

**QUESTIONNAIRE CONCERNING THE PRACTICAL
OPERATION OF THE CONVENTION AND
VIEWS ON POSSIBLE RECOMMENDATIONS**

Response on behalf of the Central Authority for the Republic of Croatia

1. THE ROLE AND FUNCTIONING OF CENTRAL AUTHORITIES

General questions

1. Have any difficulties arisen in practice in achieving communication or co-operation with other Central Authorities in accordance with article 7 of the Convention?

(Article 7a) Such problem exists in communication with the countries having more territorial units with different legal systems, when the person who has wrongfully removed the child changes addresses just to prolong the procedure of tracing the child in order that he or she may invoke Article 13 of the Convention.

2. Have any of the duties of the Central Authority, as set out in article 7, raised any problems in practice?

The Central Authority for Croatia has not encountered any difficulties in carrying out the duties set out in article 7.

- Particular questions

3. What measures are taken by your Central Authority or others to secure the voluntary return of a child or to bring about an amicable resolution of the issues (Article 7c)? Do these measures lead to delay?

The Central Authority of the Republic of Croatia forwards the Hague application to the court and the centre of social welfare having jurisdiction with regard to the child's or parent's address. The centre of social welfare first invites the person with whom the child is and tries to reach an agreement for voluntary return of the child, i.e. it tries to make possible for the parties to agree, in the best interest of the child, on, for example, the date of the child's return, arrangements for the return, etc. The Central Authority insists that the centre of social welfare performs these actions within fifteen days. These proceedings have no effects on the court's time limits and they are used to establish the child's whereabouts and other facts having legal relevance (e.g. circumstances in which the child lives, child-parent relationship [emotional, educational, health]).

4. What measures does your Central Authority take to provide or facilitate the provision of legal aid and advice in Hague proceedings, including the participation of legal counsel and advisors (Article 7g)? Do these measures result in delays in your own jurisdiction or, where cases originate in your country, in any of the requested jurisdictions?

In the proceedings conducted under the provisions of this Convention the parties are entitled to free legal aid and family mediation or counselling, especially in the case of proceedings under Article 21 of the Convention, to be provided by the centre of social welfare. In that regard, the Ministry of Labour and Social Welfare offers legal and other professional assistance to the parties in the proceedings and to the centres of social welfare.

5. Does your Central Authority represent applicant parents in Hague proceedings? If so, has this role given rise to any difficulties or conflicts, for example with respect to other functions carried out by your Central Authority?

The Ministry of Labour and Social Welfare (Central Authority) has within its jurisdiction the centres of social welfare which, in performance of their public powers, protect the rights of children and incapacitated persons (wards) and are, therefore, involved in all such court proceedings, either as a court-designated expert body or as an intervener. In the course of the proceedings, the competent court may appoint a representative for the person who has submitted an application for the return of the child. Such appointment is governed by civil procedure regulations. The court may request that the centre of social welfare appoint a guardian *ad litem* for the applicant.

6. What obligations does your Central Authority have, and what measures does it take, to ensure that a child returned to your country from abroad receives appropriate protections, especially where issues of (alleged) abuse or violence has arisen? In particular, does your Central Authority:

a) ensure that appropriate child protection bodies are alerted;

In every case when there are doubts about possible child abuse, the Central Authority ensures *ex officio* protection for the child through competent bodies (centres of social welfare, police - divisions for protection of juveniles). In such case, the competent body may order measures supplementing, restricting or denying parental care.

b) provide information to either parent in respect of legal, financial, protection and other resources in your area;

The Central Authority for Croatia provides information to respondent parents, giving details of legal help and counselling services.

c) facilitate contact with bodies providing such resources;

See b) above.

d) assist in providing any necessary care for the child pending custody proceedings;

The Central Authority can instruct the relevant centre of social welfare to take the appropriate protective actions or measures.

e) provide any other support, advice or information to a parent who accompanies the child on return;

See b) above.

f) provide any assistance in ensuring that undertakings attached to a return order are respected.

Enforcement of a court judgement on the return of the child falls within the competence of the court that has delivered it. If the person with whom the child is opposed (without legal grounds) the enforcement related to the request of the applicant or Central Authority of the applicant state, such enforcement will be made, and the Central Authority will make efforts to provide all assistance, within its competence.

7. What arrangements does your Central Authority make for organising or securing the effective exercise of rights of access (Article 7 f)?

As regards a request for exercise of rights of access or visitation rights provided for by the Convention, the Central Authority (Ministry of Labour and Social Welfare) will forward any final decision rendered in this regard to the court, so that its recognition and enforcement may be made (which is questionable under Article 23).

A request for regulation of contacts and visitation rights with the non-custodial parent is forwarded to the centre of social welfare having jurisdiction with regard to the child's residence or domicile. The centre of social welfare is authorised to conduct proceedings and make a decision on arrangements and time of contacts between the child and the non-custodial parent. It is then authorised to enforce its final decision.

a) provide information or advice

The Croatian Central Authority provides necessary information to other Central Authorities on the status of the case, on legal procedural issues in the Republic of Croatia, on legal solutions in the field of regulation of family-law relations, on social origin or status of the child, etc. The past practice has shown that advice has primarily been asked by persons who approached the Central Authority in the capacity of applicants.

b) facilitate the provision of legal aid or advice;

In every case when the circumstances of the case require so, legal aid is provided to parties in such proceedings, and especially if the party explicitly requests such aid.

c) initiate or assist in the institution of proceedings, where appropriate, on behalf of the applicant;

A request for regulation or realisation of contacts is submitted to the competent body and accompanied by instructions on the application of the Convention. During the proceedings the Central Authority assists by forwarding information, if necessary.

d) assist in ensuring that the terms or conditions on which access has been ordered or agreed are respected;

Yes, through a trained professional in the centre of social welfare.

e) assist in cases where modification of existing access provisions is being sought.

Yes. See c) above.

8. Please comment on any developments in relation to the maintenance of statistics concerning the operations of your Central Authority been able to return to the Permanent Bureau annual statistics in accordance with the Hague standard forms? If not, please explain why.

The Central Authority for Croatia is able to provide standard statistical information.

9. Can you affirm or reaffirm, as the case may be, support for the conclusions reached by the first, second and third Special Commissions;

The Central Authority hereby affirms its support for the conclusions reached by the first, second and third Special Commissions.

10. Would you support any other recommendations in respect of the particular functions which Central Authorities do or might carry out, especially with regard to the matters raised in questions 6 and 7 above;

The Central Authority for Croatia will consider all practical suggestions which could improve liaison and co-operation between Central Authorities and which may help signatory states to improve conditions of work, especially with regard to the provision of appropriate financial resources and increase of the number of professionals performing these activities.

2. JUDICIAL PROCEEDING, INCLUDING APPEALS AND ENFORCEMENT ISSUES, AND QUESTIONS OF INTERPRETATION

1. How many courts and how many judges potentially have jurisdiction to hear an application for the return of a child? If there is more than one level of jurisdiction for the return of a child at first instance, please specify the number of courts and judges for each level.

All applications are transmitted to the competent municipal courts. There are 106 courts in charge with these proceedings.

2. Do you have any special arrangements whereby jurisdiction to hear return applications is concentrated in a limited number of courts? Are such arrangements being contemplated?

See question 2 .1. above

3. What measures exist to ensure that Hague applications are dealt with promptly (Article 7) and expeditiously (Article 11) in particular:

a) is it possible for the application to be determined on the basis of documentary evidence alone?

It is not ordinarily necessary to hear oral evidence to consider an Article 13 defence as it is not consistent with the summary nature of a procedure which is not intended to judge on the merits of the case (the details of issues between the parents, or about custody). In any case, oral evidence may be heard.

b) what special measures/rules exist to control or limit the evidence (particularly the oral evidence) which may be admitted in Hague proceedings?

Under Article 219 of the Civil Procedure Act, a party is obliged to present the facts and propose evidence upon which he or she bases his or her request or by which he or she denies allegations and evidence of the adversary. The provision of evidence comprises all facts that are relevant for making a decision. However, the court is the one that decides what evidence will be introduced in order to establish decisive facts (Article 220 of the above Act).

c) who exercises control over the procedures following the filing of the application with the court and prior to the court proceedings, and how is the control exercised?

In the Republic of Croatia two institutions have been designated as Central Authorities. In that way, a duality in proceeding has *de facto* been created which gives rise to the problems related to monitoring of the proceedings. In such cases, a centre of social welfare is, under the Family Act of the Republic of Croatia, a body that provides assistance to the court.

As to the control of procedures, a dissatisfied party may lodge an appeal to a higher court, request for protection of legality (as a remedy against final decisions).

d) what appeal is possible from the grant or refusal of a return application, within what time limits do appeals operate, on what grounds and subject to what limitations?

Appeal is possible in these cases. Time limit for appeal is eight days. Under the existing regulations of the Republic of Croatia, these procedures are considered urgent, i.e. they are given priority over other cases.

4. In what circumstances, and by what procedures/methods, will a determination be made as to whether a child objects to being returned?

In case when a child objects to be returned during the proceedings, the court will take into account the child's standpoint and opinions, having in mind his or her age and maturity. and assess whether it would be in his or her interest (legal basis is the Convention on the Rights of the Child and the Family Act of the Republic of Croatia in conjunction with Article 13, Paragraph 2 of the Convention).

In case when the court orders that the child should be returned and the child objects to being returned, non-legal professionals from the centre of social welfare (psychologist, social worker, pedagogue and others) are included in the treatment of the child (individual or family therapy, organisation of contacts with the parent, etc.). Psychiatrists from health institution are also included, if necessary.

In consideration of these circumstances, the provision of Article 13, Paragraph 3 of the Convention will, in any case, be applied.

5. Where the person opposing return raised any other defences under Article 13 or Article 20, what are the procedural consequences? What burden of proof rests on the defendant? Does the raising of defences under Article 13 or 20 in practice lead to delay? What measures, if any, exist to reduce such delay to a minimum?

Article 13 a. In this case the person opposing return must provide evidence to the court.

Article 13 b. The defendant's allegations that there are reasons referred to in Article 13, Paragraph 1, Subparagraph b for refusal to return the child are considered by the court which, in that case, includes in the procedure the centre of social welfare and court-appointed experts, if necessary.

Similar to the above mentioned is the case when the child refuses to return to the applicant. In that case as well the court includes experts and bases its judgement on expert opinions.

6. Please specify the procedures in place in your jurisdiction to ensure that return orders are enforced promptly and effectively? Are there circumstances (apart from pending

appeals) in which execution of a return order may not be effected? Do return orders require separate enforcement proceedings? Is there appeal from such proceedings? Are such enforcement procedures routinely invoked, and are they successful in achieving the enforcement of return orders?

Since the time the Republic of Croatia became a party to the Convention, the basic problem in proceeding has been that there are two central authorities and actions are, therefore, taken depending on to which one the application has been submitted (Ministry of Labour and Social Welfare or Ministry of Justice). Namely, it often happens that an application is submitted to one central authority and the applicant later on contacts another central authority and that has implications on time limits. Such situation considerably compromises a faster and simpler communication with the competent court. The solution would be to designate only one central authority in which the powers for applying the Convention would, therefore, be concentrated and the work of which would be adjusted in that regard (greater number of professionals specially educated for this field of work). This problem was not so noticeable when the number of Hague applications was small. The Central Authority of the Republic of Croatia has not registered any case when the final court decision on the return of the child was not enforced.

Procedure of enforcement of final court decisions is not a separate procedure. It is conducted as a separate procedure when the enforcement of a final court decision is rejected (a ruling on the return of the child may provide that the appeal does not delay execution of the decision).

7. Would you support any of the following recommendations?

- a) Calling upon States Parties to consider the considerable advantages to be gained from a concentration of jurisdiction in a limited number of courts.*
- b) Underscoring the obligation of States Parties to process return applications expeditiously, and making it clear that this obligation extends also to appeal procedures.*
- c) Calling upon trial and appellate courts to set and adhere to timetables that ensure the speedy determination of return applications.*
- d) Calling for firm judicial management, both at trial and appellate levels, of the progress of return applications.*
- e) Calling upon States Parties to enforce return orders promptly and effectively.*
- f) Recommending that the "grave risk" defence under Article 13 should be narrowly construed.*

- g) *Proposing any other measures (please specify) to improve the efficiency and speed with which applications are processed and orders enforced.*

The Central Authority of the Republic of Croatia supports all the proposed recommendations. As regards the recommendation under d), we think that, in order to be more clear as to what is the aim of that recommendation, it should be defined what **firm judicial management** means to prevent the interference with the impartiality of the courts and their discretionary decision-making rights.

8. Please indicate any important developments since 1996 in your jurisdiction in the interpretation of Convention concepts, in particular the following:

- rights of custody (Article 3a and 5a);*

By rights of custody the Republic of Croatia (in accordance with its legislation) means the child's legal status related to the issue as to with whom the child will live (refers to one parent) or in whose care the child will be placed (if the child has been placed in the care of another person or a children's home) established by a final decision of the competent authority. The novelty is that parents, as a rule, provide joint care for the child, regardless of whether they live together or separately (even in cases when the child lives separately from both parents), except as otherwise decided by the competent authority (court or centre of social welfare). We consider that it is necessary to have a flexible approach to the issues related to rights of custody.

- habitual residence (Article 3a and Article 4);*

This issue has been regulated by the Conflicts of Law Act of the Republic of Croatia.

- rights of access (Article 5b)*

These procedures fall within the competence of the centre of social welfare. As an exception, cases relating to establishment of maternity or paternity, marital disputes and proceedings involving recognition of decision made by another country's authority is within the court's jurisdiction. Centres of social welfare have professional staff (lawyer, psychologist, social worker) for implementation of the rights of access. There is no direct enforcement of rights of access through the Convention, by the nature of the things. Namely, this concerns a very sensitive area of the rights of children and parents that requires a multidisciplinary team approach (psychologist, lawyer, social worker) with respect to the elapse of time, change of circumstances, etc. All such facts are, therefore, established in the proceedings. Parties are, as a rule, invited and the following important facts and circumstances are examined: emotional ties between the child and the parent,

- traits of the parent as a permanent or temporary care-taker, especially whether the parent with whom the child lives prepares the child for contacts with the other parent, and if yes, to what degree, whether the parent is capable of detaching his or her disagreements with the other parent from the interests of their child, etc.
- *the actual exercise of rights of custody (Article 3b and Article 13a)*
 - *the settlement of the child in its new environment (Article 12);*
In the context of provisions of Article 12 of the Convention, other facts and circumstances of the case are also considered. The problem is when the parent has who has removed or retained the child changes addresses with the child (hides from the competent courts)
 - *consent or acquiescence to the removal or retention of the child (Article 13a);*
In case when there is a reasonable suspicion of existence of facts from Article 13a of the Convention, such facts are established in the probative proceedings (reports from competent services, hearing of parties, etc.).
 - *grave risk (Article 13b);*
In such cases the court applies in the proceedings high professional standards to make a judgement (centre of social welfare is involved, expert witnessing is done, witnesses are heard, etc.).
 - *exposure to physical or psychological harm (Article 13b);*
See the preceding answer.
 - *intolerable situation (Article 13b);*
See the preceding answer.
 - *fundamental principles relating to the protection of human rights and fundamental freedoms (Article 20).*
Since the Republic of Croatia is a party to the Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols, as well as the Convention on the Rights of the Child, the court would, in a similar case, have to take into considerations the principles enshrined in these conventions.

3. ISSUES SURROUNDING THE SAFE AND PROMPT RETURN OF THE CHILD (AND THE CUSTODIAL PARENT, WHERE RELEVANT)

1. To what extent are your courts, when considering a return application, entitled and prepared to employ "undertakings" (i.e. promises offered by, or required of the applicant) as a means of overcoming obstacles to the prompt return of a child? Please describe the subject matter of undertakings required/requested. At what point in the return proceedings are possible undertakings first raised, and how?

In its decision the court determines the arrangements for, and the time of return of the child. In case of non-compliance with the court decision, the enforcement procedure is available, that is, enforcement is implemented to remove the child from the person wrongfully retaining him or her. Enforcement is conducted by the distraining officer, in co-operation with the police and centre of social welfare's staff, if necessary.

2. Will your courts/authorities enforce or assist in implementing such undertakings in respect of a child returned to your jurisdiction? Is a differentiation made between undertakings by agreement among the parties and those made at the request of the court?

See the answer to question 3.1.

The courts and judges are, as a rule, very motivated to settle in a correct and efficient way the cases related to this Convention, but, having in mind the fact that the Republic of Croatia has had a relatively small number of such cases, and that for some judges it is the first time to deal with such issues, we may say that one of the reasons for long proceedings is, to a certain extent, the judges' lack of experience in solving these cases. We think that judges and professionals in centres of social welfare in the Republic of Croatia should be additionally trained for the application of this Convention. In that regard, the support of the Permanent Bureau would be of considerable relevance for us (it should encourage and recommend that such training activities be held in states parties, involvement of experts who would help by presenting their experience in the implementation of such conferences or seminars).

3. To what extent are your courts entitled and prepared to seek or require, or, as the case may be, to grant safe harbour orders or mirror orders (advance protective orders made in the country to which the child is to be returned) to overcome obstacles to the prompt return of a child?

The existing Croatian legislation provides for, and regulates security measures (temporary measure or advance security measure). The court would, therefore, be able to make such orders.

4. Is consideration being given to the possible advantages of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, in providing a jurisdictional basis for protective measures associated with return orders (Article 7), in providing for their recognition by operation of law (Article 23), and in communicating information relevant to the protection of the child (Article 34)?

The Republic of Croatia is not a signatory of that Convention.

5. Have you experience of cases in which questions have arisen as to the right of the child and/or the abducting parent to re-enter the country from which the child was abducted or unlawfully retained? If so, how have such issues been resolved?

The Central Authority of the Republic of Croatia has not had, in practice, any applications by abducting parents to have the child back.

6. Please comment on any issues that arise, and how these are resolved, when criminal charges are pending against the abducting parent in the country to which the child is to be returned.

Until now, the Central Authority of the Republic of Croatia has not had any such experiences by now.

Another interesting question is the question relating to requests in court decisions regulating the right to access according to which the parent to whose care the children were placed must not leave the country of the last family residence so that the other parent may have regular contacts with his or her child? What if the parent gets a job in another country, possibility to have better living conditions and care about his or her children, etc. We consider that in such circumstances a new decision should be reached on access, before the leaving of the respective country, if possible. This especially concern those cases when both parents are citizens of the country where the parent who has custody of the children would like to return together with children, and the decision was made by some other country where they used to live as a family. In that case, such return would imply the loss of social security both for the parent and for the child. We think that amendments should be made to such procedure, i.e. the decision on access should be modified or a new decision should be made, taking in any case into account the best interests of the child.

7. Please comment on any experience as a requesting or a requested state, of cases in which the deciding judge has, before determining an application for return, communicated with a judge or other authority in the requesting State and, if so, for what purposes? What procedural safeguards surround such communications?

The Central Authority of the Republic of Croatia has no knowledge as to the contacts between the judges in the proceedings, but it is customary for central authorities to respond to requests relating to provision of additional documentation and evidence, to clarification of the existing rules, providing specific security for return, assistance regarding the return, etc.

8. Has an appointment been made in your country of a judge or other person competent to act as a focus or channel for communication between judges at the international level in child abduction/access cases?

No appointment has been made of a special judge or person entrusted with such duties

9. Where a child is returned to your country, what provisions for legal aid and advice exist to assist the accompanying parent in any subsequent legal proceedings concerning the custody or protection of the child?

The Family Act and the Social Welfare Act contain provisions on the protection of children's rights and on authorities and duties of the centre of social welfare to provide professional assistance in similar cases. If the child has not lived for a long time to the parent to whom he or she has been returned, a measure of supervision of parental care is as a rule ordered. That measure is ordered and conducted by the centre of social welfare either directly or by appointment of a person with appropriate professional skills who would check whether the child has accepted the change, i.e. whether the situation is developing in the child's interest.

10. *Where a custody order has been granted in the jurisdiction of, and in favour of, the left behind parent, is the order subject to review if the child is returned, upon the application of the abducting parent?*

The parent may request that a modified decision be made because the circumstances have changed. The change of circumstances may give rise to modification of a decision *ex officio*. For these reasons and in order to avoid delay in proceedings Family Act of the Republic of Croatia excludes revision as a remedy against final decisions in such cases. Of such remedies it is in the Republic of Croatia possible only to lodge a request for protection of legality.

11. *Would you support any of the following recommendations?*

a) *that Contracting States should consider ratification of or accession to 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, to provide a basis for jurisdiction, recognition and enforcement, and co-operation in respect of measures of protection of a child which are attached to return orders.*

Yes.

b) *that Contracting States should provide swift and accessible procedures for obtaining, in the jurisdiction to which the child is to be returned, any necessary protective measures prior to the return of the child.*

Yes.

c) *that Contracting States should take measures to ensure that, save in exceptional cases, the abducting parent will be permitted to enter the country to which the child is returned for the purpose of taking part in legal proceedings concerning custody or protection of the child.*

Yes.

d) that Contracting States should provide a rapid procedure for the review of any criminal charges arising out of a child's abduction/unlawful retention by a parent in cases where the return of the child is to be effected by a judicial order or by agreement.

Yes.

e) that Contracting States should nominate a judge or other person or authority with responsibility to facilitate at the international level communications between judges or between a judge and another authority.

Yes.

f) that the Permanent Bureau of the Hague Conference on Private International Law should continue to explore practical mechanisms for facilitating direct judicial communications, taking into account the administrative and legal aspects of this development.

Yes.

4. PROCEDURE FOR SECURING CROSS-FRONTIER ACCESS/CONTACT BETWEEN PARENT AND CHILD

1. What provisions for legal aid/advice/representation in respect of a foreign applicant for an access order exist in your jurisdiction?

An applicant may in this case be represented by an attorney designated by the centre of social welfare. The centre of social welfare appoints him or her as a guardian *ad litem* in order to ensure the protection of the party in the proceedings, if that party is not represented by an agent. In the court proceedings, the court may designate an agent for the party and inform the centre of social welfare about that or it may request from the centre of social welfare to designate him or her (as the Family Act provides).

2. On what basis do your courts at present exercise jurisdiction to:

- a) grant and*
- b) modify access/contact orders*

Jurisdiction of the court is based on the Conflict of Laws Act and the Family Act in the cases of recognition and enforcement of a decision rendered by a foreign body, in paternity or maternity disputes, and in matrimonial disputes involving the child's parents.

3. What provisions exist for the recognition and enforcement in your jurisdiction of foreign access orders, in particular where the order has been made by a court or other authority of the country of the child's habitual residence? In this context is consideration being given to 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?

Recognition and enforcement of foreign decisions is regulated by the Conflict of Laws Act (Act on Settlement of Conflicts of Laws with the Regulations of Other Country in Specific Relationships). However, some decisions are, because of long distances, unenforceable (e.g. if a parent living in Australia has rights of access to the child every week, the Central Authority sees its role as a mediator for regulation of contacts in a new manner and for providing assistance in the enforcement of such contacts, taking account of jurisdiction).

4. *What, if any, provision exists to ensure that cross-frontier access applications (including appeals) are processed expeditiously?*

5. *What facilities/procedures are in place to promote agreement between parents in international access/contact cases?*

In some circumstances, a case can only be settled differently than it is regulated by the decision of a body, or such decision does not exist at all. The fastest solution is to make sure that parents reach an agreement, but the competent authority must see to it that such agreement is in the best interest of the child. In that regard, the Ministry of Labour and Social Welfare, at the initiative of the centre of social welfare, requests mediation of the competent authority of the other state (if there are no grounds for proceeding under the Convention), either through the International Social Service or through diplomatic channels. We receive similar requests for mediation from other states, if the child is in Croatia.

6. *Do your courts in practice accept a presumption in favour of allowing access/contact to the non-custodial parent?*

The Family Act of the Republic of Croatia, in accordance with the Convention on the Rights of the Child, provides for the child's right to contacts and spending time with the non-custodial parent, or with both parents if he or she does not live with parents at all. It is in the context of this right of the child that the competent authority takes its position in decision-making, while taking account of the interests of the child. In a sense, we could, therefore, speak about presumption of the rights of the applicant/non-custodial parent. Under the Family Act of the Republic of Croatia, it is possible to prohibit parent-child contacts or restrict them if they would be prejudicial to the child's health or other important interests of the child. However, it is necessary to establish such reasons.

7. *What conditions are likely to be imposed on access in respect of a non-custodial abducting parent?*

Criminal proceedings may be instituted against such parent for non-compliance with the competent body's decision or for neglect of the child's interests. In such case, other

security measures may also be applied (e.g. prohibition to leave the country, surrendering of the passport, etc.).

8. *What information concerning services and what other facilities are available to overseas applicants for access/contact orders?*

The Central Authority may offer information similar to those referred to under question 1.6.b. Likewise, the Central Authority may refer him or her to the friendly settlement of the dispute (mediation by the centre of social welfare) or to the proceedings for making a new decision. Namely, in view of the diversity of such cases, it is necessary to ensure flexibility in the proceedings and settlement.

9. *What problems have you experienced and what procedures exist in your country as regards co-operation with other jurisdictions in respect of:*

a) the effective exercise of rights of access in your/in the other jurisdiction;

A big problem is the enforcement of a decision when the parent who has been granted rights of access insists on recognition and enforcement of such decision and does not wish to try to reach an agreement and rejects the proposal that new circumstances be established in the proceedings and that a new decision be made. A special problem is when the child rejects to see the non-custodial parent. That requires professional assistance for parents and the child himself or herself and the treatment is often long. Some courts approach this problem in an entirely legalistic way, which creates additional problems, because these decisions require a long-lasting and successive enforcement, and if the custodial parent frequently rejects contacts, there is no end in sight of court proceedings. In some cases, problem is to get guarantees of the state that the child will be returned to the custodial parent after the visit.

b) the granting or maintaining of access rights to a parent residing abroad/in your jurisdiction;

See answer to the preceding question. A special problem is the custodial parent's fear that the child will not be returned in time (especially by the beginning of the school year). For such cases, signatory states should give some guarantees.

c) the restriction or termination of access rights to a parent residing abroad/in your jurisdiction.

The Family Act of the Republic of Croatia contains provisions related to these issues, as well as to the procedures for enforcement of decisions in similar cases, as well as to the measures that are taken against the parents who do not comply with the competent authority's decision. Prohibition or restriction of child-parent contacts may be imposed if such contacts would be detrimental to the health and other important interests of the child.

10. What, if any, measures are available to your courts to help guarantee adherence by parents to access conditions (e.g. financial guarantees, surrender of passports)

These measures are in the Republic of Croatia related only to the criminal proceedings.

11. How in practice are access orders enforced?

Where there is no good will on the part of the custodial parent, it is very difficult to enforce such decisions, especially because frequent interventions involved in the enforcement procedure additionally traumatise the child. For that reason, in all such cases efforts are made to work with parents, as well as children, if necessary in order to establish contact. It would be too optimistic to assert that such efforts are always successful. The practice has shown that there have been some cases when it was not possible to establish co-operation and even to carry out the enforcement of the decision. There have also been cases when the parent would give up meeting his or her child after all arrangements had been made for that.

12. Would you support recommendations in respect of any of the particular issues raised in the preceding questions? If so, please advise.

We would warmly support the recommendation that in such proceedings there should be no requests for recognition of decisions of another state's body, especially if those decisions are, by the nature of the things, unenforceable or if so much time has elapsed that they should be modified because some new circumstances have arisen. Namely, the proceeding take away the time that could be used in some cases for communication aimed at reaching an agreement between the parents, mediation, etc.

5) SECURING STATE COMPLIANCE WITH CONVENTION OBLIGATIONS

1. Please comment upon any serious problems of non-compliance with Convention obligations of which your authorities have knowledge or experience and which have affected the proper operation of the Convention.

The problem is slow work of courts in some cases. Our experiences are, as a rule, positive.

2. What measures, if any, do your authorities take, before deciding whether or not to accept a new accession (under Article 38), to satisfy themselves that the newly acceding State is in a position to comply with the Convention obligations?

The Republic of Croatia has not given comments nor requested additional information.

3. Would you favour the drawing up of a standard questionnaire to be submitted by Contracting States to each newly acceding State with a view to assisting them to decide whether or not to accept the accession? What questions would you include?

The Central Authority of the Republic of Croatia would favour the compilation of such a questionnaire in which questions should be focused on substantive and procedural law of that state as regards child care, and on organisation of social system in the protection of the child's rights or in the care for the child, on costs of Hague proceedings and on authorities competent for making decisions (central authority, authorities competent for making decisions, how do they settle conflicts of law with the regulations of other states regarding such matters and which conventions relating to the protection of children they have signed).

4. *Are you in favour of an increase in the number of Special Commissions (or similar meetings) to review the practical operation of the Convention? Would you also favour the idea that additional Special Commissions should review particular aspects of the operation of the Convention (for example, the problems surrounding the protection of rights of access, or the issues that arise when allegations of abuse or domestic violence are raised in return proceedings or the practical and procedural issues surrounding direct communications between judges at the international level, or the enforcement of return orders by Contracting States)?*

We consider that an annual analysis of practice would help the signatory states represented by their delegations to understand the importance of the functioning of the Convention. We would also be in favour of more seminars organised by the Permanent Bureau and of assistance being offered by the Bureau for practice-oriented education of professionals in signatory states which feel that necessary.

5. *Are there any other measures or mechanisms which you would recommend:*

- a) to improve the monitoring of the operation of the Convention;*
- b) to assist States in meeting their Convention obligations;*
- c) to evaluate whether serious violations of Conventions have occurred?*

We think that the introduction of the _____ monitoring system would bring a better insight into the situation related to these issues in which case the Permanent Bureau would also be able to help with its expert explanations, advice or intervention referring to the recommendations of the Convention.

6) MISCELLANEOUS AND GENERAL

1. Have you any comments or suggestions concerning the activities in which the Permanent Bureau engages to assist in the effective functioning of the Convention, and on the funding of such activities.

See under 5.4.

2. Are there additional ways in which the Permanent Bureau might provide assistance? Do you favour the preparation of a list of potential Permanent Bureau functions and

tasks that could only be performed if the Permanent Bureau were to receive additional financial and human resources either through approval of an increased budget or through voluntary contributions to accounts set aside for that purpose?

The same as reported under 5.4. and 5.5. The Central Authority of the Republic of Croatia favours the idea of preparation of a list of additional tasks under the specified conditions.

3. Would you favour a recommendation that States Parties should, on a regular annual basis, make returns of statistics concerning the operation of the Convention on the standard forms established by the Permanent Bureau, and that these statistics should be collated and made public (for example on the Hague Conference website) on an annual basis?

Yes, see under 5.4. and 5.5.

4. Would you favour a recommendation supporting the holding of more judicial and other seminars, both national and international, on the subject matter of the Convention?

Yes.

5. Are there any particular measures which you would favour to promote further ratifications of and accessions to the Convention?

6. Please provide information concerning any bilateral arrangements made with non-Hague states with a view to achieving all or any of the objectives set out in Article 1 of the Convention.

7. Do you have any comments on the following proposition:

"Courts take significantly different approaches to relocation cases, which are occurring with a frequency not contemplated in 1980 when the Hague Child Abduction Convention was drafted. Courts should be aware that highly restrictive approaches to relocation can adversely affect the operation of the Hague Child Abduction Convention."

The courts in the Republic of Croatia have a liberal approach to relocation, except in the cases of exclusive jurisdiction of the Republic of Croatia.