

Questionnaire concerning the Practical Operation of the 1980 Child Abduction Convention

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

Name of State or territorial unit:¹	JAPAN
<i>For follow-up purposes</i>	
Name of contact person:	
Name of Authority / Office:	
Telephone number:	
E-mail address:	
Date:	

PART I – PRACTICAL OPERATION OF THE 1980 CONVENTION

Recent developments in your State²

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

- No
 Yes

Please specify:

In May 2019, the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction (The Implementation Act) was amended to enhance the effectiveness of compulsory execution of orders to return children, taking into account the interests of children. The amended Implementation Act was enacted in April 2020. The content of the amended Act is as follows:

- Prior to amendment, it was necessary to first go through the indirect compulsory execution procedure before the compulsory execution of orders to return children; in contrast, the amended Act stipulates that under certain requirements, compulsory execution may be enforced without performing an indirect compulsory execution.
- Prior to amendment, it was necessary for the child and obligor to be together at the time of compulsory execution of orders to return the child; the amended Act eliminates this requirement, stipulating that, in principle, the obligee must be present for the interests of the child.
- In cases where the compulsory execution of orders to return children are to be executed at the children's residence, it may be executed with the court's permission without the consent of the location occupant(s).

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

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

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

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

- a) Methods for accepting and processing return and access applications and their accompanying documentation;
 Since December 2020, applicants have been able to submit applications for assistance to the Japanese Central Authority (JCA) by e-mail.
- b) Participation of the parties and the child (e.g., appearance in court proceedings, mediation);
 The Tokyo Family Court and Osaka Family Court began utilizing web conferencing system(Webex) in December 2021 for parties in Japan to participate in domestic mediation. This system may also be used in cases where a petition for a child return order is referred for mediation. In fact there was a case that a party visiting Japan participated in mediation via web conferencing system.
- c) Promoting mediation and other forms of amicable resolution;
 Even during the period when the Covid-19 pandemic prevented parties' visits to Japan for court proceedings, online mediation was available and utilized.
- d) Making arrangements for organising or securing the effective exercise of rights of access, including while pending return proceedings;
 In terms of visitation support used by the access supporting institutions commissioned by the Ministry of Foreign Affairs (MOFA), JCA did allow for in-person meetings to be replaced with "Online Mimamori Contact" (Monitored Online Contact Assisted by the Experts).
- e) Obtaining evidence by electronic means;
 Please insert text here
- f) Ensuring the safe return of the child;
 Please insert text here
- g) Cooperation between Central Authorities and other authorities;
 Bilateral video conferences were held between JCA and Central Authorities of other Contracting States to share information with each other on the progress of individual cases being handled and the actual support being provided by each Central Authority.
- h) Providing information and guidance for parties involved in child abduction cases;
 Please insert text here
- i) Other, please specify.
 Please insert text here

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

Case Name	Court Name	Court Level	Brief summary of the ruling
2019 (Kyo) 14 Decision of the First Petty Bench, April 16, 2020	Supreme Court	Final appellate	Even after in-court mediation is reached that the child is to be returned, the court may change the clause on the return of the child, when (1) a party claims and (2) the court

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

(Reporter: Minshu Vol. 74, No. 3)			finds that it is no longer appropriate to maintain the clause due to a change in circumstances, by analogically applying Article 117, paragraph (1) of the Implementation Act.
2021 (Kyo) 8 Decision of the Third Petty Bench, June 21, 2022 (Reporter: Shumin Vol. 268)	Supreme Court	Final appellate	(supplementary opinion) The refusal of compulsory execution of orders to return children on the sole grounds that a child custody hearing held in a foreign country (even without final ruling) may be inconsistent with the purposes of the Implementation Act, Article 17 of the 1980 Hague Convention, and Article 28, paragraph (3) of the Implementation Act reflected the above-mentioned Article 17.
Please insert text here	Please insert text here	Please insert text here	Please insert text here

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

Please insert text here

Issues of compliance

5. Has your State faced any particular **challenges with other Contracting Parties** to the 1980 Convention in achieving successful cooperation? Please specify the challenges that were encountered and, in particular, whether the problems appear to be systemic.

- No
- Yes

Please specify the challenges encountered:

In some Contracting States, the judicial process of the return of the child takes excessively long period of time and, as a result, does not satisfy the requirement of expeditious processing of the case under the 1980 Hague Convention. Also due to the lack of concentration of jurisdiction over the Hague child return cases in certain Contracting States, some cases took more than a few months to set the date of the initial hearing.

6. Are you aware of situations or circumstances in which there has been **avoidance or improper application** of the 1980 Convention as a whole or any of its provisions in particular?

- No
- Yes

Please specify:

Please insert text here

Addressing delays and ensuring expeditious procedures

7. The 2017 SC encouraged States to review their procedures (including, where applicable, at the Central Authority, judicial, enforcement and mediation / other alternative dispute resolution - “ADR” phases)⁵ in order to identify possible sources of delay and implement the adjustments needed to

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

secure shorter time frames consistent with Articles 2 and 11 of the Convention. Please indicate any identified sources of delay at the following phases:

Central Authority

- No
 Yes
 Procedure not yet revised

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

Please insert text here

Judicial proceedings

- No
 Yes
 Procedure not yet revised

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

Please insert text here

Enforcement

- No
 Yes
 Procedure not yet revised

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

The 2019 amendment of the Civil Execution Act stipulates that under certain requirements, for petitioning for execution by substitute of orders to return children, compulsory execution may be enforced without performing an indirect compulsory execution. (also see response to Q1).

Mediation / ADR

- No
 Yes
 Procedure not yet revised

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

No for mediation, Yes for ADR. Due to the large number of parties and participants, and also due to the fact that the parties are located in remote locations with time differences, ADR institutions had trouble scheduling dates, resulting in delays. Hence the following improvements have been made on this point: (1) If there is trouble scheduling a date, it is recommended for the first meetings to be held separately for each party on different dates. (2) Each ADR institution is required to establish a system for prompt confirmation of emails from the parties without fail.

Court proceedings and promptness

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

- No
 Yes

Please specify:

Both the Tokyo Family Court and the Osaka Family Court, which hear cases seeking the return of children, have developed and operate standard hearing models to reach a decision within six weeks of the petition.

Specifically, after receiving the petition, the courts designate an initial appearance date within approximately two weeks and formulate a trial plan upon hearing from the parties the schedule for collection of trial materials. Subsequently, a second appearance date is held within about five weeks of petition, in which the judge hears the circumstances from the parties based on the trial materials collected to date. Next, a trial date is set for roughly one week after the second appearance.

In Japanese courts, generally, this practice is promptly and appropriately carried out to handle cases relating to the return of the child.

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

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

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

- No
 Yes
 Please specify:
 Japanese courts do not use direct judicial communication with regard to specific cases, because Japan lacks the legal basis (ex. international agreements or domestic legislations) necessary for case-specific direct judicial communication. On the other hand, within the framework of International Hague Network Judges, our sitting judges exchange views and experiences on general matters with judges from other States through members designated to the network.

11. If your State has not designated a judge to the International Hague Network of Judges (IHNJ) does your State intend to do so in the near future?

- No
 Yes
 Please specify:
 Please insert text here

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

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

No such cases in Japan.

The role and functions of Central Authorities designated under the 1980 Convention

In general

13. Have any of the duties of Central Authorities, as set out in **Article 7** of the 1980 Convention, raised any particular problems in practice either in your State, or in Contracting Parties with which your State has cooperated?

- No
 Yes

Please specify:

- Some Contracting States were slow in their response in the communication, and required reminders from our side.
- Although almost all of the Contracting States accept communication in English, the Central Authorities of some States have very few staff member who are capable of communicating in English or French. This becomes an obstacle to achieve smooth communication and demands extra efforts on our part.

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

- No
 Yes

Please specify:

Please insert text here

Legal aid and representation

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

- No
 Yes

Please specify:

Please insert text here

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

- No
 Yes

Please specify:

- In the requested States where the Central Authority or other organization commissioned by the Central Authority file a petition before the court on behalf of the applicant to realize the return of child, some Central Authorities made findings in regards to the matters which are supposed to be determined by the court, such as the

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

grounds for refusal of return. This resulted in a refusal by the Central Authority to file the case before the court or to carry out its mandates under Article 7 of the 1980 Hague Convention.

- In a certain State, the Central Authority does not have a system to refer the applicants to lawyers. Therefore, the applicants have to find a lawyer without the assistance from the Central Authority of the requested State. It is often quite difficult for the applicant to seek in a foreign country a lawyer who is familiar with the 1980 Hague Convention cases. In addition, if there is no legal aid available to a person residing outside the State, an applicant with economic hardship would be unable to pursue the court process unless he/she finds an attorney willing to provide a pro bono representation.

Locating the child

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

- No
 Yes

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

- JCA has been able to locate the child in almost all cases once we confirm that the child is in Japan. There have been a few cases where the child was obviously not in Japan, and JCA faced some difficulties in identifying where the child was.
- For outgoing cases, some Central Authorities take a quite long time to locate the child. There are a few cases where the child is still not located after one-year period. In such a situation, locating the child becomes a challenge unless the applicant already has a good idea of the whereabouts of the child.

Voluntary agreements and bringing about an amicable resolution of the issues

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

JCA introduces ADR institutions to both parties involved and encourage them to seek an amicable resolution. For this purpose, JCA has signed the contract agreements with 6 ADR institutions in Japan, and bears mediation fee for up to 4 sessions at one of these institutions.

The parties may also seek to settle the case through the “in-court mediation” during the court proceedings. The “in-court mediation” is facilitated by a mediation committee consisting of one judge, who is also the sitting judge in the child return case, and 2 mediation commissioners (mediators). The courts encourage the parties to resolve the case through the “in-court mediation”.

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

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

Please specify:

ADR institutions list mediators, some of them foreign nationals, who speak multiple languages including English. Interpretation and translation services in many languages are also available at the Ministry of Foreign Affairs' expense. On training, mediators from Reunite in the UK and Mikk in Germany have been invited to conduct mediator training workshops.

20. Should the services mentioned in the question above not yet be provided, does your Central Authority intend to provide them in the future?

Please provide comments:
Please insert text here

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

- No
Please explain:
JCA gathers and facilitates access to information on ADR such as mediation services.
- Yes
Please explain:
Please insert text here

Ensuring the safe return of children¹⁰

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

Please explain:
If JCA finds that the circumstances require protective measures to ensure the safe return of the child, it will alert and request the Central Authority of the requesting State to take appropriate protective measures. JCA also notifies Japanese diplomatic or consular missions in the requesting State about the child's scheduled return. JCA also gathers information about the support organizations for victims of Domestic Violence through Japanese diplomatic or consular missions in the requesting State, and provides it to the taking parent in order to ensure the safe return of the child.

23. If requested as a safe return measure (e.g., in accordance with the 1996 Convention), would your Central Authority be in a position to provide, either directly or through intermediaries, a report on the situation of the child after a certain period of time after the return?

- No
 Yes
Please specify:
JCA is not in a position to provide a report on the child after their return.

Information exchange, training and networking of Central Authorities

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

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

24. Has your Central Authority shared experiences with other Central Authority(ies), for example by organising or participating in any networking initiatives such as regional meetings of Central Authorities, either in person or online? ¹¹

- No
 Yes

Please specify:

JCA hosted in-person in 2017 and online in 2021, Asia-Pacific regional seminars on the 1980 Hague Convention, providing opportunities to share information with the Central Authorities of more than 10 countries. Furthermore, these seminars introduced non-members in the Asia-Pacific region to the 1980 Hague Convention and related issues. As indicated in the response for 2-g), JCA also have held bilateral video conferences with other Central Authorities.

Case management and collection of statistical data on applications made under the Convention

25. Has your Central Authority developed any protocols or internal guidelines for the processing of incoming and outgoing cases?

- No
 Yes

Please specify and share the relevant instruments whenever possible:

JCA has a standard guideline for the expeditious processing of the cases. For example, the notice of receipt of the application is sent to the applicant within 2 days from the receipt of the application. JCA then decides whether to accept or reject the application, or to request the applicant to submit additional documents or evidences to support his application within 2 weeks from the receipt of the application. Also, JCA starts the procedure for locating the child immediately after receiving the application.

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

- No
 Yes

Please specify:

JCA has a management system in place to assign case officers to individual cases, to follow up on their respective incoming and outgoing cases with appropriate measures. In the event that a case officer is absent, other case officers keep track of the cases.

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

- No
 Yes

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

For both incoming and outgoing cases, statistics is kept on the number of applications for return and visitation cases. Such data is regularly updated on the Ministry of Foreign Affairs website.

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

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

Transfrontier access / contact¹³

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

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

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

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

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

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

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

Position	Services provided
A request of assistance to organise or secure effective exercise of rights of access in another Contracting Party (as requesting State)	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1. Assistance in obtaining information on the operation of the 1980 Convention <input type="checkbox"/> 2. Assistance in obtaining information on the relevant laws and procedures in the requested State <input checked="" type="checkbox"/> 3. Establishment of contact with the Central Authority and / or the competent authorities in the requested State to find out the kind of assistance such authorities could provide <input checked="" type="checkbox"/> 4. Transmission of the request to the Central Authority or to the competent authorities in the requested State <input type="checkbox"/> 5. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access <input checked="" type="checkbox"/> 6. Assistance in providing or facilitating the provision of legal aid and advice <input type="checkbox"/> 7. Assistance in obtaining private legal counsel or mediation services, where needed in the requested State <input type="checkbox"/> 8. Referral to other governmental and / or non-governmental organisations for assistance <input checked="" type="checkbox"/> 9. Provision of regular updates on the progress of the application <input type="checkbox"/> 10. Other, please specify: Please insert text here

¹³ See C&R Nos 18-20 of the 2017 SC.

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

<p>A request of assistance to organise or secure effective exercise of rights of access in your State (as requested State)</p>	<p><input checked="" type="checkbox"/> 1. Providing information on the operation of the 1980 Convention and / or the relevant laws and procedures in your State</p> <p><input type="checkbox"/> 2. Assistance in initiating judicial or administrative proceedings with a view to making arrangements for organising or securing the effective exercise of rights of access</p> <p><input checked="" type="checkbox"/> 3. Assistance in providing or facilitating the provision of legal aid and advice</p> <p><input checked="" type="checkbox"/> 4. Assistance in obtaining private legal counsel or mediation services available in your State</p> <p><input checked="" type="checkbox"/> 5. Referral to other governmental and / or non-governmental organisations for assistance</p> <p><input type="checkbox"/> 6. Regular updates on the progress of the application</p> <p><input type="checkbox"/> 7. Other, please specify: Please insert text here</p>
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32. Should your State also be a Contracting Party to the 1996 Convention, are you aware of any use being made of **provisions of the 1996 Convention**, including those under Chapter V, **in lieu of or in connection with an application under Article 21** of the 1980 Convention?

- No
- Yes

Please specify:
Please insert text here

Special topics

Obtaining the views of a child in a child abduction case

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

Please explain:

In cases where the court must determine whether a child is adapted to their new environment or is willing to be returned as possible grounds for refusal of return, a family court investigating officer, with professional knowledge in psychology and/or other behavioral sciences, conducts an investigation, including interviewing the child.

In determining whether the child has adapted to their new environment, objective circumstances related to the new environment (living conditions in Japan, school status, extracurricular activities, friends, etc.) and their thoughts and feelings of current and future life are investigated. In determining whether the child is willing to be returned, the details of the child's objection, their age and level of development, and degree of parental influence on the child's opinion are examined.

34. Are there any procedures, guidelines or principles available in your State to guide the person (e.g, expert, judge, guardian *ad litem*) in seeking the views of the child in a child abduction case?

- No
- Yes

Please specify:

Article 88 of the Implementation Act stipulates that family courts shall endeavor to determine the child's will by hearing the statement from the child, or by examining a report from a family court investigating officer, or by other appropriate means in the proceedings of cases seeking the return of the child, and that they must take that into

account in making their final decision, depending on the child's age and degree of development. Article 44 (1) of the Rules of Procedures for Cases relating to the Return of a Child under the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction stipulates that the investigation of the character, background, living conditions, asset status, family environment and other environmental factors of each party must endeavor to utilize medical, psychological, sociological, economic and other professional knowledge as necessary.

Article 15

35. As requesting State (outgoing applications), how often have judicial or administrative authorities in your State received requests for Article 15 decisions or determinations?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

36. As requested State (incoming applications), how often have judicial or administrative authorities in your State requested Article 15 decisions or determinations?

- Do not know
 Never
 Rarely
 Sometimes
 Very often
 Always

37. Please indicate any good practices your State has developed to provide as complete as possible information in the return applications as required under Article 8 with a view to speed up proceedings?

Please indicate:

JCA has set up application forms in English and Japanese that cover all necessary matters and provides a PDF format entry form on its website. In addition, a guide on how to fill out the application form is available in English and Japanese on the website.

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

Please insert your suggestions:

Please insert text here

Relationship with other international instruments on human rights

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

- No

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

- Yes
If possible, please share any relevant case law or materials that are relevant to this type of situation in your State or, alternatively, a summary of the situation in your State:
[Please insert text here](#)
- Do not know

40. Has the concept of the **best interest of the child** generated discussions in your State in relation to child abduction proceedings? If it is the case, please comment on any relevant challenges in relation to such discussions.

- No
 Yes

Please provide comments:

[Judicial proceedings]

Japanese courts consider the best interests of children in making judgements. Thus it has been pointed out that determining whether there is a "grave risk" or other grounds for refusal of return must take into account what may be the best interests of children.

[Legislation]

The Family Law Subcommittee of the Legislative Council, an advisory body to the Minister of Justice, is currently conducting an extensive examination of matters regarding divorce and related systems, including how custody of children after divorce ought to be, from the perspective of factors including securing the interests of children.

Use of the 1996 Convention¹⁶

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

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

[Please insert text here](#)

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

[Please insert text here](#)

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

[Please insert text here](#)

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

[Please insert text here](#)

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

[Please insert text here](#)

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

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

¹⁷ See C&R No 40 of the 2017 SC: "The Special Commission notes that many Central Authorities may provide certain degrees of assistance (both when the 1980 Convention and / or the 1996 Convention apply), both to individuals within their own State and to foreign Central Authorities on behalf of an individual residing abroad. Requests for assistance may encompass such matters as: securing rights of access; the return of children (both when the 1980 Convention and / or

- No
 Yes
 Please specify:
 Please insert text here

Primary carer and protective measures

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

Please explain and provide case examples where possible:
 In cases where the taking parent (TP) refuses to return the child to his or her habitual residence despite a return order, the applicant may apply for an indirect compulsory execution and execution by substitute. If there are concerns about the safety of the child (or TP) for reasons such as violence from the applicant, at the TP's request, information on related support systems is collected in advance through Japanese diplomatic or consular missions in the requesting State.

44. Would the authorities of your State consider putting in place measures to protect the primary carer upon return in the requesting State if they were requested as a means to secure the safe return of the child?

Please explain and provide case examples where possible:
 The court considers the safety of TP when it examines the existence of the grave risk exception in accordance with the Implementation Act. In addition, in order to secure the safe return of the child and TP, JCA may request the Central Authority of the State of habitual residence to take appropriate protective measures. JCA may also inform Japanese diplomatic or consular missions in the State of habitual residence about the child's return and gather information about support organizations for victims of DV upon request of the TP. Also, JCA requests the Central Authority of requesting State to check whether the TP is likely to face criminal charges.

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

- No
 Yes
 Please explain and distinguish between such measures being recognised and enforced under the 1996 Convention:
 Please insert text here

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

- No
 Yes
 Please specify:
 Please insert text here

the 1996 Convention apply); the protection of runaway children; reporting on the situation of a child residing abroad; post-return reports for children returned to their habitual residence; the recognition or non-recognition of a measure taken abroad (advanced recognition); and, the enforceability of a foreign measure of protection." (Emphasis added.)

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

No

Yes

Please specify:

[Please insert text here](#)

N/A

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

No

Yes

Please specify:

In principle, Japan considers that the purpose of the Convention as stipulated under Article 1 is fulfilled when the child returns to the State of his/her habitual residence. However, JCA follows up with the child through the Japanese diplomatic or consular missions in the State of habitual residence, as necessary, for the purpose of securing the safety of Japanese nationals, and if necessary, JCA shares the relevant information with the TP who did not return with the child.

International family relocation¹⁸

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

Yes

Please describe such procedures, if possible:

[Please insert text here](#)

No

Please describe how the authorities deal with international family relocation cases, if possible:

[Please insert text here](#)

Publicity and debate concerning the 1980 Convention

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

No

Yes

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

[In the National Diet, the members of the Diet has discussed the implementation of the 1980 Convention.](#)

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

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

Please explain:

JCA raises public awareness through websites, PR videos, posters, leaflets, and social media (Twitter and YouTube). Moreover, it offers seminars for Japanese nationals living overseas.

PART II – TRAINING, EDUCATION AND POST-CONVENTION SERVICES

Training and education

52. Please provide below details of any training sessions / conferences organised in your State to support the effective functioning of the 1980 Convention, and the influence that such sessions / conferences have had:

Please provide details:

Seminars are regularly held by JCA for local governments, bar associations and immigration authorities to promote understanding of the 1980 Hague Convention.

The International Hague Network Judges (INHJ), who have attended international conferences on the 1980 Hague Convention, make reports to case officers. The Court regularly provides opportunities to exchange opinions with Central Authorities, bar associations, and the Ministry of Justice to implement better practices as well.

The tools, services and support provided by the PB

53. Please comment or state your reflections on the specific tools, services and support provided by the PB to assist with the practical operation of the 1980 (and 1996) Conventions, including:

- a. The Country Profile available under the Child Abduction Section, including the addition and / or revision of its questions.

It is useful to obtain an overview of the return procedures of other Contracting States. However, not all Contracting States' information is available, and some information has not been updated. Japan hopes that all Contracting States submit a Country Profile in English or French.

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

It is an easy-to-search and useful tool with extensive court cases. However, given the gap among countries in providing precedents, and that the full text of the decision is not available for some of the published cases, there is room for further improvement.

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

It contains much useful information.

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

The list of contact information on the Central Authorities in each country is useful.

- e. Providing technical assistance and training to Contracting Parties regarding the practical operation of the 1980 (and 1996) Conventions. Such technical assistance and training may involve persons visiting the PB or, alternatively, may involve the PB (including through its Regional Offices) organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;

Please insert text here

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

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

Please insert text here

- g. Supporting communications between Central Authorities, including maintaining updated contact details on the HCCH website or intervening to facilitate contact in cases where obstacles arise.

Please insert text here

- h. Supporting communications among Hague Network Judges and between Hague Network Judges and Central Authorities, including maintaining a confidential database of up-to-date contact details of Hague Network Judges or intervening to facilitate contact in cases where obstacles arise.

We hope that the contact information for the judges in each country is updated on a continual basis.

- i. Responding to specific questions raised by Central Authorities, Hague Network Judges or other operators regarding the practical operation or interpretation of the 1980 (and 1996) Conventions.

Please insert text here

Guides to Good Practice under the 1980 Convention

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

- a. Part I on Central Authority Practice.

Referenced as necessary, for example, when deciding to transfer an outgoing case where a child left for another Contracting State after the application had been received.

- b. Part II on Implementing Measures.

Referenced as necessary in processing individual cases.

- c. Part III on Preventive Measures.

Referenced as necessary in processing individual cases.

- d. Part IV on Enforcement.

Referenced as necessary in processing individual cases.

- e. Part V on Mediation

Referenced as necessary in processing individual cases.

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

Referenced as necessary in processing individual cases.

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

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

g. Transfrontier Contact Concerning Children – General Principles and Guide to Good Practice
Referenced as necessary in processing individual cases.

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

The Guides are widely known by the courts, Ministry of Justice, lawyers, and others. A link to the HCCH Guides to Good Practice is available on the Ministry of Foreign Affairs website.

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

Please insert text here

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

Please insert text here

Other

58. What other measures or mechanisms would you recommend:

a. to improve the monitoring of the operation of the 1980 Convention;
Please insert text here

b. to assist States in meeting their Convention obligations; and
Please insert text here

c. to evaluate whether serious violations of Convention obligations have occurred?
Please insert text here

²³ The *Practitioner’s Tool* is available at the HCCH website at www.hcch.net under “Child Abduction Section” then “Guides to Good Practice”.

PART III – NON-CONVENTION STATES

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

Please explain:

[Please insert text here](#)

60. Are there any States which are not Party to the 1980 Convention or not Members of the HCCH that you would like to see invited to the SC meeting in 2023?

Please indicate:

[Please insert text here](#)

The “Malta Process”²⁴

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

Please explain:

[Please insert text here](#)

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

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

Views on priorities and recommendations for the SC

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

Please specify and list in order of priority if possible:
Please insert text here

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

Please specify:
Please insert text here

Bilateral meetings

64. Should your State be interested in having bilateral meetings during the SC meeting, please indicate, for the PB's planning purposes, an estimate of how many States with which it intends to meet:

Please insert number:
Please insert text here

Any other matters

65. States are invited to comment on any other matters which they may wish to raise at the 2023 SC meeting concerning the practical operation of the 1980 Convention.

Please provide comments:
Please insert text here