

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

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

<b>Name of State or territorial unit:</b> <sup>1</sup>	NORWAY
<i>For follow-up purposes</i>	
Name of contact person:	Ms Lene Smith Walaas and Ms Linn Krogsveen
Name of Authority / Office:	The Royal Ministry of Justice and Public Security, Department of Civil Affairs
Telephone number:	+47 22 24 54 51
E-mail address:	barnebortforing@jd.dep.no <a href="http://www.government.no/child-abduction">www.government.no/child-abduction</a>

**PART I: RECENT DEVELOPMENTS<sup>2</sup>**

**1. Recent developments in your State**

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

- No  
 Yes, please specify:

In January 2016, a number of statutory amendments relating to child abduction entered into force. The changes are intended to ensure more effective handling of international child abduction cases in Norway and to strengthen the child perspective in such cases.

Summary of changes:

- Jurisdiction in child abduction cases is now centralised with a single court at first instance (Oslo District Court) (Section 13(2) of the Child Abduction Act). Oslo District court has organised its work on child abduction cases such that cases are handled by six district court judges (from two different divisions). Any appeal is heard by Borgarting Court of Appeal and thereafter the Supreme Court.
- The appeal deadline in child abduction cases has been shortened from four to two weeks (Section 16(3) of the Child Abduction Act).
- A standard duty for the central authority to notify the Child Welfare Services has been introduced both for cases where a child has been abducted to Norway and where an abducted child is returned to Norway (Section 19 a of the Child Abduction Act). The purpose of the notification duty is to inform local authorities of the child so that they can investigate the circumstances and offer the child and the family help when they see a need for assistance.
- The rules on free legal aid in child abduction cases have been expanded. Among other things, the Legal Aid Act now gives priority to free conduct of proceedings by left-behind parents in cases where a child has been abducted to Norway (Section 16(2) of the Legal Aid Act).
- A rule has been introduced on deferred execution of rulings ordering the return of children on appeal (Section 18(2) of the Child Abduction Act). The change means that a

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

ruling ordering the return of a child cannot be enforced until the ruling becomes legally binding and any compliance deadline has passed.

- A rule has been introduced on implementing the inclusion of children's views in court proceedings in child abduction cases (Sections 17(1) and 17(2) of the Child Abduction Act).

- A rule has been introduced that provides for the state to cover the cost of any expert advice in connection with court proceedings in child abduction cases (Section 17(5) of the Child Abduction Act).

Statutory amendments that relate only to abductions from the Norwegian child welfare service:

- A travel ban has been introduced in cases which have been referred to the county child and social welfare board for consideration (Section 4-31 of the Child Welfare Act).

- Criminal liability for the abduction of children from the Norwegian Child Welfare Services has been expanded to also make it punishable to abduct a child from the child welfare service in various instances, including when an emergency order has been made (Section 261 of the Penal Code).

- A rule has been introduced stating that decisions of the County Child and Social Welfare Board are valid for one year at a time when there is reason to believe that a child has been abducted to another country (Section 4-13(2) of the Child Welfare Act).

- A duty has been introduced for the child welfare service to provide information to the authorities in the child's country of residence when a child has been abducted from the child welfare authorities (Section 6-7(4) of the Child Welfare Act).

Oslo District Court has stated that the average processing time for cases it has heard in 2016 was six weeks. This represents a clear drop in processing times compared to the situation before centralisation, when cases were heard by the district court responsible for the child's last place of residence (64 district courts in total). In contrast, the average processing time before Norwegian district courts in the period 2007-2012 was some 10 weeks.

1.2 Please provide a brief summary of any significant decisions concerning the interpretation and application of the 1980 Convention rendered since the 2011 / 2012 Special Commission by the relevant authorities<sup>3</sup> in your State including in the context of the 20 November 1989 United Nations Convention on the Rights of the Child and relevant regional instruments.

In the last questionnaire for the Special Commission in 2011 we mentioned a significant decision from 2007 (LB-2007-127164) regarding the interpretation of one of the Convention's exemption clauses. The decision was mentioned to illustrate the Norwegian courts' strict interpretation of the Convention's exemption clauses.

We would like to emphasise that the Norwegian courts since then have maintained the strict interpretation of the exemption clauses.

The decision from 2007 will soon be published at INCADAT, along with LB-2015-76479 (from 2015) as another example.

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

In addition to the statutory amendments mentioned in part 1.1, a number of initiatives and projects have been implemented in the child abduction field in recent years, including:

- The 1996 Hague Convention on Measures for the Protection of Children entered into force on 1 July 2016. The Central Authority is the Norwegian Directorate for Children, Youth and Family Affairs.

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<sup>3</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 States Parties such "authorities" will be courts (*i.e.*, judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

- A new circular on child abduction directed particularly at lawyers and judges has been prepared. It also contains relevant information for parents of abducted children. This is published on our child abduction website and is available in English.
- The Central Authority now routinely offers to meet affected parents in cases where children are abducted from Norway to another country. The aim is to provide information about the 1980 Hague Convention and the proceedings involved, and to provide necessary clarification early on.
- The Central Authority has revised its internal procedures for work on child abduction cases under the 1980 Hague Convention to reduce case-processing times, and adjusted its practices accordingly.
- The Director of Public Prosecutions has issued guidance in the form of letters and circulars on the prosecuting authorities' handling of child abduction cases. The aim is to raise awareness and improve knowledge of child abduction issues on the part of the prosecuting authorities and the police.

## 2. **Issues of compliance**

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

- No  
 Yes, please specify:

The three main challenges we experience are length of proceedings, difficulties with localization and cases which are treated more as custody cases than return cases under the Convention.

Overall, we experience that the main challenge lies with the courts and their lack of knowledge of the Hague Convention. We have also experienced a lack of willingness by some Central Authorities to react when they are aware that Hague cases are not treated in accordance with the Convention in their local courts.

For example, we have had one case since October 2014 that has not yet been brought to court due to "preliminary examination". In another case that started in December 2014, court hearing in first instance was scheduled after 10 months and the appeal hearing is scheduled 7 months after the hearing in the first instanced court. This seems to be a systematic challenge in some countries.

We have had some cases in different countries where custody proceedings have been initiated, or is initiated by the abducting parent, and the local court decides on the merits of rights of custody with no consideration to the ongoing Hague case, despite being aware of Article 16 of the Hague Convention. When a court has decided on the merits of rights of custody, we have seen that this is taken under consideration by the court handling the Hague case often with a negative effect for the left-behind parent. We have in such cases experienced that the Central Authority does not have the competence to inform the court directly of the provisions set out in the Hague Convention.

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

- No  
 Yes, please specify:

## PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION

### 3. **The role and functions of Central Authorities designated under the 1980 Convention**<sup>4</sup>

*In general*

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

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

- No  
 Yes, please specify:

In general, communication with other Central Authorities is effective and we experience good co-operation in the handling of applications under the Convention.

However, we have experienced that some Central Authorities do not acknowledge receipt of applications and do not provide information if there is a need for further information/documentation in specific cases. Further, when an application has been forwarded to court we have experienced insufficient information concerning court proceedings, court decisions and time limits for appeal. We have also experienced that Central Authorities do not provide sufficient information concerning legal aid and how to gain legal assistance. In some of our outgoing cases this has resulted in the left-behind parents not receiving information that has direct relevance to their ability to participate in court proceedings and to appeal.

We have in a few cases experienced that Central Authorities do not reply to our letters or emails. We have in some contracting states communicated with Central Authorities through our embassies and thorough diplomatic notes. We have also experienced Central Authorities that only will communicate through the left-behind's local lawyer, and not with us directly. We find this problematic.

We have also been met with requirement for authentication of documents, in conflict with Article 23 in the 1980 Convention.

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

- No  
 Yes, please specify:

Regarding outgoing cases, we have experienced difficulties regarding localization (Article 7 a), information regarding the legal system in a contracting state (Article 7 e), lengthy processes for the handling of Hague applications at the Central Authority or courts before judicial proceedings are initiated (Article 7 f) and lack of information and facilitation regarding legal aid and advice (Article 7 g). With the time perspective in these cases, insufficient information and co-operation by the Central Authority may cause delays and result in the case being forwarded to the Court for consideration later than necessary.

In incoming cases we have experienced that applications are insufficient relating to information about the unlawfulness of the abduction according to internal law of the requesting State (Article 7 e).

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

- No  
 Yes, please specify:

In outgoing cases, we have experienced a wide interpretation of the exemption clauses, in particular Article 13 b og 13 c.

Regarding Article 13 b, we have experienced court decisions where the conflict between the parents has been given decisive weight in determining that a child shall not be returned. Also, we have seen that the climate and geographical location of Norway has been used as arguments for not returning a child.

We have in one case experienced that a court concluded that a child should not be returned to the Norwegian Child Welfare Services due to the parents not being able to have the child living with them based on an Article 13 b exemption, when there had been a decision made to secure the child's welfare in Norway.

Regarding Article 13 c, we have experienced that too much weight has been put on the child's opinion if the child expresses that he/she would like to stay with the abducting parent.

#### *Legal aid and representation*

3.4 Do the measures your Central Authority takes to provide or facilitate the provision of legal aid, legal advice and representation in return proceedings under the 1980 Convention

(Art. 7(2)-(g)) result in delays in proceedings either in your own State, or, where cases originate in your State, in any of the requested States you have dealt with?

- No  
 Yes, please specify:

In Norway the handling of applications for legal aid is centralised and are dealt with by the County Governor of Oslo and Akershus.

The Ministry of Justice and Public Security has established a list of lawyers who specialise in child abduction cases so that affected parents may get in touch with a lawyer that has special expertise on and knowledge of child abduction. Information concerning legal aid and legal representation is available on our child abduction website.

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

- No  
 Yes, please specify:

We have experienced difficulties in outgoing cases to different contracting states with obtaining information from the Central Authority concerning the legal aid scheme and how to apply. The Country Profiles do not provide sufficient information concerning legal aid and few countries have information available on the Central Authority web site.

Requesting this information may lead to delays in the handling of the Hague application. We have in a few cases received information only in the original language of the requested state and not in English.

#### *Locating the child*

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

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

As requesting state - providing sufficient information concerning procedures for locating abducted children, both prior to the court process and also after a return decision has been made, seems to be a general problem. Information provided from Central Authorities is often supplemented by police information through the Interpol system and it is of high importance that there is effective communication between the different authorities involved in locating the children.

We have in several cases experienced difficulties with locating the child before the case is forwarded to court for consideration. In some cases this is due to the fact that the abducting parent intentionally is keeping the child hidden to avoid a return proceeding. For example we have had a case where in the course of two years the requested state exhausted all possible locations and conducted searches in all relevant databases, without result. In other cases locating the child has been difficult due to the lack in police co-operation. In cases where localisation is an issue, both the child and the abducting parent often will be reported as missing and registered in the Interpol system with the view to have them located.

According to the internal legislation in some contracting states, there has to be a court decision made before a return decision may be enforced. If the local court does not render such a decision the return order may not be enforced and the police will not assist in locating the child. We have experienced such difficulties in more than one case. In one particular case we experienced that a Supreme Court decision concluded that a child was to be returned to Norway. However, for a long time the decision was not enforced due to the

<sup>5</sup> See paras 1.1.4 to 1.1.6 of the "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (30 October – 9 November 2006) (hereinafter referred to as the "[Conclusions and Recommendations of the 2006 Special Commission](#)") and paragraphs 32 to 34 of the "[Conclusions and Recommendations of the Special Commission to review the operation of the Hague Convention of 19 October 1980 on Jurisdiction, Applicable law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children \(1-10 June 2011 and 25-31 January 2012\)](#)" (hereinafter the "C&R of the 2011/2012 Special Commission") (available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Special Commission meetings").

local court not rendering the necessary decision for reasons that was unclear to us and to the left-behind parent. By the time the court made a decision the abducting parent had gone into hiding with the child and no assistance was given by the local enforcement authorities in order to try to locate the child. The case resulted in the child not being returned to Norway. We find such court procedures to be very problematic if they are not effective.

As requested state - we have in a very few number of cases experienced that the child is intentionally being kept hidden by the abducting parent in Norway. Local police has tried to locate these children both through national and international registers and by checking relevant addresses provided by the left-behind parent. The local child welfare service may also be informed if a child is intentionally being kept hidden in Norway by an abducting parent.

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

No

Yes, please share any good practice on this matter:

See question 3.6.

We have good experience in trying to locate children through co-operation with external agencies such as Interpol Oslo and the Norwegian Sirene office at the National Criminal Investigation Service (NCIS). We also have good experience with local police. In some countries we have requested assistance from our embassies abroad. We have not experienced any difficulties in this co-operation.

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

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

No

Yes, please specify:

The Nordic Countries have yearly meetings, last in Norway in November 2016. In these meetings we share experiences from both Hague and non-Hague abduction cases and discuss general topics related to the Hague Convention.

During the past few years we have visited three countries with whom we have experienced several difficulties as requesting state in their handling of Hague applications. We had bilateral meetings with their Central Authority and had good discussions about the procedures in both countries.

We have had a visit from a new acceding country to the Convention, Republic of Korea, where we shared our practical experiences with the Convention and gave information on how the Conventions is implemented in Norwegian legislation.

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

No

Yes, please specify:

See question 3.8.

We have during the past five years also participated in meetings between Central Authorities in Slovakia, Italy, Malta, France (Lyon), Poland and Romania. These were all meetings where we travelled and met other Central Authorities, non of these meeting were via conference call or videoconference.

#### *Statistics<sup>7</sup>*

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

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

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

Unfortunately, we have not submitted statistics to INCASTAT as we have been forced to prioritize different duties. We have submitted statistics to INCASTAT in 2016/17.

*Prompt handling of cases*

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

- No  
 Yes, please specify:

The Norwegian Central Authority has internal guidelines in place. Based on a report from an external working group in 2013, we have revised our internal guidelines and our system for handling Hague applications and made some adjustments to ensure that the cases are handled expeditiously. We have a yearly review of our internal guidelines.

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

The Norwegian Central Authority will register a new application under the Hague Convention when we receive the application. If the application is incomplete we will request further information either from the left-behind parent or from the requesting authority. In outgoing cases we also provide and cover the costs for translation of the application. Completing the application and translation of documents may, however, cause delays in handling the case.

**4. Court proceedings & promptness**

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

- Yes  
 No, please indicate if such arrangements are being contemplated:

Since 1 January 2016, jurisdiction in child abduction cases is centralised with a single court at first instance (Oslo District Court) (Section 13(2) of the Child Abduction Act). Any appeal is heard by Borgarting Court of Appeal and thereafter the Supreme Court.

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

- No  
 Yes, please explain:

According to the Norwegian Child Abduction Act 8 July 1988 Section 16 applications under the Convention shall be dealt with expeditiously.

Since 1 January 2016 the appeal deadline in child abduction cases has been shortened from four to two weeks (Section 16(3) of the Child Abduction Act).

Child abduction cases are priority cases in the Norwegian court system and enforcement shall be implemented without undue delay. A return decision may be enforced directly. Thus, there is no need for a new court decision. The court may seek to achieve voluntary repatriation of the child. However, this must be balanced against the need for an expeditious conclusion to the case, and it will not be permitted to use this as a means to draw out the proceedings.

The Central Authority has written a new circular on child abduction directed particularly at lawyers and judges has been prepared. It also contains relevant information for parents of abducted children. This is published on our child abduction website and is available in English.

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

- No, please explain:  
 Not relevant  
 Yes, please explain:

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

## Not relevant

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

We do not consider that there has been a general experience with delays in handling return decisions in Norwegian courts.

Since 1 January 2016 with the new legislation and concentration of jurisdiction, the case handling has become even more efficient.

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

No, please explain:

Norwegian courts do not regularly order immediate protective measures when initiating the return procedure, this is only done in exceptional cases where there are concrete information, for example provided by the left-behind parent, that there is a risk for a new removal of the child to another country.

Only a few examples of cases where the left-behind parent has sought provisional access during the handling of the Hague case.

Since 1 January 2016 all Hague cases involving children who are abducted to Norway are reported to the Norwegian Child Welfare Service. If necessary, the court or the Child Welfare Service will order immediate protective measures to prevent harm to the child.

Yes, please explain:  
Please insert text here

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

Yes

No, please explain:

Norway has assigned two liaison judges to the International Hague Network of Judges, who are specialised in child abduction matters. Both judges are sitting judges at Oslo District Court, which handles all incoming Hague applications to Norway. The judges are appointed for two years.

In our transmissions of applications for return to the Central Authority in another contracting state, we always inform of our two liaison judges and their contact information.

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

Yes

No, please explain:

Not relevant.

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

During the last years we are familiar with direct judicial communicating between liaison judges in other contracting states and the Norwegian liaison judges. However, we do not always have information concerning what cases they have been contacted and the outcome.

We also have examples where we as the Central Authority have been asked to provide written information to the judge in the requested State regarding what measures can be put in place in Norway to secure a safe return of a child. Upon such requests, we have provided written information regarding our education system, welfare system, health care etc.

## 5. **Ensuring the safe return of children**<sup>9</sup>

<sup>9</sup> See **Art. 7(2) h)** of the 1980 Convention.



*Methods for ensuring the safe return of children*<sup>10</sup>

5.1 What measures has your Central Authority taken to ensure that the recommendations of the 2006 and 2011 / 2012 Special Commission meetings<sup>11</sup> regarding the safe return of children are implemented?

We use the recommendations as guidelines in our work with child abduction cases.

Concrete measures are:

Since 1 January 2016 all Hague cases involving children who are returned to Norway after having been abducted to another country, will be reported to the Norwegian Child Welfare Service. If necessary, they will order immediate protective measures to prevent harm to the child.

If the Norwegian Central Authority is asked by the requested State, we will provide information of the protective measures and services available in our State.

Furthermore, we have included information on our website on the possibility to bring charges against the abductor. Information on the possible negative effect is also listed.

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

We will contact and alert the Central Authority in the requesting State in order for them to contact their Child Welfare Service.

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

If there are such concerns in the requested State, we can provide information on how children are cared for in Norway, hereunder forward information regarding the Norwegian education system, health care, Child Welfare Services etc.

*Use of the 1996 Convention to ensure a safe return*

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

- No  
 Yes, please explain:  
 Not relevant.

*Protection of primary carer*

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

We are not aware of such cases under the 1980 Convention.

Further, we do not have experience with use of the Hague Convention of 1996 in such cases so far. However, it would be a possibility for the court to make an interim order regarding custody, place of residence and/or contact for protection of the child (cf. the Child

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

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

Abduction Act Section 18, the Childrens Act Section 60, and the 1996 Convention Article 11 and Article 7 (3)). An advanced recognition of such an order could then be made in the requesting State according to the 1996 Convention Article 24 prior to the return of the child.

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

Norwegian authorities can provide the primary carer with information on the opportunity to petition the court for an interim order such as mentioned under question 5.5. Such an interim order could limit the need for contact between the primary carer and the other parent until the authorities in the Contracting State of the child's habitual residence, upon return, have taken measures required by the situation. This could help provide the primary carer with a stable and secure situation upon return.

#### *Post-return information*

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

When a child is returned to a State party to the 1996 Convention, such co-operation and exchange of information might be facilitated by the 1996 Convention, e.g. by the use of Article 32, given that the child has a «substantial connection» to the State to which he/she was abducted.

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

- No  
 Yes, please explain:  
 Not relevant.

## **6. Voluntary agreements and mediation**

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

The Central Authority has established internal guide lines on the handling of child abduction cases that also include our obligations under Article 7-(c).

When the Central Authority receive an application for return of a child from Norway, we have an established routine where we contact the abducting parent, in writing. We then inform him/her on the 1980 Convention and of our duty to take appropriate measures to secure the voluntary return of the child or to bring about an amicable resolution of the issues. We emphasize that it is often in the child's best interest to have the issues solved without a court order. We encourage the parent to consider returning the child voluntarily or to contact the applicant in order to reach an amicable resolution.

Further, when a child abduction case is forwarded to court, the court may consider mediation in order for the parents to reach an amicable resolution to the issues.

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

We use the recommendations as guidelines in our work with child abduction cases.

<sup>12</sup> Available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "Guides to Good Practice".

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

No, please explain:

If the parties contacts the Central Authority for information regarding mediation, we will refer them to the correct authority that may provide them with the requested information.

Yes, please explain:

Please insert text here

## 7. Preventive measures

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

No

Yes, please describe:

Please insert text here

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

Yes

No, please explain:

Please insert text here

## 8. The Guide to Good Practice under the 1980 Convention

8.1 In what ways have you used the Parts of the Guide to Good Practice<sup>15</sup> to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State?

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

Generally, the Guide is read and used by the Central Authority.

We have used Part I as a reference in in our correspondence with another Contracting State in outgoing cases where we find that the case is not being handled in accordance with the Convention. We have also used it when we wrote a new circular on child abduction.

When we review our internal guidelines we use Part I as a general guideline.

b. Part II on Implementing Measures. Please explain:

Generally, the Guide is read and used by the Central Authority. For example when we wrote a new circular on child abduction, when we review our internal guide lines and the information that is available on our child abduction website.

c. Part III on Preventive Measures. Please explain:

Generally, the Guide is read and used by the Central Authority. For example when we wrote a new circular on child abduction, when we review our internal guide lines and the information that is available on our child abduction website.

d. Part IV on Enforcement. Please explain:

Generally, the Guide is read and used by the Central Authority. For example when we wrote a new circular on child abduction, when we review our internal guide lines and the information that is available on our child abduction website.

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

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

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

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

When we forward an application for return to the District Court, we include information in our transmission letter on where the judge may find relevant information and recommend the Hague Conference's website, [www.hcch.net](http://www.hcch.net) (Child Abuction Section).

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

We find the Guides to Good Practice most useful as they provide a thorough review of the obligations set forth in the Convention. This is useful both for us as a Central Authority and when communicating with other Central Authorities in difficult cases.

We have especially used Guide to Good Practice – Part I and IV.

We find the HCCH website suitable for making the Guide public. Further, on our national website; [www.government.no/child-abduction](http://www.government.no/child-abduction), we have included a link to the HCCH website.

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

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

No

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

The Convention itself has not raised any debate or publicity of such. However, some return cases have given rise to debates in the media relating to the Convention and the Central Authority's measures to assist the children and the left-behind parents.

For example we have had questions raised in our national Parliament regarding the application of the Convention in other Member states, specifically regarding the time aspect and the importance of prompt procedures and also matters of prompt enforcement of return orders.

We have also had debates in the media relating to children being abducted from the Norwegian Welfare Services. We have also have had a debate in the media on the use of private security firms in locating and returning abducted children, and the negative impacts this might inflict on the child.

See also 15.

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

Through the Norwegian Authorities website, [www.government.no/child-abduction](http://www.government.no/child-abduction), we provide both parents, other Central Authorities and the media with information on child abduction including contact information. On our website we also have included specific information concerning child abduction from the Child Welfare Service and a formal written warning concerning the use of private security firms.

The Ministry of Justice and Public Security now routinely offers to meet affected parents in cases where children are abducted from Norway to another country. The aim is to provide information about the 1980 Hague Convention and the proceedings involved, and to provide necessary clarification early on.

The Central Authority will also give out general information on the Convention and our national procedures for handling abduction cases when we are contacted directly by phone or e-mail.

## **PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION**

### 10. **Transfrontier access / contact**<sup>16</sup>

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

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

- No  
 Yes, please explain:  
[No development to be reported.](#)

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

[No development to be reported.](#)

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

a. the granting or maintaining of access rights;  
[In general, we have not experienced problems with co-operation with other States in access cases.](#)

b. the effective exercise of rights of access; and  
[See a.](#)

c. the restriction or termination of access rights.  
[See a.](#)

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

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

[Please insert text here](#)

## **11. International family relocation**<sup>18</sup>

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

[No development to be reported.](#)

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

### **12. Non-Convention cases and non-Convention States**

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

[We would like to see more States with personal and family laws influenced by or based upon Islamic law to join the Hague Convention of 1980. We do see the Malta process as a good vehicle to promote the Convention. The Malta process is a platform for trust building,](#)

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

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

networking, training, expert meetings and information sharing between Convention States and States with legal systems influenced by Islamic law.

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

Please see 12.1. We have several cases with countries in the Middle East and North Africa which we would like to see invited to the Special Commission.

*The "Malta Process"*<sup>19</sup>

12.2 In relation to the "Malta Process":

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

The principles are comprehensive and ambitious. Some of the characteristics are more aspirational than realistic. An incremental approach in implementing the principles is advisable. In the absence of an international legal framework to solve family disputes, mediation is often the best way of finding a solution enabling the children concerned to maintain continuing contact with both parents. One of the key challenges is probably the high cost of mediation services for the parties involved. The principles could perhaps encourage States of having free mediation services along with free legal aid. Both should be means and merit tested.

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

No

Yes, please explain:

The Ministry of Foreign Affairs and the Ministry of Justice and Public Security have recently started a process of looking into establishing mediation as a tool in international child abduction cases where the child is abducted to a non-Convention State. The limited number of cases, lack of national structures for transborder mediation services and of professional mediators with relevant language skills as well as the potentially high mediation costs for the parents involved, are some of the challenges identified. No Central Contact Point has yet been designated. The potential for Nordic cooperation will be explored.

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

Norway was first time invited to the Malta Conference in 2016 and fully supports the Malta Process. One of its strengths as a multilateral forum is its balanced mix of government officials, judges, lawyers, NGO representatives and academic experts. See also 12.1.

<p><b>PART VI: TRAINING AND EDUCATION AND THE TOOLS, SERVICES AND SUPPORT PROVIDED BY THE PERMANENT BUREAU</b></p>
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### 13. Training and education

<sup>19</sup> The "Malta Process" is a dialogue between certain States Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and addressing the problems posed by international abduction between the States concerned. For further information see the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

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

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

See 3.8.

The Norwegian Central Authority together with Interpol Oslo and other authorities held a training session at national level for Norwegian lawyers designated to our list of lawyers in Child Abduction cases, in 2013. A new session is planned for 2018.

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

*In general*

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

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

We find the Country Profile to be a good instrument to give an overview of a country's legal system and court system. We would, however, recommend that the information provided is supplemented for example with more information concerning legal aid system and on how to get legal assistance (by a lawyer). This is information that is relevant in almost all cases.

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

We find INCADAT to be a good instrument in order to get a view of how different Courts interpret the provisions in the Convention.

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

We find the Judges' Newsletter to be a useful instrument to ensure common interpretation and application of the Convention. We would suggest that the Newsletter is published more frequently.

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

The Child Abduction Section of the Hague Conference is regularly used by the Central Authority and it is a very practical instrument in finding relevant information. It is of great value to have all the Guide's to Good Practice, questionnaires, conclusions and recommendations etc. gathered on one website.

Furthermore, it is very useful in order to find updated contact details regarding the Central Authorities of other Member States.

- e. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);<sup>22</sup>

Please insert text here

- f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.<sup>23</sup> Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;

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

<sup>22</sup> Further information is available via the Hague Conference website at < [www.hcch.net](http://www.hcch.net) > under "Child Abduction Section" then "INCASTAT".

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

The Permanent Bureau's role in providing technical assistance and training in the practical operation of the 1980 and 1996 Conventions is important, particularly for new State parties to the Conventions and to parties that for other reasons have limited experience with the Conventions.

The organisation of international seminars and conferences is important to share and secure good practices, to establish and maintain a good relationship between the different Central Authorities, and through this promote co-operation.

- g. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);<sup>24</sup>

The Norwegian Central Authority both under the 1980 and the 1996 Convention are positive to encouraging wider ratification of, and accession to, the both Conventions.

The 1980 Convention is the most important tool in order to resolve international child abduction cases, and educating those unfamiliar with the Convention will contribute to the Convention being effective and correctly applied.

The 1996 Convention has proved to be an effective tool in cases regarding international protection of children, and as we see it there are several states we wish to establish a co-operation with under the Convention.

- h. Supporting communications between Central Authorities, including maintaining their contact details updated on the HCCH website;

Keeping the contact details updated on the HCCH website is very important for an effective co-operation, in order to avoid unnecessary delay in the processing of requests.

- i. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges

Both the Central Authority and the Norwegian liason judges consider this to be very important and useful.

#### *Other*

#### 14.2 What other measures or mechanisms would you recommend:

- a. To improve the monitoring of the operation of the Conventions;

We find that the Special Commissions for the 1980 and 1996 Conventions are very important to ensure a uniform application of the Conventions. We would like to suggest that they are held more often than every five years.

That the Special Commission underlines Central Authorities' obligation to promote co-operation amongst the competent authorities in their State to achieve the purpose of the Conventions.

That Central Authorities notify the Permanent Bureau in cases where there are difficulties and possible violations of the Conventions in a Member state under the Conventions. And that the Permanent Bureau is able to follow up on the matter in direct dialog with the Member states. See also c.

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

That the mandate of the international Hague Network of Judges specifically is widened to also cover the 1996 Convention.

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

A recommendation that Central Authorities notify the Permanent Bureau in cases where serious violations of Convention obligations have occurred.

<b>PART VII: PRIORITIES AND RECOMMENDATIONS FOR THE SPECIAL COMMISSION AND ANY OTHER MATTERS</b>
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<sup>24</sup> Which again may involve State delegates and others visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences.



## **15. Views on priorities and recommendations for the Special Commission**

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

Cases of child abduction where both the 1980 Convention and the 1996 Convention are applicable. We have experienced this to be the case in most cases involving children being abducted from the Child Welfare Services. Relevant questions: Which Convention should be made use of, 1980 or 1996 Convention? Do the two Conventions operate separately, so that there is a possibility for Central Authorities to send parallel requests under both Conventions?

To exemplify:

1. In one case of child abduction where both the 1980 Convention and the 1996 Convention were applicable, Norwegian competent authorities decided to request recognition and enforcement of a care order according to the 1996 Convention, instead of requesting the return of the child according to the 1980 Convention. The Norwegian authorities made this decision based on what seemed to be most efficient in reaching a decision.

2. In another case, Norwegian competent authorities initially tried to request both recognition and enforcement according to the 1996 Convention, and the return of the child according to the 1980 Convention. However, the requested State decided to postpone to handle the request made under the 1996 Convention until a decision regarding the request for the return had been taken. The request according to the 1980 Convention was later withdrawn, and the request according to the 1996 Convention is still pending.

Secondly, we would like to raise the important issue regarding abductions from the Child Welfare Service or similar body, and the parents, before the custody order has been carried through, abduct the child to another country in order to avoid the enforcement of this decision. During the past 10 years we have had more than 30 cases where children are abducted from the Norwegian Welfare Service by their parents and taken to another country, and we consider this to be very serious. We have experienced that the Court in the requested State does not treat such a case as other Hague cases. The reason for that may be that they do not have similar rules in their country regarding Child Welfare Services. We would like a discussion during the Conference on how to deal with these cases. We find it clear that these cases are to be dealt with like all other Hague cases according to the Convention, cf. Article 3, and we find that the time aspect is of outmost importance in these cases.

Finally, as we did prior to the Special Commission 2011-12, we would also like to suggest that it would be useful to discuss the time aspect in child abduction cases and the importance of prompt procedures, as we find it problematic that many cases are not handled in an expeditious manner as stated in the 1980 Convention, with the negative impact this can have for the children involved. Further, we would also like to discuss the matter of enforcement and the importance of having prompt procedures in order to enforce return orders as soon as possible.

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

Norway proposes the following recommendations:

"The Special Commission underlines the importance of acknowledging cases where a child is abducted from the custody of the Child Welfare Services under the Convention Article 3, and emphasizes the importance of expeditious procedures in these cases."

## **16. Any other matters**

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