

<b>Title</b>	<b>Delays in return process under the 1980 Child Abduction Convention</b>
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<b>Related Documents</b>	<ul style="list-style-type: none"> <li>- <a href="#">Prel. Doc. No 7 of June 2023</a> – Compilation of responses received to the January 2023 Questionnaire on the 1980 Child Abduction Convention</li> <li>- <a href="#">Prel. Doc. No 10 A of August 2017</a> – Delays in the Return Process</li> <li>- <a href="#">Prel. Doc. No 10 B of August 2017</a> – Delays in the operation of the 1980 Child Abduction Convention - a compilation of existing resources</li> <li>- <a href="#">Prel. Doc. No 10 C of August 2017</a> – Fact Sheets on swift procedures in the operation of the 1980 Child Abduction Convention</li> </ul>

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# Delays in return process under the 1980 Child Abduction Convention

## I. Background

- 1 Delays in international child abduction proceedings<sup>1</sup> were discussed extensively during the Seventh Meeting of the Special Commission on the Practical Operation of the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (1980 Child Abduction Convention or 1980 Convention) and the *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* (1996 Child Protection Convention or 1996 Convention), held from 10 until 17 October 2017 (2017 SC).
- 2 When considering the issue, the 2017 SC recognised that “there is still a severe problem of delays that affect the efficient operation of the Convention”.<sup>2</sup> The 2017 SC highlighted that some States had made progress in reducing delays. Furthermore, the 2017 SC encouraged States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / Alternative Dispute Resolution (ADR) phases) in order to identify possible sources of delay and implement the adjustments needed to secure shorter timeframes consistent with Articles 2 and 11 of the 1980 Child Abduction Convention.<sup>3</sup>
- 3 The 2017 SC also welcomed the development of Preliminary Documents (Prel. Docs) Nos 10 A, 10 B and 10 C,<sup>4</sup> which addressed the problem and collected the various tools the HCCH has developed on the matter, as well as the procedures implemented by some States towards delay reduction. These documents have been amended and finalised in accordance with the 2017 SC discussions.<sup>5</sup> The final versions of these documents have been posted on the HCCH website, to be used “and recommended as helpful tools for consultation by States’ authorities that are reviewing their implementing measures” under the 1980 Convention.<sup>6</sup>
- 4 As part of the preliminary work for the Eighth Meeting of the Special Commission on the practical operation of the 1980 and 1996 Conventions, to be held in October 2023 (2023 SC), the Permanent Bureau (PB) circulated a Questionnaire on the Practical Operation of the 1980 Child Abduction Convention (2023 Questionnaire).<sup>7</sup> In Question 7, States were asked whether they had encountered sources of delays in any of the indicated four phases of the return process (Central Authority, Judicial, Enforcement and Mediation or ADR) and, if so, whether they had implemented any measures to address them.

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<sup>1</sup> Any reference to “child” or “children” in this document should be understood as including a child or adolescent up to the age of 16, as well as equivalent to “minor” or “minors”, a term used in the Spanish translation of the 1980 Convention.

<sup>2</sup> See “Conclusions and Recommendations of the Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention” (C&R SC 2017), C&R No 3, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction Section” then “Special Commissions” and “Seventh Special Commission meeting (2017)”.

<sup>3</sup> See 2017 SC, C&R No 4 (*op. cit.* note 2).

<sup>4</sup> See Prel. Doc. No 10 A of August 2017, “Delays in the Return Process”, Prel. Doc. No 10 B of August 2017, “Delays in the operation of the 1980 Child Abduction Convention – a compilation of existing resources” and Prel. Doc. No 10 C of August 2017, “Fact Sheets on swift procedures in the operation of the 1980 Child Abduction Convention”, all prepared for the attention of the 2017 SC, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 2).

<sup>5</sup> Available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 2).

<sup>6</sup> See 2017 SC, C&R No 5 (*op. cit.* note 2).

<sup>7</sup> Prel. Doc. No 4 of January 2023, “Questionnaire on the Practical Operation of the 1980 Child Abduction Convention”, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction Section” then “Special Commission meetings” and “Eighth Special Commission meeting (October 2023)”.

5 This current document will analyse the responses provided by States to Question 7 of the 2023 Questionnaire;<sup>8</sup> examine the 2021 processing timeframes arising from the Statistical Analysis of applications made in 2021 under the 1980 Convention, in comparison to the results of the Statistical Analysis of applications made in 2015 and prior Statistical Analyses;<sup>9</sup> attempt to reassess the problems and challenges of procedural delays; and, finally, suggest some Conclusions and Recommendations (C&R) to be considered by the 2023 SC.

## II. Analysis of the responses provided by States to Question 7 of the 2023 Questionnaire

6 The following is a summary of the sources of delays identified by the States at each phase of the return process, as well as the practical or implementation measures that they have adopted or consider could be useful to address such delays.

### A. Central Authority phase

7 Out of the 46 States that responded to the 2023 Questionnaire, only eight answered in detail the question regarding the Central Authority phase analysis and the identifiable causes of delays that they were able to identify.<sup>10</sup>

#### 1. Causes related to the return or access applications and the fulfilment of the necessary requirements for the application to meet the conditions to be sent to the requested State

- Difficulties faced by applicants when filling out the form (some Central Authorities assist applicants with completing the forms and others do not).
- Lack of supporting documentation necessary to process the return application.
- Problems with translations and lack of awareness among applicants on the importance and necessity of accompanying such translations with the return and access applications.

8 Measures taken by States to address delays:

- Using the services of other organisations such as the International Social Service (ISS) to provide assistance to applicants who must complete return applications. In this way, the task is carried out by lawyers with expertise in this particular field, who provide appropriate guidance to applicants, helping them to submit the documentation and complete the form more efficiently and faster than if it were completed without assistance.
- Allowing digital submissions of applications, supporting documentation, and any documentation that could be requested afterwards.
- Raising awareness among applicants on the importance and necessity of accompanying the return application with the necessary translations.

#### 2. Discovering the whereabouts of the child

9 Discovering the whereabouts of the child is an issue that has historically generated problems and delays. Although States have sought solutions to the problem,<sup>11</sup> it remains complex in many cases.

10 Measures taken by States to address delays:

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<sup>8</sup> Prel. Doc. No 7 of June 2023, “Compilation of responses received to the January 2023 Questionnaire on the 1980 Child Abduction Convention”, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 7).

<sup>9</sup> See the Statistical Analyses of applications made in 1999, 2003, 2008 and 2015 available on the HCCH website at [www.hcch.net](http://www.hcch.net) under “Child Abduction Section” then “Statistics”.

<sup>10</sup> Australia, Canada, Chile, Costa Rica, Estonia, France, Portugal, Venezuela.

<sup>11</sup> *Op. cit.* note 8, response to Question 17, pp. 176-182.

- Delays in discovering the whereabouts of the child have been addressed through the use of local databases that facilitate the search for and location of children.

### 3. Internal structure of the Central Authority

11 The lack of designation of a specific official in charge of each case leads to delays. This not only generates delays for the Central Authority that must re-assign the case each time there is a change of personnel in the file, but also confuses the requesting Central Authority and does not provide fluidity in the follow-up of cases.

12 Measures taken by States to address delays:

- Designation of an officer in charge of each case as soon as the request is received by the Central Authority.

### 4. Communication and cooperation

13 There are delays in response times between Central Authorities, either in acknowledging receipt of the return application or during the procedure.

14 Measures taken by States to address delays:

- Incorporation of practical guidelines or action guides that set timelines for Central Authority officials to carry out their duties. In particular, European States have recognised the usefulness of Article 23 of the Brussels IIb Regulation<sup>12</sup> which establishes the obligation of the requested Central Authority to act with urgency in the processing of requests, establishing a time limit of five working days from receipt of the request to acknowledge receipt of the request and the duty to inform its counterpart without undue delay of the initial steps that have been or will be taken to process the request.

## B. Judicial phase

15 The review of the judicial phase received a greater number of responses than the Central Authority phase. Seventeen States have carried out the proposed analysis and provided a response regarding the causes of delays encountered.<sup>13</sup> The causes identified are detailed below, followed by the measures adopted by States to provide a concrete response.

### 1. Lack of a special procedure

16 Among the causes of delays detected at this stage can be observed some links to the lack of a specific procedure that would allow the courts to resolve cases within the six-week period established in the 1980 Convention. Among them the following can be highlighted:

- Lengthy and costly proceedings.
- Existence of multiple instances of appeal.
- Lack of specialisation of judges, judicial officers and other operators involved in return cases.
- Lack of specialised courts.

17 Measures adopted by States to address delays:

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<sup>12</sup> Council Regulation (EC) No 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (Brussels IIb Regulation), text available at <https://eur-lex.europa.eu>.

<sup>13</sup> Argentina, Australia, Belgium, Brazil, Canada, Colombia, Costa Rica, Dominican Republic, Estonia, France, Peru, Poland, South Africa, Spain, United Kingdom (England and Wales), United Kingdom (Scotland) and Venezuela.

- Incorporation of special procedures to resolve 1980 Convention cases. These procedures take various forms: procedural laws, court regulations or soft law instruments (e.g., instructions for the handling of cases, or protocols) and among their particularities are the following:
  - ⇒ Limitation on the number of appeal instances, admitting only a second hearing.
  - ⇒ Reduction of hearing's deadlines to a minimum.
  - ⇒ Establishment of deadlines for the different actors in the process.
- Concentration of jurisdiction so that only a limited number of judges hear child return cases.
- Incorporation of measures to facilitate location and shorten timeframes (e.g., some prosecutors' offices have opted to entrust prosecutors with certain operations traditionally delegated to the police, such as the delivery of summons, court hearing notice and the retrieval of documents for hearings).

## 2. Administrative and organisational court matters

18 There are various matters linked to court structure, organisation, and case management. Among them, the following were highlighted:

- Abduction cases are not prioritised.
- Overworked and under-resourced court personnel.

19 Measures taken by States to address delays:

- Implementing or improving case record-keeping, immediate assignment and listing of cases on a priority list.
- Prioritising return application hearings over other hearings, both at first instance and appellate levels.
- Production of written evidence (through affidavits) and electronic evidence, including electronic hearings.

## 3. Issues related to the interpretation of the 1980 Convention and the training of its operators

- Confusion between return and custody, which leads to an in-depth analysis of the child's best interests, based on parameters used to assess custody.
- Lack of judicial training.
- Lack of training of lawyers involved in cases, which is reflected by the lack of collaboration of the parties.

20 Measures adopted by States to address delays:

- Training for judges and other judicial actors (internal and / or in cooperation with other jurisdictions, where possible, in coordination with the HCCH).
- Training for lawyers and other 1980 Convention operators.
- Sharing information on the 1980 Convention with judges when sending the return application. The documentation sent varies; some Central Authorities include information on the duty to act expeditiously in proceedings and the existence of the International Hague Network of Judges (IHNJ) and the functions of its members, as well as the necessary contact information for the judge to reach Network Judges in their country; others accompany return applications with relevant domestic procedural rules and the Guide to Good Practice on Article 13(1)(b).<sup>14</sup>

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<sup>14</sup> See Permanent Bureau of the HCCH, *Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part VI – Article 13(1)(b)*, The Hague, HCCH, 2020, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under "Child Abduction Section" then "HCCH Publications".

- Some Central Authorities publish information on the 1980 Convention on their websites, making it available to the different actors.

### C. Mediation phase<sup>15</sup>

21 The section on the review of the mediation phase was completed by only two States. On the other hand, several States provided information on how they carry out mediation or alternative dispute resolution.

22 Among the reasons for delay, the following were highlighted:

- Delays due to parties being in remote locations.
- Lack of funding.

23 Measures adopted by States to address delays:

- Among the many States that are implementing mechanisms for the use of mediation in international abduction cases, most are contemplating the use of videoconferencing to enable virtual participation by parties who are unable to participate in person.
- Implementation of mechanisms to provide the service free of charge (or at least for those who cannot afford to pay).

### D. Enforcement phase

24 The enforcement phase of the return decision still presents major challenges, despite the fact that the issue has been addressed in a specific Guide to Good Practice of the HCCH.<sup>16</sup> At this point it has only been possible to analyse the responses of 13 States, which are the States that reported having carried out the proposed analysis for this phase.

25 Among the mentioned causes of delay are the following:

- Lack of collaboration of the parties, which is necessary for the enforcement to be carried out efficiently and without harm to the child.
- Lack of coordination and collaboration between the authorities involved for the implementation of measures for the safe return of the child.
- Concealment of the child to prevent their return to the State of habitual residence.
- High costs of return, which sometimes cannot be borne by the claimants, leaving the judgment unenforceable.

26 Measures taken by States to address delays:

- Improved cooperation and coordination with agencies in charge of carrying out enforcement (e.g., direct contact of specialised prosecutors' offices or Courts in charge of enforcement with consular services in charge of issuing travel documents, with criminal judicial authorities to alert them when a child cannot be located and promote the family's location (in particular, suggesting the registration of the child in the Wanted Persons File and the issuing of an Interpol Yellow Notice)).
- Resorting to the assistance of the Central Authority which can provide the courts with effective and efficient enforcement of the return decision.

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<sup>15</sup> It is understood that mediation is not undertaken in every case.

<sup>16</sup> See Permanent Bureau of the HCCH, *Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part IV – Enforcement*, Bristol, Family Law (Jordan Publishing Limited), 2010, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 14).

- Use of specific provisions and short deadlines in the return order and the incorporation of police enforcement clauses to assist in achieving compliance with the judgment.

### III. Statistical Analysis

27 The information collected in the Statistical Analysis of Applications made in 2021 under the 1980 Convention (2021 Statistical Analysis),<sup>17</sup> shows that the time taken to process cases under the 1980 Convention has not only not decreased significantly in recent years, but, on the contrary, has increased. The average duration of cases from the initiation of the proceedings with the Central Authority to the final decision or agreement to return or not to return is detailed below, followed by information on the duration of the Central Authority and judicial phases:

#### Average duration of cases from the initiation of the proceedings before the Central Authority to the final decision or agreement to return or not to return

	2008	2015	2021
Total duration of cases (average in days)	188	164	207

#### Central Authority phase

	2008	2015	2021
Central Authority phase (average in days)	76	93	81

#### Judicial phase (including both instances)

	2008	2015	2021
Cases in Court (average in days)	153	125	151

28 These numbers show that the average time taken to resolve cases resulting from the recent Statistical Analyses is still far from the six-week deadline suggested by the 1980 Convention. In fact, the figures from 2021 exceed the time reflected in the 2008 study, the highest historically. Thus, in 2021 the average duration of cases from the initiation of the proceedings before the Central Authority to the final decision or agreement to return or not to return amounted to 30 weeks, while the Central Authority phase amounted to 12 weeks and the judicial phase 22 weeks.<sup>18</sup>

29 These times are clearly disproportionate to the urgency required by the 1980 Convention, both for the Central Authority and judicial phases. As for this last phase, it can be seen that the maximum period of six weeks considered as reasonable by the drafters of the 1980 Convention would be exceeded by 16 weeks. On the other hand, in relation to the Central Authority phase, the average

<sup>17</sup> See “A Statistical Analysis of applications made in 2021 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part I – Global Report”, prepared by N. Lowe and V. Stephens, forthcoming Prel. Doc. , for the attention of the 2023 SC, soon to be available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 7).

<sup>18</sup> It is to be noted that the bases of calculation used for determining the “Average duration of cases from the initiation of the proceedings before the Central Authority to the final decision or agreement to return or not to return” and those used for determining the duration of both the “Central Authority phase” and the “Judicial phase”, are different (*i.e.*, data on overall timing was available for 1140 applications while information on the date the application was sent to court was available only in 957 cases and for the time taken from receipt by the court to final decision only in 798 cases). As a result, the sum of the totals for the “Central Authority phase” and the “Judicial phase” does not correspond to the total for the “Average duration of cases from the initiation of the proceedings before the Central Authority to the final decision or agreement to return or not to return”.



of 12 weeks is also significantly disproportionate. This is because the logic of the 1980 Convention is that the case reaches the hands of the authority that has competence to resolve it as soon as possible. Taking into account that the latter should carry out the process in a maximum of six weeks, it is easy to infer that the Central Authority phase should be processed in a substantially shorter time.

- 30 The disproportion of the duration of the cases reflected in the 2021 Statistical Analysis can also be confirmed against more recent parameters such as the Inter-American Model Law on Procedure for the application of the Conventions on International Child Abduction of 2007<sup>19</sup>, which provides for a resolution time of eight weeks (including first and second instance), and the Brussels IIb Regulation,<sup>20</sup> which established a period of six weeks for the first instance (and the same period for any higher instances).

#### IV. Reassessing the problem of delays and the challenges to overcome them

- 31 In view of the results of the statistical analyses, it becomes necessary to reassess the problem of disproportionate delays in 1980 Convention cases and the challenges to overcome them.
- 32 At the outset it is good to remember that every day counts when it comes to child abduction cases. In fact, each day that the child remains abducted from their place of habitual residence has repercussions for the child and contributes to the escalation of the conflict between the parents, the eroding of contact between the child and the left-behind parent (if it has not been severed altogether), and the child's integration into the place to which they have been abducted.
- 33 Besides the harm that delays in the resolution of cases can cause to the child and the parents, delays also make it more difficult for judges to administer the 1980 Convention. This is because the passing of time complicates the assessment and application of key concepts, such as habitual residence, custody, grave risk, and settlement of the child. Long proceedings may also raise questions about the jurisdiction of authorities of the place of habitual residence to decide the merits of the case.
- 34 Unfortunately, over the years there are still cases that take more than 300 days, and even some that take years. In these cases, children are often re-victimised. Usually, the relationship with the left-behind parent is shattered. Furthermore, children are often required to give their opinion more than once in the proceedings which is stressful. In addition, the higher courts face serious problems in deciding what is the lesser damage to the child: returning or not returning the child. Finally, the eventual enforcement of decisions may become extremely traumatic.
- 35 Likewise, as mentioned in Prel. Doc. No 10 A of August 2017, such delays have significant human rights implications and in some cases can constitute violations of States' treaty obligations contained in human rights conventions.<sup>21</sup> In this regard, the European Court of Human Rights (ECtHR) has considered the question of reasonable timeframes, and has sanctioned States for violating children's rights due to unreasonable delays in handling 1980 Convention cases.<sup>22</sup> In turn, the Inter-American Court of Human Rights has decided in several decisions dealing with child

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<sup>19</sup> See Model Law on Procedure for the application of the Conventions on International Child Abduction, available on the HCCH website at [www.hcch.net](http://www.hcch.net) under "Child Abduction Section" then "The Latin America and Caribbean Section", then "Procedural Regulations for the application of the Child Abduction Conventions".

<sup>20</sup> *Op. cit.* note 12.

<sup>21</sup> See Prel. Doc. No 10 A of August 2017, "Delays in the Return Process", *op. cit.* note 4.

<sup>22</sup> See, e.g., *Iosub Caras v. Romania*, No 7198/04, ECtHR, 27 July 2006 [INCADAT Reference HC/E/ 867]; and *H.N. v. Poland*, No 77710/01, ECtHR, 13 September 2005 [INCADAT Reference HC/E/ 811].

protection cases (but not specifically to cases of child abduction)<sup>23</sup> that “[t]he right to access justice should ensure that a person’s rights are determined within reasonable timeframes. An unreasonable timeframe constitutes – in principle and in and of itself – a violation of judicial safeguards”.<sup>24</sup>

- 36 After recalling the practical and human rights implications of delays, in order to address them it is considered necessary to identify weaknesses and strengths in the different State’s systems. To this end, the average processing times for each State in the Statistical Analyses for the years 2015 and 2021 have been considered, from the beginning starting with the Central Authority phase to the final resolution, and some data that may be useful for discussion at the 2023 SC has been detected.
- 37 On the one hand, it is noted with concern that approximately 45% of States took more than six months (26 weeks) to resolve cases, which is clearly disproportionate if effective protection is to be given to a child in a situation of abduction.
- 38 On the other hand, it is encouraging to note that 18% of States (11)<sup>25</sup> resolved cases in a period of less than 16 weeks, with a minimum of 10 weeks<sup>26</sup>. The majority of these States were among the top 20 States with the shortest processing times in the 2015 and 2021 Statistical Analyses. It is also interesting to note that, on average, these States took four weeks in the Central Authority phase and 11 weeks in the judicial phase.
- 39 Analysing the way in which the latter States have implemented the 1980 Convention, it can be seen that most of them have adopted special processes for the judicial phase (laws, protocols or guidelines with reduced procedural deadlines, or limitation of appeal instances in some cases), have concentrated jurisdiction,<sup>27</sup> and have adopted guidelines or protocols for the urgent management of cases in the Central Authority phase.
- 40 The short processing times of abduction cases in these States demonstrate that the results are not random, but that there are systemic reasons for the greater efficiency of some jurisdictions over others, and that this efficiency is linked to the way they have implemented and operate the 1980 Convention. This is also confirmed by the observation that some jurisdictions that had serious problems with delays have drastically reduced them through the implementation of appropriate measures.<sup>28</sup>
- 41 The usefulness of the measures adopted by the 11 States mentioned above is not new, as they have all been recommended and compiled in Prel. Doc. No 10 B of August 2017 and are reflected in one way or another in the Brussels IIb Regulation<sup>29</sup> and in the Annex on International Child

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<sup>23</sup> It should be noted that at the time of writing the Court is resolving the first case arising from the Inter-American Convention on the international return of children in which the basis of the accusation of violation of human rights lies precisely in the delays in resolving it.

<sup>24</sup> See *Fornerón e hija c. Argentina*, Inter-American Court of Human Rights, 27 April 2012, para. 66: “The right of access to justice must ensure that the rights of the individual are determined within a reasonable time. A lack of rationality within the time limit constitutes, in principle, in itself, a violation of judicial guarantees.”

<sup>25</sup> Austria, China (Hong Kong SAR), Czech Republic, Denmark, Finland, Latvia, New Zealand, Norway, Trinidad and Tobago, United Kingdom (Northern Ireland), Slovenia, United Kingdom (Scotland) and Uruguay.

<sup>26</sup> Data on applications received by each Central Authority and the time taken to conclude these applications was only provided by 62 States. This was the number used as a basis for calculation of these statistics.

<sup>27</sup> Some States have not needed to do so because of the reduced number of courts with jurisdiction to hear return cases.

<sup>28</sup> As reflected in a survey conducted by the PB’s Regional Office for Latin America and the Caribbean (ROLAC) on the information provided by some Latin American and Caribbean States in 2017, the implementation of special procedures has produced considerable time savings in States: approximately 120 days in Chile, almost a year in El Salvador, four months in Trinidad and Tobago, more than two years in Uruguay, eight months or more in the Dominican Republic and between 15 to 30 days in Venezuela.

<sup>29</sup> *Op. cit.* note 12.

Abduction to the Ibero-American Protocol on Judicial Cooperation of the Ibero-American Juridical Summit<sup>30</sup> or the Inter-American Model Law.

42 What has been said so far makes it possible to affirm that the top priority in order to achieve proper implementation of the 1980 Convention, so that it can fulfil its objectives and effectively protect children, is to work towards reasonable timeframes for the resolution of cases.

## V. Conclusions and proposals from the PB

43 The SC is once again noting the severe problem of delays. This document has reviewed the problem of delays and its main causes, as well as those mechanisms that are recommended to be put in place as to minimise delays.

44 The challenge of addressing this problem is both political and technical, given it requires a political decision to implement such measures within the States, as well as the technical capacity to assess and implement the appropriate measures.

45 Despite efforts made over the years to reduce delays, there is still much progress to be achieved. The SC has the opportunity and the necessity to do more than what has been done so far so as not to normalise delays. It should be reflected further about how to give the challenge of delays all the necessary consideration so as to achieve the proper implementation of the 1980 Convention and eradicate disproportionate delays in all jurisdictions.

46 It appears that a stronger approach is the only way in which substantial improvements can be made to processing times and efficiency in return proceedings, with a view to protect children more effectively.

47 In light of the above, the following C&R are submitted for consideration and discussion by the 2023 SC:

- a. The SC recognises that the challenge of delays remains the main obstacle for the effective operation of the 1980 Convention.
- b. The SC recognises that delays have significant human rights implications and, in some cases, can constitute violations of States' treaty obligations contained in human rights conventions.
- c. The SC reiterates C&R No 4 of the 2017 SC and strongly recommends Contracting States still experiencing delays to review their existing processes in order to identify potential causes of delays. In doing so, Contracting States are encouraged to implement any necessary adjustments, in order to expedite proceedings and make them more efficient, in accordance with Articles 2 and 11 of the 1980 Convention.
- d. The SC reminds Contracting States that the July 2023 revised versions of Prel. Docs Nos 10 B and 10 C are helpful tools for consultation by States' authorities tasked with the review of their implementation measures, as these documents describe the procedures adopted by some States to reduce delays and provide recommended good practices to address them.
- e. In the interest of reducing delays in the handling of applications under the 1980 Convention, the SC recommends that the PB develop a model written procedure for handling Convention applications<sup>31</sup> for caseworkers, with the assistance of a Working Group (WG) mainly constituted

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<sup>30</sup> See "Anexo Sustracción internacional de Niños al Protocolo iberoamericano de cooperación judicial internacional" (available in Spanish only) at <http://www.cumbrejudicial.org>.

<sup>31</sup> Central Authorities under the 1980 Convention are invited to develop written procedures for handling Convention applications as suggested in *Guide to Good Practice Abduction Convention Part I – Central Authority Practice*, at para. 2.5.1. This publication is available on the HCCH website at [www.hcch.net](http://www.hcch.net) under "Publications" then "Guide to Good Practice".

of Central Authority officers. This document should draw inspiration from the *Guide to Good Practice Abduction Convention: Part I – Central Authority Practice*. The SC invites Central Authorities which have developed similar documents, or intend to develop them in the future, to share them with the PB for dissemination purposes.

- f. With the aim of making return proceedings under the 1980 Convention more efficient, the SC recommends that the PB develop a short model guide to court practice,<sup>32</sup> with the assistance of a WG mainly constituted of judges. The SC invites competent authorities which have developed similar documents, or intend to develop them in the future, to share them with the PB for dissemination purposes.

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<sup>32</sup> Competent authorities under the 1980 Convention, where constitutionally permitted, are invited to develop practical or legal measures for strict case management. See Permanent Bureau of the HCCH, *Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Part II – Implementing Measures*, Bristol, Family Law (Jordan Publishing Limited), 2003, at para. 6.4, available on the HCCH website at [www.hcch.net](http://www.hcch.net) (see path indicated in note 14).