

Questionnaire 2006 – The responses of the Slovak Republic

The role and functions of Central Authorities

1. Have any difficulties arisen in practice in achieving effective communication with other Central Authorities? In particular, how are “modern rapid means of communication,”¹ used by your Central Authority in order to expedite communications, bearing in mind the requirements of confidentiality?

The Slovak Central Authority- The Centre for the International Legal Protection of Children and Youth (hereafter the Slovak CA or the Centre) has never had any difficulties with communication neither towards the other central authorities nor towards the expediting of information or internal communication within the Centre.

In order to provide prompt responses and rapid follow-up information, all the accessible modern means of Communication, especially fax and e-mail, are frequently used in combination; mostly in a way that allows affirming, that the relevant person receives the important information on time. Therefore, the Centre has not had to deal with any problems mentioned in the Guide to Good Practice by now.

2. Are there any other problems of co-operation with other Central Authorities to which you wish to draw attention?

The Centre has not had any major problems of co-operation with other Central Authorities. However, in some cases occurred difficulties, arising from the differences between the continental system of law and the system of case-law, especially in understanding of matters of evidence of foreign law (Chapter 6.5.1 and Chapter 6.5.3 of The Guide to Good Practice – Part II on Implementing Measures). Nevertheless, all these questionable matters were resolved through discussion between the Central Authorities.

In one case the cooperation with the Central Authority was very slow and the CA reacted only to the written request of the Slovak Central Authority for information, otherwise not. Additionally, in some cases the central authorities do not include all the necessary details in the application, which may slow down the whole process.

3. Does your Central Authority maintain a website and / or a brochure / information pack? (Please provide the web address or check if the information on the Hague Conference website is accurate, see < www.hcch.net >  Child Abduction Section  Links to related websites). If so, does the website and / or brochure / information pack contain the following information as recommended by the Special Commission of 2001:

Yes, our Central Authority maintains a website; the web address is www.cipc.sk, which provides the information in Slovak language. The English language version of the web site is being prepared at the moment.

This web- site contains the information as following:

"a) the other Contracting States in relation to whom the Convention is in effect-YES;

b) the means by which a missing child may be locate - NO;

c) the designation and contact details for the Central Authority- YES;

d) application procedures (for return and access), documentary requirements, any standard forms employed and any language requirements- YES;

e) details, where applicable, of how to apply for legal aid or otherwise for the provision of legal service- YES.

Additionally, the judicial proceedings under this Convention as well as the enforcement of the order for return is ex lege free of costs in respect to all the parties. If the applicant wishes to be represented by a lawyer outside of the Central Agency and is not able to pay for him, he may ask the court for legal aid (see also Question ;

f) the judicial procedures, including appeals procedures, which apply to return applications- YES;

g) enforcement options and procedures for return and access orders- NO, due to missing specific legal provisions;

h) any special requirements which may arise in the course of the proceedings (e.g. with regard to matters of evidence)- YES;

i) information concerning the services applicable for the protection of a returning child (and accompanying parent, where relevant), and concerning applications for legal aid for, or the provision of legal services to, the accompanying parent on return- NO;

j) information, if applicable, concerning liaison judges"- NO, not applicable in Slovak republic.

4. What measures does your Central Authority undertake to encourage voluntary returns and amicable resolutions, and how do you seek to ensure that these negotiations do not lead to undue delay in return proceedings? [Note: Questions 20-22 deal with the subject of mediation.]

Usually, before filing a petition for return order at the competent court, the appointed employee of the Centre meets with the abductor in person to explain the negative aspects of the committed abduction and the harmful impact it may have on the children. If the abductor declares to return with the child, then he is usually allowed to do so within a very short period of time.

If the abductor does not follow his declaration, the case is immediately brought before the court.

However, in some cases due to the pressure of time (Art 12), these measures are not provided.

5. In accordance with the Guide to Good Practice – Part I on Central Authority Practice, has your Central Authority shared its expertise with another Central Authority or benefited from another Central Authority sharing its expertise with your Central Authority?²

So far, the exchange of information is secured through the international meetings of the Central Authorities or through the communication with the other Central Authority when dealing with the concrete case. Therefore, the Central Authority of Slovakia would like to underline the importance of the as frequent meetings of the representatives of the CA´s as possible.

Court proceedings³

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

No, in the Slovak republic all district courts are competent to hear cases under the Convention.

¹ See the Guide to Good Practice – Part I on Central Authority Practice, Chapter 1.3.3

² See, in particular, Chapter 6.5 on twinning arrangements.

³ See Guide to Good Practice – Part II on Implementing Measures, Chapters 5 – 7.

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

a) Are there set timetables at both trial and appellate level to ensure the speedy determination of return applications?

There are no timetables to ensure the speedy determination of return applications.

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

Due to the missing executing legislature of the Convention in the Slovak republic, there are no such measures which would limit the extent of the evidence admitted in court. Subsequently, the judicial procedures under The Hague Conventions in Slovakia in some cases lasted for a longer period of time, as the court demanded wider extent of evidence than necessary; especially concerning information on the social background of the child in the requesting country.

8. What measures exist to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers? Do such measures lead to delays?

The legal help of the Centre is provided free of costs. However, if the applicant demands to be represented by the legal attorney, the legal help of the Centre cannot be provided, as it means double-representation.

The representation of the attorney is not free of cost, but in compliance with par.30 of The Civil Procedure Act No. 99/1963 Z.z. the judge may appoint a legal attorney to a party on the own request, if the party is presumed to be exempted from paying the court fees and if it is necessary for protection of the party's interests.

9. In what circumstances and by what procedures / methods are children heard in Hague proceedings? In particular how will a determination be made as to whether a child objects to return, and in what circumstances might judges refuse to return a child based on his or her objections?

The children are heard in The Hague proceedings when the judge finds reasonable to do so. There is no limit for the age of the child who can be heard in the court. If the child is able, with respect to his age and his maturity, to express his own opinion independently, then it has right to express his opinion in all matters that concern about him.

Moreover, according to Family Law Act No. 36/2005 Z.z. in all judicial procedures, concerning the minor child, the minor has right to be heard in the court.

The child is usually heard directly in the court in the presence of the social worker, or a the judge appoints a psychologist, who is ordered to examine the child.

The Centre has not had any case, where the child had objected to return so far. In one case the child expressed its desire to return to the country of origin for a short time and then to come back and live in the requested country. The court ordered the return of the child.

Therefore, the Slovak CA supposes, that if the child strongly refuses to return, then the court will probably accept his/ her objections- with respect to his age and rational maturity as mentioned above.

10. How has Article 20 of the Convention been applied in your State? Are you aware of an increase in the use of this Article, bearing in mind that the Statistical Survey of all cases in 1999 found no case in which this exception to return was successfully invoked?

This article has not been applied in the Slovak republic so far.

Legal issues and interpretation of key concepts

11. Please comment on any Constitutional procedures or principles which make it difficult to implement the Hague Convention fully.

There are no such procedures or principles.

12. Are there any important developments in legislation, case law or procedural law relevant to the operation of the 1980 Convention to which you wish to draw attention? Please could you provide us with an electronic copy of relevant legislation if possible?

No important developments.

13. Please indicate any important developments since the Special Commission of 2001 in your jurisdiction in the interpretation of Convention concepts, in particular the following:

- a) rights of custody (Articles 3 a) and 5 a));
- b) habitual residence (Articles 3 a) and 4);
- c) rights of access (Article 5 b));
- d) the actual exercise of rights of custody (Articles 3 b) and 13(1) a));
- e) the settlement of the child in his / her new environment (Article 12(2));
- f) the one year period for the purposes of Article 12;
- g) consent or acquiescence to the removal or retention of the child (Article 13(1) a));
- h) grave risk (Article 13(1) b));
- i) exposure to physical or psychological harm (Article 13(1) b));

- j) intolerable situation (Article 13(1) b));
- k) the child objects to being returned (Article 13(2)); (see also question 9)
- l) fundamental principles relating to the protection of human rights and fundamental freedoms (Article 20). (See also question 10)

No important developments in these fields so far.

Direct international judicial communication

14. Please describe any developments in the area of direct international judicial communication. If your country has responded to the 2002 Questionnaire on direct international judicial communication please describe any developments in this area since your response was made. (The Questionnaire is available on the website of the Hague Conference at: < www.hcch.net >   Child Abduction Section   Questionnaire & Responses).

No developments in the field of the Child Abduction Convention yet.

Immigration / asylum / refugee matters

15. Have you any experience of cases in which immigration / visa 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 Slovak CA has not had any such experience by now.

16. Have you any experience of cases involving links between asylum or refugee applications and the 1980 Convention? In particular, please comment on any cases in which the respondent in proceedings for the return of a child has applied for asylum or refugee status (including for the child) in the country in which the application for return is to be considered. How have such cases been resolved?

The Slovak CA has not had any such experience by now.

17. Have you any experience of cases in which immigration / visa questions have affected a finding of habitual residence in the State from which the child was removed or retained?

The Slovak CA has not had any such experience by now.

18. Have you any experience of cases in which immigration / visa questions have inhibited the exercise of rights of access?

The Slovak CA has not had any such experience by now.

Criminal proceedings

19. 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.

The abduction of the child between under this Convention is not a criminal act in Slovakia. Therefore, if the abductor knows, that he has to face the charges in the requesting

country, logically he cannot be expected to return voluntarily; subsequently the legislative criminalization of abduction in these cases does not assist to speed up the trial and to decrease the amount of stress caused to the children. In one case, the mother returned after 2 years from Slovakia to the country of origin, where she was almost immediately apprehended with the police. The children were preliminarily entrusted into the father's custody until the end of the divorce trial, which might have been quite stressful for the children.

Mediation

20. Are there any programmes of mediation available in your State for parents or other persons involved in Hague Convention cases? Please describe these, indicating *inter alia* the methods employed to ensure that mediated agreements are enforceable and respected by the parties, as well as the availability of, and training opportunities for, international mediators.

There are no special programmes of mediation in our country yet. The preventive measures taken by the Slovak CA are mentioned in the Question No. 4 of the Questionnaire.

21. How do you ensure that mediation procedures do not unduly delay proceedings for the return of the child?

See Question 4 of the Questionnaire.

22. Do you have any other comments relating to mediation in the context of the 1980 Convention either at a preventive stage or when a removal or retention has occurred?

The Slovak Central Authority would like to underline the importance of the mediation, especially at the beginning of handling the case, where the stress from new living environment as well as the negative impacts of the judicial proceedings on the children may be avoided. This means mainly the special educating and training programmes for mediators, social workers, employees of the court as well as employees of the Central Authorities, and also dissemination of legal information through social workers, courts, Central Authorities and embassies.

The accent should be also put on the voluntary preventive mediation, where the special mediation and legal advice for couples in cross-cultural relationships and in cases of problems of custody or access would be provided (Guide to Good Practice- Part III).

Training and education

23. Do you have any comments relating to how judicial (or other) seminars or conferences at the national, regional and international levels have supported the effective functioning of the Convention? In particular, how have the conclusions and recommendations of these seminars or conferences, (some of which are available on the website of the Hague Conference at: < www.hcch.net >  Child Abduction Section), had an impact on the functioning of the 1980 Convention?

The Centre has no comments relating to this questions except of the fact that more frequent judicial conferences on all levels would be appreciated; mainly due to the fact, that there is no special court to hear the cases under the Hague convention in Slovakia and all district courts are competent to hear them. The exchange and the dissemination of information is then more demanded.

24. Can you give details of any training sessions / conferences organised in your country, and the influence that such sessions have had?

So far the conferences on the national level are provided by The Judges' Academy. However, the special seminar entitled to the Hague Convention has not taken place by now.

The Judicial Seminar, focused on the "European and international conventions and directions concerning the field of care for children", mainly on The Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, and The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption shall take place in Bratislava, September 7-8 2006 and the Slovak Central Authority is one of the co-organisers.

Ensuring the safe return of children where issues such as domestic violence and abuse are raised

25. Is the issue of domestic violence or abuse often raised as an exception to return in child abduction cases? What is the general approach of your courts to such cases and, in particular, how far do they investigate the merits of a claim that such violence or abuse has occurred?

The issue of domestic violence or abuse was raised almost in every case under this Convention that was brought before the court. However, only in one case was this issue the reason, why the court rejected to order the return of the child. The decision of the court was mistaken, because the court demanded the evidence of no risk of physical or psychological harm for the child from the applicant, not from the abductor. Since the applicant was not able to prove that such risk did not exist, the court refused to order the return of the child and the appellate court eventually affirmed this decision.

In spite of that, in other cases the courts always investigate the issue of domestic violence, when such claim is made, but they demand the proof from the abductor (e.g. document on reporting the domestic violence to police, police warrants, judicial decisions, testimonies, etc.)

26. What procedures and measures are in place in your State to secure the safe return of the child (and the accompanying parent, where relevant) where issues of (alleged) domestic violence or abuse are raised?

There are no special procedures in place for these situations in Slovak republic.

27. To what extent are your courts entitled and prepared to employ "undertakings" (i.e. promises offered by, or required of the applicant) as a means of overcoming obstacles to the safe return of the child? Please describe the subject matter of undertakings required / requested.

The "undertakings" have not been applied in Slovakia by now as there are no provisions for such orders in the legal framework of the Slovak republic.

28. 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 between the parties and those made at the request of the court?

The Centre has not had any such experience by now. Supposingly, if the undertakings are in accordance with the legal framework in Slovakia, they would assist them.

29. To what extent are your courts entitled or 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)?

The "safe harbour orders or mirror orders" are not applicable in Slovakia by now.

30. Do you have any comments on the use of undertakings, mirror orders or safe harbour orders?

No comments.

31. Do you have any other comments relating to domestic violence or abuse in the context of the 1980 Convention?

So far, the Slovak CA does not have any comments, but this issue certainly deserves a lot of attention from the courts as well as the Central Authorities in the proceedings under this Convention.

32. Are you aware of cases in which your authorities have refused to make or enforce an order in respect of a young child on the basis that an abducting parent who is the child's primary carer, refuses or is otherwise not in a position to return with the child?

The Centre has not dealt with any such case by now.

Standard questionnaire for newly acceding States

33. If your State has acceded to the Convention have you filled out the standard questionnaire for newly acceding States? If so, have you any comments about the ease or otherwise of filling out this questionnaire? If not, can you explain why?

Slovak Republic ratified the Convention on November 7, 2000 and it entered into force on February 1, 2001. We subsequently did not fill out the questionnaire for newly acceding States.

34. Has your State found the responses to the standard questionnaire for newly acceding States (available on the website of the Hague Conference at: < www.hcch.net >  Child Abduction Section  Standard questionnaire for newly acceding States) useful when considering whether or not to accept the accession of an acceding State? What additional information would be useful?

Slovak Republic finds the responses useful but not decisive for accepting the accession of a new state.

35. 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 Convention obligations, and how do you ensure that this process does not result in undue delays?

It is in the interest of the Slovak Republic to accept an accession of the largest number of states to the Convention therefore our authorities do not take any special measures before considering whether or not to accept the accession.

The Guide to Good Practice

36. In what ways have you used the Guide to Good Practice – Part I on Central Authority Practice, Part II on Implementing Measures and Part III on Preventive Measures to assist in implementing for the first time, or improving the implementation or operation of, the Convention in your State?

So far, the Guide to Good Practice is being used mainly by the Slovak Central Authority. Though, in some cases was the Guide to Good Practice used as a necessary rule of interpretation, together with The Eliza Pérez-Vera Explanatory Report on the 1980 Hague Child Abduction Convention, by the court as well as by the legal attorneys.

37. How has the Guide to Good Practice assisted your State in making policy or practical decisions relating to the implementation or operation of the Convention?

See answer to the question 36.

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

The Slovak Central Authority has not used any special measures so far, except of the information provided on the website together with hypertext links on the website of the Hague Conference.

39. Do you have any comments concerning the Guide to Good Practice – Part III on Preventive Measures including how best to publicise this Part of the Guide?

No comments.

40. Please describe any developments in legislation, case law or practice relating to enforcement measures and transfrontier access / contact. If your country has responded to the Questionnaire on Enforcement Measures distributed in July 2004 or the Consultation Paper on Transfrontier Access / Contact distributed in January 2002 please describe any developments in legislation, case law or practice since your response was made. (The Questionnaire and Consultation Paper are available on the website of The Hague Conference at: < www.hcch.net >  Child Abduction Section  Questionnaire & Responses).

No developments, the specific legislation concerning the enforcement of the return orders is still missing. The enforcement of such orders is regulated only through the general provisions of the The Civil Procedure Act No. 99/1963 Z.z.

41. Are there any particular matters which you would like to see included in a Guide to Good Practice on Transfrontier Access / Contact? (See "Transfrontier Access / Contact and the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction – Final Report" drawn up by William Duncan, Deputy

Secretary General, Preliminary Document No 5 of July 2002 available at: < www.hcch.net > ☎ Conventions ☎ Convention 28 ☎ Practical Operation Documents.)

No comments.

42. Are there any other topics that you would like to see form the basis of future parts of the Guide to Good Practice in addition to those which are already published or are under consideration (these are: Part I on Central Authority Practice; Part II on Implementing Measures; Part III on Preventive Measures as well as enforcement measures and access / contact)?

The Slovak Central Authority finds the content of The Guide to Good Practice extensive enough in respect to the content of The Hague Convention.

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

No comments.

44. Can you list any examples of good practice not included in the Guides?

The Slovak Central Authority would appreciate more examples about how the return of the abductor influences his position at the custodial proceedings, especially in those countries where the abduction under this Convention is criminalized under the provisions in domestic law.

It is needed to underline, that Hague proceedings are absolutely different from the custodial proceedings. Despite the fact, that it is generally suggested that the position of the abductor shall not be deteriorated in the custodial proceedings in the country of origin. Thus, in some cases the court takes into account the fact that the abductor had broken the rights of the other parent or even the law, and entrusts the child into the custody of the applicant, although there is no other reason for that. This way arise the negative publicity as well as negative attitude to the Central Authorities and the Hague proceedings, because they are understood as the proceedings, where the parents lose their children. Subsequently, the abductors are then even less willing to agree with the voluntary return or they try to avoid the enforcement of such order. Unfortunately, the party who suffers in these instances most is the child.

Standardised consent form

45. The Permanent Bureau is consulting with States and relevant authorities with regard to developing a standardised or harmonised form for obtaining consent from holders of parental responsibility when a child leaves a State (see the Guide to Good Practice – Part III on Preventive Measures). Do you have any comments about the development of such a form? Or any suggestions as to what information such a form should / should not include?

The standardised, easily accessible and obligatory notarised form for obtaining consent would be worthful mainly if there have occurred any doubts about whether such consent had been really given and if the child was not removed unlawfully. Moreover, the parents would not have to express their consent before the court; just before e.g. the notary public.

However, this preventive measure may become ineffective if the border controls in the country are not duly carried out. Therefore, the Slovak Central Authority has no comments about developments of such form, although the efficiency of such form may be limited.

Statistics and case management

46. Does your Central Authority maintain accurate statistics concerning the cases it deals with under the Convention, and does it submit annual returns of statistics to the Permanent Bureau in accordance with the forms established by the Permanent Bureau in consultation with Central Authorities? If not, please explain why.

The Slovak Central Authority has not maintained accurate statistics in accordance with the established form by year 2005. Therefore the Slovak CA was not submitting any annual returns of statistics to the Permanent Bureau.

The statistics of all the cases under the Convention since 2001 was carried out in March 2006. This statistics together with the annual statistics will be sent to Permanent Bureau and the accurate statistics for the year 2006 will be submitted in the year 2007.

47. Does your Central Authority use any special software for case management / statistical purposes? Would your Central Authority be interested in using the new iChild software which is currently being piloted in seven Central Authorities in six Contracting States?

The Slovak Central Authority does not use any special software for case management or statistics. Due to this fact, the CA is very interested in using the iChild Software. The intention of establishing a new software for all cases handled by the Slovak CA was expressed also in The Terms of Reference of The Human Capital Technical Assistance Project of the World Bank, focused on the needs of the Slovak Central Authority.

Publicity / debate concerning the Convention

48. Has the Convention given rise to (a) any publicity (positive or negative) in your country, or (b) any debate or discussion in your national Parliament or its equivalent?

Yes, the Convention has given rise to (neutral) publicity in Slovakia mainly; it was presented by the representatives of the Slovak CA in mass medias (on TV, radio, journals and magazines) and also through the Internet (web-site of the Slovak CA). The higher interest of public is probably caused also by higher amount of the mixed-nationals marriages, which is connected with the involvement of the Slovak republic in international structures, especially in European Union.

49. Is the Convention having any negative effects which are causing concern?

Yes, the concern is causing mainly the incorrect understanding of the Hague proceedings by public, legal attorneys and some courts since these proceedings are understood as custodial proceedings in most cases.

Other than that, the concern is also about the deteriorated position of the abductor in custodial proceedings in the country of the habitual residence. See also Question No.44.

50. By what methods do you disseminate information about the Convention?

See Question No. 48. Moreover, it is intended to issue a brochure by the Slovak CA, which would contain all useful information concerning the Hague convention and which would be disseminated between the social workers and on the courts and embassies.

The Slovak CA also presented The Annual Report for Year 2005 about its budgetary and personal conditions and its activities in public and in the presence of the press.

51. Could you provide a list (including contact details and web site addresses) of non-governmental organisations in your State which are involved in matters covered by the 1980 and / or 1996 Conventions?

There are no non-governmental organizations involved in these cases that the Slovak CA knows of.

Services provided by the Permanent Bureau

52. Please comment or state your reflections on services provided by the Permanent Bureau to assist the implementation and operation of the Convention, such as:

- a) INCADAT;
- b) the Judges' Newsletter on International Child Protection;
- c) the bibliography of the Convention;
- d) the Child Abduction Section on the website of the Hague Conference;
- e) INCASTAT (the database for the electronic collection and analysis of statistics on the Convention, which is currently being developed);
- f) iChild (the electronic case management system designed by the Canadian software company WorldReach, which is currently being piloted by seven Central Authorities in six Contracting States).
- g) support for national / international judicial (and other) seminars / conferences concerning the Convention;
- h) support for communications among Central Authorities, including maintenance of updated contact details.

The Slovak CA appreciate very much all the services provided by the Permanent Bureau, especially the INCADAT and the Child Abduction Section. The Slovak CA also intends to extend the content of its library, whereas the information provided by the Bibliography of the Convention shall be very useful.

53. Have you any comments or suggestions concerning the activities in which the Permanent Bureau engages to assist in the effective functioning of the Convention?

No, except of more possibilities for training and education of professionals, especially for judges, social workers and employees of the Central Authorities.

Compliance with the Convention

54. Are there any Contracting States with whom you are having particular difficulties in achieving successful co-operation? Please specify these difficulties.

See the Question No 1.

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

No such experience.

Non-Convention cases and non-Convention States

56. Are you aware of any troubling cases of international abduction which fall outside the scope of the Convention?

Yes, in some cases it is very difficult to locate the child; especially when the child is abducted into one of the non-conventional countries. Basically there are no other measures to examine the social background of the child in these cases except of using the International Social Service. Eventually, the applicant loses contacts with the child completely and the aim of the Convention in such case is impossible to fulfill.

57. Are there any States that you would particularly like to see become a State Party to the Convention? Are there any States (which are not Parties to the Convention or Members of the Hague Conference) that you would like to see invited to the Special Commission meeting in October / November 2006. Would you be willing to contribute to a fund to enable certain developing States to attend?

Yes, particularly Russia, Ukraine and Egypt.

58. Do you have any comments on bilateral or other agreements between your State and a non-Contracting State?

There is only bilateral agreement between the Slovak republic and the countries of the previous U.S.S.R. "about the legal help and the legal relations in the field of civil, family and criminal matters", which refers to the most general legal relations between the countries.

59. What additional information would you find useful on the non-Hague Convention page on INCADAT available at < www.incadat.com >.

No comment.

Relationship with other instruments

60. Do you have any comments or observations on the impact of regional instruments on the operation of the 1980 Hague Convention, for example, Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 and the 1989 Inter-American Convention on the International Return of Children?

The Council Regulation No 2201/2003 has a very important role next to the Convention and state laws as well, since it brought some new provisions applying to the whole Hague proceedings.

Firstly, it regulates the definition of "the abduction" more strictly; it adds that the custody is considered to be exercised jointly even when one parent cannot decide on the child's residence without the consent of the other holder of parental responsibility. Subsequently, the removal of a child from one Member State to another without the consent of the relevant person constitutes abduction. This definition is helpful in cases, when it is not clear if the act of removing the child is really an abduction.

Stricter and new is also the principle that the child shall be returned if she/he can be protected in the Member State of Origin. This increases the role of the Central Authorities in the whole process of return where they and other authorities in the state of origin must take concrete measures to protect the child after the return. However, this point may be

questionable in some case as the Regulation does not specify the term "adequate arrangements."

It also imposes concrete duties to the court as it enforces the right of the child to be heard during the procedure and the child has to be heard unless his age and degree of maturity does not allow it. This point should not cause any problems in the practice of the court, since also the state law of the Slovak Republic provides that child has the right to be heard court.

Another obligation of the court is to give an opportunity to the applicant to be heard in the court, other wise the return of the child cannot be refused.

The court shall also issue a decision within a six-week deadline, unless there are there are exceptional circumstances that prevent the court from doing so. This provision may cause issues in the practice of the court as there are no state laws in Slovakia referring to the extent of evidence in the Hague proceedings. This fact may cause that the procedure of evidence will consume a longer period of time than 6 weeks.

To sum up, The Hague Convention is supplemented by certain provisions of the Regulation. The aim of the Regulation is certainly to speed up the process under The Hague Convention and it gives the right to be heard to all the parties of proceedings which secures the essential right to a fair trial without any unreasonable delays and it fortifies the aim of the UN Convention on the Rights of Children.

However, the provisions referring to the impact of the Hague proceedings on the following custodial proceedings and subsequently, the position of the abductor in the country of origin in these proceedings, are missing.

61. Do you have any comments or observations on the impact of international instruments on the operation of the 1980 Hague Convention, in particular, the 1989 United Nations Convention on the Rights of the Child?

See the Question above.

The Hague Convention of 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children

62. If the 1996 Hague Convention is in force in your State, do you have any comments regarding (a) how it has been implemented; (b) how it is operating?

The Haag Convention of 1996 is in force in the Slovak Republic. We do not have any comments on its implementation or operating. We find useful its accession by all Member States of the European Union.

63. If the 1996 Hague Convention is not in force in your State, is your State considering implementing this Convention? What are viewed as (a) the main advantages and (b) the main difficulties in implementing this Convention?

The main advantage of the Convention is its complementary character to the conventions concerning the children.

64. Have you experienced any difficulties concerning interpretation of particular provisions?

No, we do not have any experience of problems concerning interpretation.

65. Would you find a Guide to Good Practice on implementation of this Convention useful?

Yes, we find very useful guides to all conventions.

66. The Special Commission of 2001 recognised the potential advantages of the 1996 Hague Convention as an adjunct to the 1980 Hague Convention, and recommended that Contracting States should consider ratification or accession. How has your State responded to this recommendation?

Slovak Republic ratified the Convention prior to the recommendation of the Special Commission.

Any other matters and recommendations

67. States are invited to comment on any other matters which they may wish to raise concerning the practical operation of the 1980 Convention or the implementation of the 1996 Convention.

The Slovak CA is interested mainly in the discussion on the following matters:

- *the measures of locating the child,*
- *the form of the returning order, the process of enforcing the returning order and its efficiency,*
- *the concrete process of passing the child from the abductor to the applicant,*
- *the criminalization of the abduction in general as well as in connection with the European warrant of arrest,*
- *the extent of evidence demanded by the courts when handling the cases under the Hague Conventions,*
- *the impact of the Hague proceedings on the following custodial proceedings and the position of the abductor in the country of origin.*

68. States are invited to make proposals concerning recommendations to be made by the Special Commission.

No comments or suggestions on this matter.