

Questionnaire concerning the Practical Operation of the 1980 Child Abduction Convention

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

Name of State or territorial unit: ¹	Hong Kong Special Administrative Region, People's Republic of China
<i>For follow-up purposes</i>	
Name of contact person:	
Name of Authority / Office:	
Telephone number:	
E-mail address:	
Date:	

PART I – PRACTICAL OPERATION OF THE 1980 CONVENTION

Recent developments in your State²

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

No

Yes

Please specify:

[Please insert text here](#)

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

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

[We continue to accept return and access applications made by electronic means. In addition, during the Covid-19 pandemic, each of our legal staff has been provided with a laptop computer for working at home. We can access work emails remotely and consequently, process the applications without delay despite the pandemic.](#)

- b) Participation of the parties and the child (e.g., appearance in court proceedings, mediation);
[With the court's sanction, some court hearings had been taking place in the form of videoconference if any of the parties were unable to attend the hearing in person.](#)

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

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

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

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

Not that we are aware of.

- d) Making arrangements for organising or securing the effective exercise of rights of access, including while pending return proceedings;
Not that we are aware of.
- e) Obtaining evidence by electronic means;
Parties may submit e-bundles to the court for the hearings.
- f) Ensuring the safe return of the child;
Not that we are aware of.
- g) Cooperation between Central Authorities and other authorities;
We continue to communicate with other Central Authorities via electronic means. Contact between our Central Authority and other local authorities is also established via the use of facsimile or telephone.
- h) Providing information and guidance for parties involved in child abduction cases;
Information and guidance are available at our website and could be provided via electronic means.
- i) Other, please specify.

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

Case Name	Court Name	Court Level	Brief summary of the ruling
BMC v BGC (formerly known as WCY) [2020] HKFLR 344; [2020] HKCA 317	Court of Appeal	High Court	Left behind parent (Father, who was the Appellant) sought to argue that the correct legal principle in determining a young child's habitual residence was to consider the social and family environment of BOTH parents and the judge at the Court of First Instance took into account a wrong principle as established in the case of ME v CYM [2017] 4 HKLRD 739. The Appellate court found that the court at first instance had looked at the living of the family in the USA from both parents' perspectives. The Appellate court further held that habitual residence is a question of fact the determination of which involves an assessment of a number of different factors which have to be weighed against each other. In considering whether integration in a social and family environment would have a sufficient degree of stability to

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

			<p>establish habitual residence, it must be borne in mind that this is often a matter of degree upon which different judges can legitimately differ, so the appeal court should be very cautious in differing from the judge's evaluation and it ought not to interfere unless it is satisfied that the judge's finding lay outside the bounds within which reasonable disagreement is possible.</p> <p>The Appellate Court found that the finding of habitual residence by the court of first instance was made after a careful evaluation of the facts and there is no basis to interfere with the judge's finding. The appeal was dismissed.</p>
<p>T v L HCMP 376/2022; [2022] HKCFI 1418</p>	<p>Court of First Instance</p>	<p>High Court</p>	<p>During a heated argument, Father demanded Mother and Child to leave their home in the United Kingdom. Mother later brought Child back to Hong Kong.</p> <p>Held that even though the Father asked Mother to leave immediately with the Child, this did not mean that the Father had agreed during the heated argument to give up his rights of custody, or had agreed to the Mother having sole custody or sole care of the Child. In particular, there was no sufficient evidence in the case that the Father had given up his right to determine the Child's place of residence.</p> <p>Accepting the undertakings made by the Father, the Court ordered return of the Child to the United Kingdom.</p>
<p>BRS v LYY HCMP 130/2018; [2018] HKCFI 1524</p>	<p>Court of First Instance</p>	<p>High Court</p>	<p>A case where the originating summons was issued more than 1 year after the Mother's repudiatory retention. In considering whether to exercise her discretion to order the return of the Child, the judge took into account the following factors :</p> <ul style="list-style-type: none"> a. the Child's step-father and god-grandmother's evidence showing consistent love which formed part of a strong web of care arrangements for the Child; b. the Child should not be exposed to psychological harm arising from the Father's constant criminal activities;

		<p>c. without any safe harbour measures, it was intolerable to send the Child to a world of unknown;</p> <p>d. although the Father was found not to have acquiesced the Child's wrongful retention in Hong Kong, he did not make a hot pursuit for no good reason. He also became out of reach when his solicitors in Hong Kong were attempting to contact him to prepare an affidavit in reply; and</p> <p>e. the Father further delayed the return proceedings by applying for legal aid in Hong Kong in the middle of the case.</p> <p>It was said that the Father's delays have contributed to the settlement of the Child in Hong Kong.</p> <p>One of the principal objects of the Convention is to secure the best interests of abducted children, rather than punishing those who abduct them. That being the case, even if there has been morally reprehensible conduct on the part of the abductor, a time must be reached when, if the circumstances so dictate, it harms rather than helps children to order their return. The present case is one of those where the discretion should be exercised against return to help the Child.</p> <p>The return application was refused by the Court.</p>
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4. Please provide a brief summary of **any other significant developments** in your State since the 2017 SC.

Nil return.

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:
[Please insert text here](#)

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:
[Please insert text here](#)

Addressing delays and ensuring expeditious procedures

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

Central Authority

- No
 Yes
 Procedure not yet revised

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

[Please insert text here](#)

Judicial proceedings

- No
 Yes
 Procedure not yet revised

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

[Please insert text here](#)

Enforcement

- No
 Yes
 Procedure not yet revised

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

[Please insert text here](#)

Mediation / ADR

- No
 Yes
 Procedure not yet revised

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

[Please insert text here](#)

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

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:

Return proceedings are governed by the Rules of the High Court which provide, *inter alia*, for the exchange of affidavit evidence only and within stipulated time limits. Oral evidence is generally not allowed and if allowed, it is at the discretion of the judge on a case by case basis and in exceptional circumstances. In addition, strict timeframes are set by judges during the course of the proceedings to ensure that the applications are expeditiously dealt with and a decision be reached within the 6-week period and, if not practicable, within the shortest possible period.

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

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

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

- No
 Yes

Please specify:

Two Network Judges have been designated for the purpose of conducting direct judicial communications. A Practice Direction-SL7 ("PDSL7") has been issued to facilitate such communications. PDSL7 could be accessed at: <https://legalref.judiciary.hk/lrs/common/pd/pdcontent.jsp?pdn=PDSL7.htm&lang=EN>

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 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?

[We are not aware of any such case.](#)

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

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:

[Please insert text here](#)

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:

[Please insert text here](#)

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

- No
 Yes

Please specify:

[Please insert text here](#)

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

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

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

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:

We will meet with/write to the abducting parent to persuade him/her to return the child voluntarily. In particular, we will explain clearly to him/her that the return of the child does not mean the granting of rights of custody to the left behind parent and that the issues concerning such rights and the welfare of the child will have to be decided by the courts of the habitual residence. We will also encourage the parties to communicate with each other directly to resolve the disputes among themselves and remind them of the adverse impact of court proceedings on the child.

19. In the case that your Central Authority offers mediation services, or other alternative dispute resolution methods to bring about an amicable resolution of the issues, has your Central Authority reviewed these procedures in the light of the framework of international child abduction cases (e.g., by providing trained, specialised mediators, including with cross-cultural competence and necessary language skills⁸)?

Please specify:

Although we do not offer mediation services to the parties, we will refer the parties to non-governmental organisations which provide mediation services if the parties wish to undertake mediation.

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:

We currently have no plan to provide the aforementioned services. Due to the limited number of cases, it is considered not cost effective. The present available facilities are considered sufficient to serve the purpose.

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

No

Please explain:

See above at 20.

Yes

Please explain:

Please insert text here

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

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

Ensuring the safe return of children¹⁰

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

Please explain:

We will liaise with the Central Authority of the requesting State and obtain such information from them directly.

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:

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? ¹¹

- No
 Yes

Please specify:

Please insert text here

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:

Please insert text here

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

- No
 Yes

Please specify:

We operate an internal case management system whereby the counsel responsible for the case is required to insert details of the case. We also keep case schedules to which counsels are required to make regular status updates.

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

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

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

- No
- Yes

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

The information is not publicly available.

Transfrontier access / contact¹³

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

- No
- Yes

Please specify:
Please insert text here

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

- No
- Yes

Please specify:
Please insert text here

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

- No
- Yes

Please specify:
Please insert text here

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

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

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

¹³ See C&R Nos 18-20 of the 2017 SC.

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

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

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

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

Special topics

Obtaining the views of a child in a child abduction case

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

Please explain:
A social welfare report may be called for upon the judge's direction. Elements to be observed or reported mainly depend on the request of the judge seeking the report. Common areas covered are the views of the child on the subject of return and the degree of maturity of child.

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:

Practice Direction-PDSL5 ("PDSL5") provides guidance to judges on meeting children. PDSL5 stresses the importance of the need to afford the child, who is capable of forming his or her own views, an opportunity to express his/her views in any proceedings affecting the interest of the child. PDSL5 is available at <https://legalref.judiciary.hk/lrs/common/pd/pdcontent.jsp?pdn=PDSL5.htm&lang=EN>

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:

We have set out in our website what additional information the Applicant can provide us with in order to assist our review of his or her application. For more information, please refer to <https://www.doj.gov.hk/childabduct/en/application-for-assistance/return-of-child/index.html>

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

Please insert your suggestions:

Nil return.

Relationship with other international instruments on human rights

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

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

- 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:
[Please insert text here](#)

- 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:

Use of the 1996 Convention¹⁶

41. If your State is not Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention (please comment where applicable below):

(a) providing a jurisdictional basis for urgent protective measures associated with return orders (**Arts 7 and 11**)

[While we have no intention to join the 1996 Convention at present stage, we will continue to keep in view the condition of the relevant aspects.](#)

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

[See \(a\) above.](#)

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

[See \(a\) above.](#)

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

[See \(a\) above.](#)

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

[See \(a\) above.](#)

42. If your State is a Party to the 1996 Convention, does your State make use of the relevant cooperation provisions (e.g., Art. 32) to provide, if requested, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?¹⁷

- No
 Yes

Please specify:

[Please insert text here](#)

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

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

Primary carer and protective measures

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

Please explain and provide case examples where possible:

The court will obtain undertakings from the left-behind parent as to the protective measures in place if the child is returned to his/her habitual residence, which may include any arrangements for the daily care of the child upon return. The non-return of the taking parent is not considered as an obstacle to the return of the child if there are sufficient protective measures in place to safeguard the return of the child.

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:

We will relay the concern of the primary carer to the Central Authority of the requesting State with a view to finding a solution to ensure the primary carer can return safely with the child. For example, we may explore with the Central Authority of the requesting State if separate accommodation for the abducting parent and the child can be provided upon their return and what other safety measures can be in place before the return. We may also suggest the left-behind parent to withdraw any criminal charge/complaint that he/she has filed against the taking parent in the requesting State. The court may order the left-behind parent to sit separately from the taking parent and the child on the return flight.

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

- No
 Yes

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

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

- No
 Yes

Please specify:
 Please insert text here

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

- No
 Yes

Please specify:
 Please insert text here

- N/A

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

- No
 Yes

Please specify:

Close contacts are maintained with the requesting Central Authority to monitor the effectiveness and implementation of those interim protective measures embodied in the return order upon the child's return.

International family relocation¹⁸

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

- Yes
 Please describe such procedures, if possible:
 Please insert text here

- No
 Please describe how the authorities deal with international family relocation cases, if possible:
 When the parents are divorced, the court may prohibit the removal of the child without the consent of both parents until the child reaches 18 years old. If one of the parents wishes to seek the relocation of the child, no matter for temporary or permanent purpose, he will have to obtain the consent of the other parent, or an order from the court.

Publicity and debate concerning the 1980 Convention

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

- No
 Yes

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

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

Please explain:

Through talks and seminars given to the public e.g. to the university students or governmental organizations. Also, the information about the Convention can be found in our website : <http://www.doj.gov.hk/childabduct/index.html>

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

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:

Our counsel has provided training to the social workers that are attached to the Social Welfare Department on the topic of "Child Abduction across International Borders in Contest for Custody" in December 2019. Very positive feedback had been given by the participants who had rated the training session as being "extremely informative".

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.

It assists States Parties to have basic understanding of the operation of the Convention in other States Parties.

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

It provides very useful reference and is very user friendly.

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

It provides very useful reference.

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

It provides very useful reference.

- 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;

We very much appreciate the Permanent Bureau's efforts in organising seminars, conferences and special meetings to promote judicial and administrative co-operation as well as providing support in maintaining relevant materials and updated information in its website for the effective operation of the Convention by the Central Authorities.

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

It ensures the effective operation of the Convention on a wide basis.

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

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

- 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.

It is important to have such support in order to maintain the effectiveness and efficiency in the implementation of the Convention.

- 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.

It is important to have such support in order to maintain the effectiveness and efficiency in the implementation of the Convention.

- 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.

We appreciate the Permanent Bureau's assistance and effort in responding to questions raised by the Central Authorities, Hague Network Judges or other operators concerning the practical operation or implementation of the 1980 Conventions.

Guides to Good Practice under the 1980 Convention

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

- a. Part I on Central Authority Practice.

We have used the Guide to Good Practice as reference in improving the implementation and operation of the Convention. The Guide also serves as reference in our making of policy and practical decisions relating to the implementation of the Convention. The Guide provides useful practical guidance to the relevant authorities which play a part in the operation of the Convention.

- b. Part II on Implementing Measures.

See (a) above.

- c. Part III on Preventive Measures.

See (a) above.

- d. Part IV on Enforcement.

See (a) above.

- e. Part V on Mediation

See (a) above.

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

See (a) above.

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

g. Transfrontier Contact Concerning Children – General Principles and Guide to Good Practice
See (a) above.

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

The relevant authorities in our jurisdiction are well aware of and have access to the Guide to Good Practice posted on HCCH's websites. Their attention is also drawn to the relevant parts when seminars/lectures are conducted for them.

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

We do not have any other comments about any Part of the Guide to Good Practice.

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

The Practitioner's Tool is newly released and we have yet to come across any case which concerns recognition and enforcement of family agreements.

Other

58. What other measures or mechanisms would you recommend:

- a. to improve the monitoring of the operation of the 1980 Convention;
Setting up an independent office competent to review the practical operation of the Convention and to deal with reports of suspected serious violations of Convention obligations may be considered as necessary.
- b. to assist States in meeting their Convention obligations; and
Facilitating regular meetings of Central Authorities through seminars and conferences for sharing views and discussing problems relating to operation.
- c. to evaluate whether serious violations of Convention obligations have occurred?
same as (a).

²³ The *Practitioner's Tool* is available at the HCCH website at 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:

We have no particular recommendations at this stage.

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 have no particular recommendations at this stage.

The “Malta Process”²⁴

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

Please explain:

We do not have any suggestions.

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

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

Views on priorities and recommendations for the SC

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

Please specify and list in order of priority if possible:
We do not have any comments.

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

Please specify:
We have no particular suggestion at the moment.

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:

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:
We do not have any comments at this stage.