument of the principle of confidentiality. This scenario generates a conflict of interest regarding the due to information the Central Authority has and the confidentiality of the refugee claim. It would be interesting to clarify this situation.

- 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 cases in which, according to the intervening court, it is in the best interest of the child and/or adolescent to return, and the child and/or adolescent manifestly opposes it.

#### Use of the 1996 Convention<sup>16</sup>

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**)

Yes, it would be especially important the determination of jurisdictional basis in particular for cases with domestic violence or violence against the child, because it would be necessary

(b) providing for the recognition of urgent protective measures by operation of law (**Art. 23**)

It would be important for the child's protection during the processing of the return request

(c) providing for the advance recognition of urgent protective measures (**Art. 24**)

Yes, especially the intervention of child protection agencies

(d) communicating information relevant to the protection of the child (**Art. 34**)

It would be important in order to speed up the procedure for the child's return.

(e) making use of other relevant cooperation provisions (e.g., **Art. 32**)

Every other cooperation provision that is issued in order to guarantee the interest of the child will improve the analysis and development of the processes.

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?<sup>17</sup>

<sup>16</sup> 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"](#).

<sup>17</sup> 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



- No  
 Yes

Please specify:

We are not part of the 1996 Convention

### 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:

There are cases where the father or mother refuses to return due to violence matters or security matters. In Argentina there are multiple protection measures for cases of violence or abuse. They depend and vary in each jurisdiction. In these cases, the children can return with another relative or authorized person.

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:

In the event that a court abroad orders measures, they can be mirrored.

Consular Assistance can be offered.

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:

It is difficult to verify whether they are adopted or not. There is no judicial follow-up of the process.

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?

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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.)



- 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:  
 From the Central Authority of Argentina capacities we do not monitor the measures to be adopted after the return, although, depending on the case, we can follow up through the different competent agencies, such as the National Secretariat of Childhood.

### International family relocation<sup>18</sup>

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:  
 The Argentine Central Authority does not have a specific procedure to follow.

### 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:  
 In 2018, the Central Authority, together with different agents involved in the topic, worked on the preparation of a bill to regulate international restitution procedures within the framework of international conventions. The project was presented in congress, and although it received half approval from the Upper House in 2019, it failed to follow the approval process.

For this reason, the Central Authority team has drafted a new law project which seeks to reflect the spirit and objectives of the conventions on the matter, under a child-centric approach and with a human rights and gender perspective. In the elaboration, the obstacles that arise in the practice of the processing of the cases were

<sup>18</sup> 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."

meticulously indicated and an attempt was made to provide efficient solutions through the elaboration of specific clauses that provide tools to the intervening agents.

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

Please explain:

In order to strengthen communication between the different actors involved in international legal cooperation mechanisms, National and Federal Judicial Powers of the Provinces of the Argentine Republic are being contacted in order to organize activities leading to the circulation and exchange of the aforementioned procedures and strengthen the federal link. This is important given the territorial extension of our country, the federal distribution of the administration of justice, and that any judicial body, within the framework of its powers, could request the articulation of an international legal cooperation mechanism.

## 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:

Certain seminars and conferences are organized annually, both by the Central Authority and the Network Judges, in which the practical application of the convention and current challenges are discussed. The members of the Office of International Legal Assistance participate in periodic training, working groups, forums, programs and workshops to strengthen their capacities, share information, exchange their practical experiences and consolidate their practice with other Central Authorities. This practice has led to the strengthening of the bonds of trust between Central Authorities and has a positive impact on the execution of requests for mutual legal assistance.

### 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 Country Profile is rarely used by the Argentinean Central Authority. However the information of contact of each authority is really useful

- b. INCADAT (the international child abduction database, available at [www.incadat.com](http://www.incadat.com)).

The members of the Office of International Legal Assistance participate in periodic training, working groups, forums, programs and workshops to strengthen their capacities, share information, exchange their practical experiences and consolidate their practice with other Central Authorities. In this activities it is used INCADAT.

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

The Argentinean Central Authority has not being utilized the Newsletter

- d. The specialised "Child Abduction Section" of the HCCH website ([www.hcch.net](http://www.hcch.net));

It is very useful, it is used on a daily basis

- 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;

The Argentine Republic has promoted the creation of the Latin American Network of Central Authorities, which purpose is to establish a permanent consultation space that is managed directly and exclusively by Central Authorities, create a

<sup>20</sup> 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.

board of central authorities, in the accordance with agreements in which they have been designated, hold periodic meetings at the request of the members of the Network, in order to analyze the challenges of international judicial cooperation on different topics, share good practices, promote the creation and development of international instruments on different topics, in consonance with Latin American legal traditions, address the study of international judicial cooperation from a gender perspective, promoting its mainstreaming.

With these objectives, the Ministry of Foreign Affairs, International Trade and Worship organized the First Meeting of the Latin American Network of Central Authorities, between September 14 and 15, 2022, in the city of Santa Fe de la Vera Cruz, which developed successfully, in an environment of the highest respect and cordiality. In addition to the Office of International Legal Assistance, the Central Authorities of Chile and Uruguay participated in the meeting. On that occasion, the Letter of Intent for the creation of the Latin American Network of Central Authorities was signed in Santa Fe de la Vera Cruz, September 15, 2022.

Professional profiles of the agents of the Central Authority: The professionals who work in the Central Authority participate in forums, work groups and common dialogue spaces, which makes it possible to have a fluid exchange regarding new challenges, new regulations, good practices, case management, etc. with their colleagues from around the world.

Furthermore, the professional profiles, for the most part, have postgraduate, masters and doctoral studies in related subjects, and knowledge of foreign languages: English, Italian, French and Portuguese at work level. They also participate in academic activities in related subjects, such as university teaching (undergraduate and graduate level), research, academic associations, and publications.

This has made it possible to strengthen the participation in academic activities and professional training of public officials with and towards the actors that participate in international legal cooperation mechanisms.

On the other hand, the members of the Office of International Legal Assistance participate in periodic training, working groups, forums, programs and workshops to strengthen their capacities, share information, exchange their practical experiences and consolidate their practice with other Central Authorities. This practice has led to the strengthening of the bonds of trust between Central Authorities and has a positive impact on the execution of requests for mutual legal assistance.

- f. Encouraging wider ratification of, or accession to, the 1980 (and 1996) Conventions, including educating those unfamiliar with the Convention(s);<sup>21</sup>  
Accession to the 1996 Convention is being promoted.
- 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.

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<sup>21</sup> 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.

The Central Authority is preparing some previous meetings in order to communicate with another Central Authorities

- 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.

The Central Authority is in permanent contact with the two network judges in Argentina.

- 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.

In the cases in which the statistics are requested, they can be sent by this Central Authority

### **Guides to Good Practice under the 1980 Convention**

- 54. For any of the Guides to Good Practice<sup>22</sup> 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.

This document is currently used to provide to the Central Authority guidance for cases and to verify the scope of the capacity when doubt.

- b. Part II on Implementing Measures.

This Guide is not very much used in the routine of the Central Authority

- c. Part III on Preventive Measures.

This Guide is not very much used by the judges in their rulings though we encourage its application

- d. Part IV on Enforcement.

This Guide is not very much used by the judges in their rulings though we encourage its application.

- e. Part V on Mediation

This Guide is not very much used by the judges in their rulings. However it has been taken into consideration where the Pilot Project for the Implementation of Mediation for the Application of International Child Abduction Conventions was designed.

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

This Guide is very useful because many of the cases we receive involve violence, so we encourage the judges to apply the solutions of this document

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

This Guide is not very much used by the judges in their rulings though we mention it in our cover letter.

- 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?

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<sup>22</sup> All Parts of the Guide to Good Practice under the 1980 Convention are available on the HCCH website at [www.hcch.net](http://www.hcch.net) under "Child Abduction Section" then "Guides to Good Practice".

The Central Authority includes the guidelines at the time of initiating the processes in order to provide dissemination and allow their use by all the parties involved in the process.

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*<sup>23</sup> to assist in improving the practical operation of the 1980 Convention in your State?

We haven't used 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;

We believe that this type of tool, such as surveys in which States Parties to the Convention can share their experiences in relation to the 1980 Hague Convention, is very useful, and it would be useful to do so on a regular basis.

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

We believe that training through face-to-face and virtual meetings with the different Central Authorities would be very enriching.

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

Periodic surveys carried out in the different States and specifically oriented to this type of issue.

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<sup>23</sup> The *Practitioner's Tool* is available at the HCCH website at [www.hcch.net](http://www.hcch.net) under "Child Abduction Section" then "Guides to Good Practice".

## 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:

So far, all the States parties with whom we usually interact are part of the Convention.

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:

We do not see the need to include a particular State, although we believe that the inclusion of new countries will contribute to strengthening the international community's commitment to the international return of children.

### The “Malta Process”<sup>24</sup>

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:

Please insert text here

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<sup>24</sup> 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](http://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:  
Please insert text here

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:  
Please insert text here

### **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