

## Hague Conference Update

Permanent Bureau of the Hague Conference on Private International Law

### More efficient systems for dealing with international child abduction

#### A post-convention service

New technologies are an important part of post-convention services provided by the Permanent Bureau of the Hague Conference that will help lead the way to greater consistency in practice in different Contracting States and consequently add to the continued success of the Hague Conventions. This need was recognised by the Contracting States to the Hague Convention on the Civil Aspects of International Child Abduction 1980 (the 1980 Convention) and one of the Conclusions and Recommendations of the March 2001 Fourth Special Commission to review its operation was to encourage Central Authorities to generate and maintain accurate statistics and work with the Permanent Bureau to establish a statistical database.

#### iChild

At the September 2002 Special Commission meeting concerning the 1980 Convention, the Canadian government and WorldReach Software Corporation responded to the call by offering to donate hardware and software respectively. A representative from the Canadian Government and two representatives from WorldReach demonstrated software called 'iChild', a real-time electronic case management system. Following that Special Commission, the Permanent Bureau was involved in testing the potential of the software. In March 2003, a group of Central Authorities was invited to join a first pilot to test iChild for a period of 3 months. The overall impression was positive in spite of certain limitations. The first difficulty encountered was that the data was stored in a central location. This did have its advantages, such as no implementation costs for the Central Authorities and statistics available in real-time. But the participating Central Authorities felt that it would be better if the database was stored locally in each Central Authority. The principal reason given was that if confidential data were to be stored outside the jurisdiction, it would pose a problem for the protection of such data and it would incur high security costs if the Permanent Bureau were to store the data on a central server.

A selected group of Central Authorities (representing different regions, legal traditions and languages) was invited to participate in a second pilot given their IT capabilities and number of cases. After seven Central Authorities (Argentina, Australia, Canada (Ontario and Quebec), The Netherlands, New Zealand and Panama)

committed to this pilot, which started in October 2005 and lasted for a period of one year, WorldReach agreed to modify the system in accordance with the suggestions made during the first pilot. The new iChild, available in English, French and Spanish, was ready to be tested in a real-environment by August 2005.

iChild allows case officers to enter, save and search for detailed information relating to an abduction or access case directly on the system by using predefined fields. It also permits case officers to communicate between each other within the same Central Authority regarding a specific case using a messaging module incorporated into the system and lets them monitor case activity. An additional feature is the ability to generate statistical reports which consist of either the annual statistical forms concerning return applications and access applications relating to the 1980 Convention, developed by the Permanent Bureau in consultation with Contracting States, or detailed reports by category, status or country to give a bigger picture at any given time of a national situation. The system can also generate tailor-made reports that will help measure the Central Authority's own performance and that of their national judicial system.

Most of the Central Authorities which participated in the second pilot were of the view that an electronic system is very useful for record management purposes. However, some indicated that because of legal requirements regarding archiving they could not do away with paper files altogether. Further to all the functional amendments made to the first version of the software, the second pilot showed that the current version of the software is completely in line with the text of the 1980 Convention. The results of the second iChild pilot project were presented to the October/November 2006 Fifth Special Commission to review the operation of the Convention. This Special Commission invited all the Central Authorities to consider the implementation of the system.

#### INCASTAT

In parallel, the Permanent Bureau also developed the statistical database INCSTAT which is available to Central Authorities on a secure part of the Hague Conference website. INCSTAT is an electronic system for the collection of Annual Statistical Forms concerning return applications and access applications relating to the 1980 Convention, developed by the Permanent Bureau in consultation with Contracting States, the same forms that Central Authorities usually complete by hand. The preparations of the system and of its user instructions were based on the annual statistical forms. The Permanent Bureau has been receiving statistics from Central Authorities using these forms since 1999. The examination of statistics reported using these (paper) forms revealed that

Central Authorities were treating and collecting statistical data in very different manners and they were interpreting the forms in different ways. These divergences showed that a uniform method had to be established in order to be able to meaningfully compare and analyse statistical information from the different Contracting States. Thus it proved very important to develop INCSTAT to help Central Authorities maintain accurate statistics and also to harmonise the collection of statistics under the 1980 Convention.

Since October 2007, Central Authorities have been able to directly input statistical data onto the system using an individual username and password. This system generates the annual statistical forms and also generates different types of statistical charts, which allow Central Authorities to identify patterns and trends over time.

### **INCADAT**

The International Child Abduction Database INCADAT ([www.incadat.com](http://www.incadat.com)) was established by the Permanent Bureau of the Hague Conference with the objective of making leading decisions rendered by national courts in respect of the 1980 Convention freely accessible. Since its establishment in 2000 INCADAT has contributed considerably to the promotion of mutual understanding and good practice among the now 81 Contracting States of the 1980 Convention. INCADAT is used by judges, Central Authorities, legal practitioners, researchers and others interested in this rapidly developing branch of law. The database currently contains about 800 summaries of decisions from 40 jurisdictions in English and French, as well as to an increasing extent in Spanish. INCADAT also includes a section providing information on non-Hague Convention child abduction cases and related bilateral treaties. With the contribution of various

practitioners, judges and other individuals involved, INCADAT is continually growing. During the coming months various refinements are planned. The envisaged improvements concern, inter alia, a broader coverage of INCADAT and the availability of all case summaries in English, French and Spanish as well as the introduction of a new design and optimised search tools to simplify the use of the database.

### **Objectives**

The two electronic systems INCSTAT and iChild, combined together, will improve the collection of statistics and standards of case management and lead the way to a paperless child abduction and access case management within the Central Authorities. On the one hand, iChild will considerably help improve standards of case management. The system will significantly help improve communication between Central Authorities and it will lead to greater speed and consistency in practice in the different States. iChild will also be used to generate the annual statistical forms relating to the 1980 Convention. In this regard, iChild is a complement to INCSTAT. On the other hand, INCSTAT will improve the collection of statistics. The maintenance of accurate statistics will help in analysing, interpreting and presenting the real situation of international child abduction and access cases under the Convention. Like INCSTAT and iChild, the International Child Abduction Database INCADAT envisages improving the consistency in practice in the different States.

These systems could be adapted for other Conventions such as the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption 1993, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children 1996 and the Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance 2007.