

**NOTE SUR LA POSSIBILITÉ D'ÉTENDRE INCASTAT
AUX DONNÉES RECUEILLIES POUR L'ANALYSE STATISTIQUE
COUVRANT LES CAS DE L'ANNÉE 2008**

établie par le Bureau Permanent

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**NOTE ON THE POSSIBLE EXPANSION OF INCASTAT
TO INCLUDE THE DATA SOUGHT FOR THE STATISTICAL ANALYSIS
OF CASES ARISING IN 2008**

drawn up by the Permanent Bureau

*Document d'information No 7 de janvier 2012 à l'intention de la
Commission spéciale de janvier 2012 sur le fonctionnement pratique de la
Convention Enlèvement d'enfants de 1980 et de la Convention Protection des enfants de 1996*

*Information Document No 7 of January 2012 for the attention of the
Special Commission of January 2012 on the practical operation of the
1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention*

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BACKGROUND

1. The purpose of this document is to provide information during Part II of the Sixth Meeting of the Special Commission on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention (25-31 January 2012) on the possible expansion of INCASTAT (the International Child Abduction Statistical Database) to include the data sought for the statistical analysis of cases arising in 2008 prepared by Professor Nigel Lowe, Cardiff University Law School, for the attention of Part I of the Sixth Meeting of the Special Commission (1-10 June 2011).

2. The Special Commission, during Part I of its meeting, adopted the following Conclusion and Recommendation on this topic:

“23. The Special Commission recommends that one statistical questionnaire be developed that is capable of being completed online, and that combines the data currently sought for INCASTAT [...] with the data last sought for the statistical analysis of cases arising in 2008. The Special Commission recommends that the Permanent Bureau, in conjunction with certain interested States Parties, explore the possibility of automated data migration to INCASTAT.”

3. Background information with regard to INCASTAT is available in Preliminary Document No 12¹ and INCASTAT User Instructions are available on the Hague Conference Website² and relevant extracts from the INCASTAT User Instructions are reproduced in the annex to this document.

4. The first comprehensive statistical analysis of applications made under the 1980 Hague Child Abduction Convention was presented by Professor Nigel Lowe during the Fourth Meeting of the Special Commission on the practical operation of the 1980 Hague Child Abduction Convention (22-28 March 2001). This first analysis covered cases which arose during the year 1999.³

5. During the same period, the Permanent Bureau, in consultation with Central Authorities, developed Standard Forms (A1-2 and B1-2) to encourage Central Authorities to make annual returns of their statistics to the Permanent Bureau. Whilst recognising the benefits of the comprehensive Nigel Lowe statistical analysis, States Parties to the 1980 Hague Child Abduction Convention were not in a position to devote the necessary human resources to complete such a detailed survey on a yearly basis. Furthermore, funding to undertake an annual comprehensive study was not available. States Parties to

¹ See Permanent Bureau, “Report on the services and strategies provided by the Hague Conference on Private International Law in relation to the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, including the development of regional programmes and the Malta Process”, Prel. Doc. No 12 of December 2011 drawn up for the attention of the Special Commission of January 2012 on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, at pp. 20-21, paras 48-55. This document is available on the Hague Conference website at < www.hcch.net > under “Work in Progress” then “Child Abduction”.

² See “INCASTAT – International Child Abduction Statistical Database – User Instructions” (hereinafter the INCASTAT User Instructions) available on the Hague Conference website at < www.hcch.net > under “Conventions” then “Convention 28” and “Statistics”.

³ See N. Lowe, S. Armstrong and A. Mathias, “A Statistical Analysis of Applications made in 1999 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction”, Prel. Doc. No 3 of March 2001 (Revised version, November 2001) drawn up for the attention of the Special Commission of March 2001 available on the Hague Conference website at < www.hcch.net > under “Conventions” then “Convention 28” and “Statistics”.

the Convention preferred completing the shorter Standard Forms (A1-2 and B1-2) every year and to undertake the Nigel Lowe comprehensive statistical analysis every five years, subject to available funding.

6. In 2007, with the support of States Parties to the 1980 Hague Child Abduction Convention,⁴ the Permanent Bureau completed the development of an electronic version of the Standard Forms (A1-2 and B1-2) in order that the forms could be completed using secured Internet access. The data collected through the Standard Forms make up the substance of INCASTAT.

7. Nowadays with advances in information technology, a number of States Parties to the 1980 Hague Child Abduction Convention have developed their own domestic database systems to collect the data necessary to complete the Nigel Lowe statistical survey, or to collect their own yearly statistics in another format. With a view to reduce the number of questionnaires and to allow for yearly comprehensive statistical analysis to take place, Part I of the Sixth Special Commission recommended that one statistical questionnaire be developed that is capable of being completed online, and that combines the data currently sought for INCASTAT with the data which was sought in the Nigel Lowe statistical analysis. Furthermore, the Special Commission recommended that the Permanent Bureau, in conjunction with certain interested States Parties, explore the possibility of automated data migration from domestic database systems to INCASTAT.

POSSIBLE EXPANSION OF INCASTAT

8. A short analysis of INCASTAT shows that it would be possible to add to INCASTAT the data sought by the Nigel Lowe statistical survey without great difficulty. As described in the INCASTAT User Instructions, there are two levels for each Standard Form (A1-2 and B1-2), thus simplifying data entry.⁵ The layout of the first level allows the user to see the statistics in a *cumulative* format, meaning that each line concerns one country and contains case totals for each column. The second level provides *individual* information for each case for each country concerned, as only one case per line is allowed. For example, in the case of applications for return (Standard Forms A1-2), the expansion of INCASTAT could consist of a third level screen where it would be possible to enter detailed information concerning: (1) the parties involved (applicant, abductor and child(ren)); and, (2) each type of outcome of the application.

9. In summary, when opening a new case in an expanded version of INCASTAT, the database would ask, through a third level screen, for: a) an internal reference number for the case; b) the date when the application was received by the Central Authority; c) the nationality of the applicant;* d) the relationship of the applicant to the child; e) the nationality of the alleged abductor;* f) the relationship of the alleged abductor to the child; information about the child(ren) such as g) gender* and h) age;* and, i) whether mediation was used.*

10. It would then be possible to enter detailed information for each outcome through a third level screen as follows:

⁴ See Permanent Bureau, "Conclusions and Recommendations of the Fourth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (22-28 March 2001)", Conclusion and Recommendation No 1.15, available on the Hague Conference website at < www.hcch.net > under "Conventions" then "Convention 28" and "Practical Operation Documents".

⁵ See INCASTAT User Instructions, *supra*, note 2, at p. 9.

* Consideration could be given to make this data optional.

- "Case rejected by Central Authority" (column 4⁶): a) child over 16; b) applicant had no rights of custody; c) other; and, d) the date when the case was rejected.
- "Child not traced" (column 5): no additional information required at third level.
- "Child traced to a non-Convention country" (column 6): date when the child was traced.
- "Child traced to another Convention country" (column 7): date when the child was traced.
- "Case withdrawn" (column 8): date when the application was withdrawn.
- "Voluntary return – without a court order" (column 9): date of voluntary agreement outside court proceedings.
- "Final judicial order – return" (column 10): a) judicial order for return by consent; b) judicial order for return not by consent; c) judicial order for return, consent unknown; d) date of full (not interim) judicial decision at first instance.
- "Final judicial order – non return" (column 11): a) order for return judicially refused; b) order for access judicially granted; c) date of full (not interim) judicial decision at first instance. Under this column the system would ask for the reasons for judicial refusal: (i) child not habitually resident in the requesting State; (ii) applicant had no right of custody; (iii) Article 12; (iv) Article 13 a) – not exercising rights of custody; (v) Article 13 a) – consent; (vi) Article 13 a) – acquiescence; (vii) Article 13 b); (viii) Article 13 – child's objections; and, (ix) Article 20.
- "Date the application was filed in court" (column 12): no additional information required at third level.
- "Date of final judicial order" (column 13): no additional information required at third level.
- "Number of days" (column 14): automatically generated data. No additional information required at third level.
- "Known case in which order for return not enforced" (column 15): no additional information required at third level.
- "Case pending at end of year" (column 16): no additional information required at third level.

11. A similar expansion, subject to very small differences, could be implemented for contact applications (Standard Forms B1-2),

12. An examination of statistics reported using the Nigel Lowe forms revealed that some Central Authorities treat and collect statistical data in different manners and interpret the forms in different ways. These divergences show that the establishment of a uniform method of further data collection to supplement the existing data collected on INCASTAT would provide a proper mechanism to be able to meaningfully compare and analyse statistical information from diverse Contracting States. The further expansion of the INCASTAT electronic system would be an important next step to help Central Authorities maintain accurate and comprehensive statistics on a regular basis, building logically upon the first steps taken in 2007 with the development of the electronic Standard Forms (A1-2 and B1-2). The additional elaboration of INCASTAT could be an important further step towards the harmonisation of the collection of statistics under the 1980 Hague Child Abduction Convention.

⁶ The column number makes reference to the number as set out in the INCASTAT User Instructions, *ibid.*, at p. 8.

13. The information technology provider retained by the Hague Conference on Private International Law to develop INCASTAT estimates that it would cost 11,200.00 Euros to expand INCASTAT as described above, including the necessary modifications to the statistical module.

AUTOMATED DATA MIGRATION TO INCASTAT

14. The 2011 Special Commission (Part I) recommended that the Permanent Bureau, in conjunction with certain interested Contracting States, explore the possibility of automated data migration to INCASTAT. A pilot project in this regard was initiated with the United States of America in August 2011. An oral report on this pilot will be provided during the 2012 Special Commission (Part II).

A N N E X E

**EXTRAIT DES INSTRUCTIONS DE L'UTILISATEUR D'INCASTAT
SECTION 2, « UTILISER LES FORMULAIRES »**

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A N N E X

**EXTRACT FROM INCASTAT USER INSTRUCTION
SECTION 2, "USING THE FORMS"**

1 – INCASTAT at a glance

LEVEL 1

HCCCH HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ

Help Forms / Data Entry Questions & Comments Statistics Logout

Annual statistics relating to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

Requesting Central Authority
children taken away from **ALBANIA**
A1 RETURN applications for the year **2011**
Last modified **2011-09-30**

Submit Form Save Form New Form

Check this box if there are no cases to report

Click on the header label to reveal additional information

other country concerned	case		final outcome								average time between receipt of application and final judicial determination (days)	known case in which order for return not enforced	case pending at end of year	
	carried over from previous year	arising during year	case rejected by Requested Central Authority	child not traced	child traced to		case withdrawn	voluntary return	final judicial order					
					non-Convention country	other Convention country			return	refusal				
United States	1	0	0	0	0	0	0	0	0	0	0	0	0	0
United Kingdom - England and Wales	2	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	3	0	0	0	0	0	0	0	0	0	0	0	0	0

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Need more explanations? see p. 13 & 20-26

Enter statistical data see p. 9-12

Write to the Permanent Bureau see p. 13

Produce statistical charts see p. 16-19

Safely end session see p. 14

Requesting or Requested?

Return or Access Application?

No cases to report?

To obtain explanations about a column, click on header label of each column

Total of cases for each column for all countries concerned

Choose a country or click on an existing country to add case

& INCASTAT will take you to Level 2 See next page

Average in days

Total of cases for each column per country concerned

Which jurisdiction?

For which year?

When was this Form last modified?

Command buttons see p. 11-12

Annex

Requesting Central Authority
 children taken away from **ALBANIA**
A1 RETURN applications for the year **2011**
 Last modified **2011-09-30**

Click on the header label to reveal additional information

other country concerned	case		final outcome							number of days between receipt of application and final judicial determination			known case in which order for return not enforced	case pending at end of year	Internal Case Reference Number	
	carried over from previous year	arising during year	rejected by Requested Central Authority	child not traced	child traced to non-Convention country	child traced to other Convention country	case withdrawn	voluntary return	final judicial order return	final judicial order refusal	date the application was filed in court	date of final judicial order				number of days
United States	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			0	<input type="checkbox"/>	<input type="checkbox"/>	
United States	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			0	<input type="checkbox"/>	<input type="checkbox"/>	delete
TOTAL	1	1	0	0	0	0	0	0	0	0			0	<input type="checkbox"/>	<input type="checkbox"/>	

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Same information as on Level 1 (see previous page)

Enter the application date and date of final order and the number of days will be automatically calculated

Command Buttons See p. 12

To obtain explanations about a column, click on header label of each column

Country chosen on level 1

ONE CASE PER LINE

Total of cases for each column for the country concerned

Is it an old or a new case?

Check the appropriate check-box for the final outcome of each case OR indicate that it is pending at the end of the year

Delete function correct mistakes Only for new cases

Add an Internal Case Reference Number see p. 11

2 – General presentation

1. Header

At the top of each screen, above the Form, the user will notice that each Form is specifically identified in accordance to the choice of Form they made on the previous screen (Screen 3). It indicates whether the user is entering information as a Requesting Central Authority or Requested Central Authority and whether the statistics concern return or access applications. It also identifies the country for which the user is logged on and the year for which the data is being entered.

2. Data entry fields in the Forms

There are two levels for each Form. This feature simplifies data entry.

The layout of the first level allows the user to see the statistics in a *cumulative* format, meaning that each line concerns one country and contains totals for each column.

The second level provides *individual* information for each case for each of the countries concerned, as only one case per line is allowed.

First level:

- “No cases to report” check-box

If there are no cases to report on a Form for a particular year, the user should check this box located on the upper left-hand side on first level.

Once the box is checked, no data can be entered into the form. Additionally, once data is entered onto the Forms, the check box cannot be checked.

- Column 1 (Other country concerned)

This is the only field in the Form on the first level where the user can make a choice.

To enter the name of the country concerned in the column, click on the arrow on the right of the field and choose the country concerned in the drop-down menu.

Once the user chooses a country, the system automatically switches over to the second level.

- Last line: TOTAL

The system automatically calculates the totals of Columns 2 to 11 and Columns 13 and 14 of Forms A and Columns 2 to 13 of Forms B.

For Column 12 of Forms A, the system automatically calculates the average in days.

Once a Form is saved or submitted, Columns that contain no information will automatically be completed by the system with the number “0”.

Second level:

- Column 1 (Other country concerned)

This is a *read-only field* which already contains the country chosen on the first level.

To modify this choice, click on **Chose other country concerned** or **Back** and the system will switch over to the first level.



NOTE

Please note that if data has been entered, when the user clicks on “Chose other country concerned” or “Back”, the data will be temporarily saved; to save the data permanently, the user must “Save Form” on the first level. If the form is not saved, the data entered will be lost.

- Column 2 (Number of active cases carried over from previous year)

This is a *read-only field*. The system will automatically enter the information.

The number of lines that appear already checked corresponds to the number in Column 14 of Forms A1-2 and Column 13 of Forms B1-2 on the first level (“Cases pending at the end of the year”) of the previous year.

- Column 3 (Case arising during the year)

This is a *read-only field*. This field is automatically selected by the system if it is a new case and Column 2 has not been automatically filled.

If a new case has been entered by mistake, the user may delete the line by clicking on “delete” in the last column of the form.

- Columns 4 – 11 of Forms A & Columns 4 – 11 of Forms B (Final outcome)

To enter data in these Columns, simply select the appropriate check-box.

It is not possible to select more than one check-box in these Columns. If one column is selected and then another, the first selection will automatically be replaced by the second.

- Columns 12 – 14 of Forms A (Number of days between receipt of application and final judicial determination)

The number of days in Column 14 will be generated automatically if a user has already entered the date an application was filed at the court having jurisdiction to decide the return application (Column 12) and the date of the final judicial order (Column 13). Otherwise, a user can manually indicate the number of days between the receipt of the application and the final judicial determination, both for cases where return was ordered and for cases where return was refused.



NOTE

Please note that it is important to enter the date of the final decision only when it is known that all further appeals have been exhausted.

- Column 15 of Forms A & Column 12 of Forms B (Known case in which order for return not enforced / Known case in which following order or agreement, difficulties in exercising access continued)

A user can select this Column, on Forms A1-2 and B1-2 respectively, in addition to a Final outcome Column.

- Column 16 of Forms A & Column 13 of Forms B (Case pending at the end of the year)

It is not possible to select this Column in addition to one column between Columns 4 – 11 of Forms A & Columns 4 – 11 of Forms B (Final outcome).

If one of the latter is selected and the user selects this Column, the first selection will automatically be replaced by the second.

- Column 18 of Forms A & Column 15 of Forms B (Internal Case Reference Number)

This Column allows a user to enter manually an Internal Case Reference Number, for ease of reference in tracking cases, particularly cases that are carried over from one year to the next. This information is not required, but may be entered if it will assist in keeping track of cases handled by a user's Central Authority. This information is not saved on the database for other purposes and is only visible to the user.

- Last row: TOTAL

The system automatically calculates the totals of Columns 2 to 16 of Forms A & Columns 2 to 13 of Forms B.

Once a Form is saved or submitted, Columns that contain no information will automatically be completed by the system with the number "0".

3. Command Buttons

There are four command buttons in INCASTAT.

Only on the first level:

- **Save Form** saves the data that has been entered but does not block the form, meaning that that the user can still add and / or modify the information during a later session. The system can be used daily.



NOTE If the form is not saved, the data entered will be lost. The system will warn the user.

- **New Form** takes the user back to the screen that provides a choice of Forms to complete or consult and the year the user wishes to complete or consult (Screen 3, at p.5).
- **Submit Form** also saves the information onto the database where the Permanent Bureau can collect it. Additionally this feature blocks the form, meaning that the

user cannot modify or / and delete the information submitted. This should be chosen only once all the final statistics for a given year for a given Form are entered.



NOTE The system will warn the user.

Only on the second level:

- **Add Line** inserts additional lines to the Form.
- **Chose other country concerned** or **Back** takes the user back to the first level.



NOTE Please note that if data has been entered, when the user clicks on “Chose other country concerned” or “Back”, the data will be temporarily saved; to save the data permanently, the user must “Save Form” on the first level. If the form is not saved, the data entered will be lost.