

***Convention de La Haye du 25 octobre 1980 sur les aspects civils
de l'enlèvement international d'enfants***

Profil des États

établi par le Bureau Permanent

* * *

***Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction***

Country Profile

drawn up by the Permanent Bureau

*Document d'information No 2 de mars 2011 à l'intention de la
Commission spéciale de juin 2011 sur le fonctionnement pratique de la
Convention Enlèvement d'enfants de 1980 et de la
Convention Protection des enfants de 1996*

*Information Document No 2 of March 2011 for the attention of the
Special Commission of June 2011 on the practical operation of the
1980 Hague Child Abduction Convention and the
1996 Hague Child Protection Convention*

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FOREWORD TO THE COUNTRY PROFILE

This Country Profile should be used by Contracting States¹ to assist with fulfilment of the obligations contained within Article 7 of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.² In particular, it is anticipated that the Country Profile will help Contracting States fulfil their obligations under Article 7(2) e) and 7(2) i) of the Convention, that is:

- To provide information of a general character on the law of their State in connection with the application of the Convention; and
- To keep other Central Authorities informed regarding the operation of the Convention in their State and to eliminate any obstacles to the Convention's application.

The Country Profile is intended to assist with the practical operation of the Convention. It is hoped that it will facilitate:

- a) information exchanges between Contracting States;
- b) knowledgeable service by Central Authorities under the 1980 Hague Child Abduction Convention;
- c) cost-effective translation of the information provided by Contracting States into English, French, Spanish, and other languages as required by Contracting States; and
- d) prompt updates of the information provided.

NEWLY ACCEDING STATES:

It should be noted that the Country Profile does not replace the "Standard questionnaire for newly acceding States" (available at < www.hcch.net > under "Child Abduction Section" then "Questionnaires and responses"). The Standard Questionnaire provides a means for newly acceding States to describe promptly, and in brief, the measures taken in their State to ensure compliance with their Convention obligations and to ensure the effective practical operation of the Convention in their State. It thereby assists States already Party to the Convention with their decision as to whether to accept an accession.

Newly acceding States are encouraged to complete this full Country Profile as soon as is practicable.

INSTRUCTIONS:

- Please mark the box which best represents the arrangements in your State:
 - Where the response requires either "Yes" or "No", please mark one box only.
 - For all other questions, it may be necessary to mark more than one box.
- Where applicable, please specify the relevant provision(s) of your domestic legislation and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.
- Please complete a separate profile for each territorial unit if there are significant differences in the substance and operation of the laws in each.
- Please note: the information contained in the Country Profile **is of a general nature only**. The purpose of the Country Profile is to assist with the practical operation of the Convention and not to provide a comprehensive picture of the legal system of each Contracting State. Please consider this when completing the Country Profile and when using the Country Profile of other Contracting States. Please contact the relevant Central Authority for clarification or specific advice.
- Contracting States are exclusively responsible for updating the information contained in their Country Profile. However, reminders for updates will be provided by the Permanent Bureau of the Hague Conference on Private International Law.

¹ Any reference to a Contracting State in this Country Profile is a reference to a Contracting State of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*

² Hereinafter, "the 1980 Hague Child Abduction Convention", or simply "the Convention".

**1980 Hague Child Abduction Convention
Country Profile**

- Completed Country Profiles will be published on the website of the Hague Conference on Private International Law < www.hcch.net >.
- The Permanent Bureau of the Hague Conference has prepared a number of resources which may assist States in the effective implementation and operation of the Convention, in particular Guides to Good Practice. See < www.hcch.net > under "Child Abduction Section" for further information in this regard.

TERMINOLOGY:

- Whilst it is acknowledged that in some Contracting States the formal applicant to a return or access application under the Convention may be a State authority (see question 10.3 b) below), please note that the term "**applicant**" is used in the Country Profile as follows:
 - (a) In relation to a *return* application, the term "applicant" denotes the person, institution or other body alleging that their actually exercised rights of custody in relation to a child have been breached by the removal or retention of the child, in accordance with Article 3 of the Convention; and
 - (b) In relation to an *access* application, the term "applicant" denotes the person, institution or other body seeking to establish and / or exercise rights of access in relation to a child under Article 21 of the Convention.
- The term "**abducting party**" or "**alleged abducting party**" in the Country Profile refers to the person, institution or other body who has, or is alleged to have, wrongfully removed or retained a child in accordance with Article 3 of the Convention.

***Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction***

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**Hague Convention of 25 October 1980 on the Civil Aspects of
International Child Abduction**

COUNTRY PROFILE

Country Name: Germany

Territorial Unit (where applicable):

Last updated: February 2017

Part I: Central Authorities

1 Central Authority contact details

Provide the designation and contact details of the Central Authority to which communications may be addressed.
Always check < www.hcch.net > then "Child Abduction Section" and "Central Authorities" for the most current contact details.

Organisation:	Bundesamt für Justiz / Federal Office of Justice Zentrale Behörde / Central Authority
Address:	Adenauerallee 99 - 103 53113 Bonn Deutschland / Germany
Territorial and personal extent of functions, if applicable:	
Telephone:	+49 (228) 99 410 5212
Fax:	+49 (228) 99 410 5401
E-mail:	int.sorgerecht@bfj.bund.de
Website:	www.bundesjustizamt.de/sorgerecht (German) and www.bundesjustizamt.de/custody-conflicts (English)
Contact person(s) and direct contact details (please indicate language(s) of communication):	
Preferred method of communication:	<input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Fax <input checked="" type="checkbox"/> E-mail <input checked="" type="checkbox"/> Post <input type="checkbox"/> Other (please specify):

OTHER DESIGNATED CENTRAL AUTHORITIES (IF APPLICABLE)

Please attach additional pages if there is more than one designated Central Authority in your State.

Organisation:	
Address:	
Territorial and personal extent of functions, if applicable:	
Telephone:	
Fax:	
E-mail:	

Website:	
Contact person(s) and direct contact details (please indicate language(s) of communication):	
Preferred method of communication:	<input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail <input type="checkbox"/> Post <input type="checkbox"/> Other (please specify):

2 Language requirements	
a) Does the Central Authority prefer applications, communications and other documents sent to them to be accompanied by a translation into the official language(s) of the State? <i>See Article 24</i> <i>See questions 10.3 c) and 17.2 b) below regarding any translation(s) required by the court / administrative authority</i>	<input checked="" type="checkbox"/> Yes, for all communications, applications and other documents. Please specify the official language(s) of the State: German (applies only for formal communications, see below) <input checked="" type="checkbox"/> Not for informal communications <input type="checkbox"/> No
b) Has your State made a reservation in respect of the use of French or English for communications, applications and other documents sent to the Central Authority? <i>See Article 42</i>	<input type="checkbox"/> Yes, object to English <input type="checkbox"/> Yes, object to French <input checked="" type="checkbox"/> No

3 Central Authority operations	
a) What are the working days and hours of the Central Authority?	Days of the week open: Mo - Fr Opening time: 09:00 Closing time: 15:00 Shut down periods (e.g., public holidays, court closures): New year's Day (1 January), Good Friday, Easter Monday, International Workers' Day (1 May), Ascension Day, Whit Monday, Feast of Corpus Christi, German Unification Day (3 October), All Saints' Day (1 November), Christmas Eve (24 December), Christmas Day (25 December), Boxing Day (26 December), New Years Eve (31 December).
b) Can assistance be accessed outside of working hours?	<input checked="" type="checkbox"/> Yes (please specify contact details, if different from above): <input checked="" type="checkbox"/> For persons in other Convention States: Working hours are flexible and in individual cases it is possible to contact us until 18:00 or later. <input checked="" type="checkbox"/> For persons in your State: see above <input type="checkbox"/> No
c) Does the Central Authority have a dedicated staff who deals <i>only</i> with 1980 Hague Child Abduction Convention applications and related	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

issues?	
<p>d) Please indicate the professions represented in the Central Authority:</p> <p><i>Please note that some individual staff members may fall under more than one category. This question should not be interpreted as an indication of the number of staff members in the Central Authority</i></p>	<p><input checked="" type="checkbox"/> Civil servants</p> <p><input checked="" type="checkbox"/> Civil servants (legal advisors)</p> <p><input checked="" type="checkbox"/> Lawyers</p> <p><input checked="" type="checkbox"/> Social workers</p> <p><input checked="" type="checkbox"/> Mediators</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>

Part II: Relevant legislation

4 International Child Abduction	
4.1 1980 Hague Child Abduction Convention	
a) When did the 1980 Hague Child Abduction Convention enter into force in your State?	Date: 1.12.1990
b) Was implementing legislation necessary for the 1980 Hague Child Abduction Convention to enter into force in your domestic law? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> The date that the legislation entered into force: Present legislation entered into force on 1 March 2005. Previous legislation applied from 1 December 1990 until 1 March 2005. The legislative provision(s) or implementing legislation: Act to implement Certain Legal Instruments in the Field of International Family Law (International Family Law Procedure Act - IFLPA). The implementing legislation can be found in English on the Internet: http://www.gesetze-im-internet.de/englisch_intfamrvg/index.html --- or --- www.bundesjustizamt.de/custody-conflicts (click on "Legal provisions and Explanatory Reports", then "International Family Law Procedure Act - IFLPA") --- or in German: --- http://www.gesetze-im-internet.de/intfamrvg/index.html --- or --- http://www.bundesjustizamt.de/sorgerecht (click on "Rechtsvorschriften und Erläuternde Berichte", then "Internationales Familienrechtsverfahrensgesetz") <input type="checkbox"/> No
c) Whether implementing legislation was necessary in your State or not, have any (other) legislative provisions or procedural rules been enacted to assist with the effective operation of the 1980 Hague Child Abduction Convention? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> The date that the legislation or procedural rules entered into force or effect: see below The legislative provision(s) or procedural rules: <ul style="list-style-type: none"> section 14 subsection 2 of the Act on Senior Judicial Officers (1 March 2005) section 29 of the Act on Senior Judicial Officers (18 June 2011) section 27 of the Federal Central Criminal Register Act (1 March 2005) section 68 subsection 1a) of the Social Security Code X (1 March 2005) section 35 subsection 4b) of the Road Traffic Act (1 March 2005) The Act on Senior Judicial Officers can be found in English on the Internet: http://www.gesetze-im-internet.de/englisch_rpflg/index.html The Federal Central Criminal Register Act can be found in German on the Internet: http://www.gesetze-im-internet.de/bzrg/ The Social Security Code X can be found in German on the Internet: http://www.gesetze-im-internet.de/sgb_10/ The Road Traffic Act can be found in German on the Internet: http://www.gesetze-im-internet.de/stvg/

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input type="checkbox"/> No
4.2 Other agreements on international child abduction	
a) Is your State party to any other international agreements which relate to international child abduction?	<input checked="" type="checkbox"/> Yes: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Brussels II a Regulation (Council Regulation (EC) No 2201/2003 of 27 November 2003) <input type="checkbox"/> Inter-American Convention of 15 July 1989 on the International Return of Children <input type="checkbox"/> Bilateral agreements (<i>please specify</i>): <input type="checkbox"/> Non-binding memoranda of understanding (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (European Custody Convention) <input type="checkbox"/> No

5 1996 Hague Child Protection Convention	
a) Is your State a Contracting State to the 1996 Hague Child Protection Convention? <i>Refer to < www.hcch.net > for the status table of the 1996 Hague Child Protection Convention</i>	<input checked="" type="checkbox"/> Yes, if so, on what date did the 1996 Hague Child Protection Convention enter into force in your State: 1 January 2011 <input type="checkbox"/> No
b) Was implementing legislation necessary for the 1996 Hague Child Protection Convention to enter into force in your domestic law? <i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i>	<input checked="" type="checkbox"/> Yes, please specify: <ul style="list-style-type: none"> • The date that the legislation entered into force: 1 March 2005 (as per amended version of 1 January 2011) • The legislative provision(s) or implementing legislation: Act to implement Certain Legal Instruments in the Field of International Family Law (International Family Law Procedure Act - IFLPA). • The implementing legislation can be found on the Internet: http://www.gesetze-im-internet.de/englisch_intfamrvg/act_on_international_family_law.pdf --- or --- • www.bundesjustizamt.de/custody-conflicts (click on "Legal provisions and Explanatory Reports", then "Act to Implement Certain Legal Instruments in the Field of International Family Law") --- or in German: --- • http://www.gesetze-im-internet.de/intfamrvg/index.html ---or--- • http://www.bundesjustizamt.de/sorgerecht (click on "Rechtsvorschriften und Erläuternde Berichte", then "Internationales Familienrechtsverfahrensgesetz") <input type="checkbox"/> No

<p>c) Whether implementing legislation was necessary in your State or not, have any (other) legislative provisions or procedural rules been enacted to assist with the effective operation of the 1996 Hague Child Protection Convention?</p> <p><i>Please specify how legislation can be accessed (e.g., website) or attach a copy</i></p>	<p><input type="checkbox"/> Yes, please specify:</p> <ul style="list-style-type: none"> • The date that the legislation or procedural rules entered into force or effect: • The legislative provision(s) or procedural rules: <p><input checked="" type="checkbox"/> No</p>
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Part III: Applications for return

6 Applications through Central Authorities	
6.1 Outgoing applications (requesting State)	
<p>a) What type of assistance is provided to applicants in your State when completing an application for return under the Convention?</p> <p><i>See Articles 7 and 8</i></p>	<p><input checked="" type="checkbox"/> Assistance from the Central Authority</p> <p><input checked="" type="checkbox"/> Assistance from another authority</p> <p><input type="checkbox"/> Referral to a legal representative</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): The courts can exempt an applicant under the terms of section 5 subsection 2 of the International Family Law Procedure Act from the costs of the required translations. According to section 42 subsection 1 of the International Family Procedure Act the courts are also entitled to receive and forward outgoing applications to the Central Authority after having examined the requirements as to form.</p>
6.2 Incoming applications (requested State)	
<p>a) What form of application does your State require for an incoming application?</p>	<p><input type="checkbox"/> (1) Model Application Form <i>Available at < www.hcch.net > under "Child Abduction Section"</i> Go to question c)</p> <p><input type="checkbox"/> (2) Form developed by your State Please specify how this form can be accessed (e.g., website) or attach a copy: A form can be accessed on our website (click "Applications forms" and then on "1980 Hague Convention return" and the language you require). Although the use of the application provided on the website is not mandatory, the German Central Authority prefers application to be submitted by using this form. Go to question c)</p> <p><input type="checkbox"/> Both (1) and (2), go to question c)</p> <p><input type="checkbox"/> The form of the requesting State is accepted, go to question c)</p> <p><input checked="" type="checkbox"/> No particular form is required, go to question b)</p> <p><input type="checkbox"/> Other, go to question b)</p>
<p>b) If your State does not require a particular form of application, what information or documents does your State request?</p> <p><i>See Article 8</i></p> <p><i>Please note that the only information actually required by the Convention (Art. 8) is indicated by a cross in the relevant box</i></p>	<p><input checked="" type="checkbox"/> Information concerning the identity of the child:</p> <p><input checked="" type="checkbox"/> Name and previous name/s</p> <p><input checked="" type="checkbox"/> Date of birth, where available</p> <p><input checked="" type="checkbox"/> Address</p> <p><input type="checkbox"/> Telephone number</p> <p><input checked="" type="checkbox"/> Nationality / nationalities</p> <p><input checked="" type="checkbox"/> Passport number(s)</p> <p><input checked="" type="checkbox"/> Physical description (height, eye and hair colour)</p> <p><input checked="" type="checkbox"/> Photograph (as recent as possible)</p> <p><input type="checkbox"/> Information identifying the child's parents e.g., nationalities – where a parent is not the applicant or respondent to proceedings (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> Information concerning the identity of the applicant:</p> <p><input checked="" type="checkbox"/> Name and previous name/s</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input checked="" type="checkbox"/> Date of birth <input checked="" type="checkbox"/> Address <input type="checkbox"/> Telephone number <input checked="" type="checkbox"/> Nationality / nationalities <input type="checkbox"/> Passport number(s) <input checked="" type="checkbox"/> Relationship of the applicant to the child <input checked="" type="checkbox"/> Name(s) of legal adviser, if any <input type="checkbox"/> Other (<i>please specify</i>):
	<input checked="" type="checkbox"/> Information concerning the identity of the person alleged to have removed or retained the child: <input checked="" type="checkbox"/> Name and previous name/s <input checked="" type="checkbox"/> Date of birth <input checked="" type="checkbox"/> Address <input type="checkbox"/> Telephone number <input checked="" type="checkbox"/> Nationality / nationalities <input checked="" type="checkbox"/> Passport number(s) <input checked="" type="checkbox"/> Physical description (height, eye and hair colour) <input checked="" type="checkbox"/> Photograph (as recent as possible) <input checked="" type="checkbox"/> Relationship of the person to the child <input type="checkbox"/> Other (<i>please specify</i>):
	<input checked="" type="checkbox"/> The grounds upon which the applicant's claim for return of the child is based <input checked="" type="checkbox"/> Evidence of the applicant's rights of custody <input type="checkbox"/> An authenticated copy of any relevant decision or agreement <input type="checkbox"/> A certificate or an affidavit emanating from the Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State <input checked="" type="checkbox"/> The alleged habitual residence of the child, with supporting information <input checked="" type="checkbox"/> Other (<i>please specify</i>): In case of attribution of parental responsibility by operation of law a simple copy concerning the relevant law of the State of the child's habitual residence is requested.
	<input checked="" type="checkbox"/> All available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be
	<input checked="" type="checkbox"/> Any other relevant document / information <input checked="" type="checkbox"/> Concerning any child protection issues <input checked="" type="checkbox"/> Marriage certificate (if applicable) <input checked="" type="checkbox"/> Divorce decree (if applicable) <input checked="" type="checkbox"/> Civil and / or criminal proceedings in progress (if applicable) <input checked="" type="checkbox"/> Evidence of child or other relevant person's right to re-enter the State of the child's habitual residence <input checked="" type="checkbox"/> Other (<i>please specify</i>): Birth certificate of the child

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>Although the use of the Model Application Form (see 6.2 a) (1)) is not mandatory the German Central Authority prefers applications to be submitted by using this form. The form and translations into the languages of all Contracting States are available on the website of the German Central Authority.</p>
<p>c) Does your Central Authority accept an application and accompanying documentation transmitted by electronic means?</p>	<p><input checked="" type="checkbox"/> Yes, please specify any requirements for electronically transmitted applications / documentation: A signed application can be transmitted by electronic means (e.g. as pdf-file). Regarding applications for legal aid original documents are required.</p> <p><input type="checkbox"/> Yes, but any documentation sent electronically is not accepted by the court / administrative authority (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>

<p>d) Does the Central Authority require a written authorisation empowering it or a designated representative (e.g., <i>lawyer</i>) to act on behalf of the applicant?</p> <p><i>See Article 28</i></p>	<p><input type="checkbox"/> Yes, the authorisation should be provided:</p> <p><input type="checkbox"/> On the application form</p> <p><input type="checkbox"/> In a signed statement or declaration</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> No</p>
<p>e) Does the Central Authority acknowledge receipt of the application?</p>	<p><input checked="" type="checkbox"/> Yes, acknowledgment generally is provided by:</p> <p><input checked="" type="checkbox"/> E-mail</p> <p><input checked="" type="checkbox"/> Facsimile</p> <p><input checked="" type="checkbox"/> Post</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>
<p>f) Can the Central Authority proceed with an application where the information provided is incomplete?</p>	<p><input type="checkbox"/> Yes, the Central Authority will begin processing the application and will immediately inform the requesting Central Authority of what additional information is required to complete the request</p> <p><input type="checkbox"/> No:</p> <p><input type="checkbox"/> The Central Authority will not process an application without all of the necessary supporting documentation</p> <p><input type="checkbox"/> The Central Authority is unable to process the application but will immediately inform the requesting Central Authority of what additional information is required before further action can be taken</p> <p><input checked="" type="checkbox"/> It depends upon what type of information is missing (<i>please specify</i>): If the application is incomplete the German Central Authority will normally take steps for locating the child and inform the requesting Central Authority of what additional information is required. In rare cases, e.g. where it is uncertain if the child is in Germany at all, the requesting Central Authority will be asked to provide further information before the German Central Authority proceeds with the application.</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>g) Who does the Central Authority prefer to communicate with in incoming applications?</p>	<p><input checked="" type="checkbox"/> The requesting Central Authority</p> <p><input type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The applicant's legal representative</p> <p><input type="checkbox"/> All of the above</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>h) What measures are taken by the Central Authority (directly, or through an intermediary) to attempt to secure the voluntary return of a child allegedly wrongfully removed or retained in accordance with Article 3 of the Convention (hereinafter, simply "the child")?</p> <p><i>Please explain where necessary</i></p> <p><i>See Article 7 c) and Article 10</i></p> <p><i>See also Part V: Mediation and other forms of alternative dispute resolution below</i></p>	<p><input checked="" type="checkbox"/> Contact is made with the alleged abducting party to seek a voluntary return if the applicant agrees.</p> <p><input checked="" type="checkbox"/> Mediation and / or other forms of alternative dispute resolution are offered to the parties (see Part V: Mediation and other forms of alternative dispute resolution) The applicant is provided with information regarding mediation and asked whether he is disposed to participate in mediation or not. If the answer is positive the German Central Authority will ask the same question to the abducting parent.</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>i) How is it ensured that no undue delay results from the measures taken, or attempted, to secure the voluntary return of the child (see question h) above)?</p>	<p>Please explain: <i>Unless requested otherwise by the applicant, the voluntary return letter and information on mediation are sent to the alleged abducting party at the same time as the application is filed with the court. If the voluntary return or mediation succeed,</i></p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<i>the court application can be withdrawn.</i>
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<p>j) What is the role of the Central Authority in taking or causing to be taken provisional measures to prevent further harm to the child?</p> <p><i>See Article 7(2) b)</i> <i>Refer also to sections 10.5 and 11.2 below</i></p>	<p><input checked="" type="checkbox"/> Alert appropriate agencies where there are concerns that a child is at risk</p> <p><input checked="" type="checkbox"/> Apply directly to authorities for protection orders</p> <p><input type="checkbox"/> Refer parties to appropriate agencies</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>k) Can an applicant commence proceedings in your State for the return of the child under the Convention without using the Central Authority channel?</p> <p><i>See Article 3 and Article 29</i></p>	<p><input checked="" type="checkbox"/> Yes, if so, please explain:</p> <ul style="list-style-type: none"> Where the applicant can obtain information about commencing proceedings: On our website or with the aid of a lawyer. What role, if any, the Central Authority has in these proceedings: The Central Authority has no formal role but nevertheless provides any kind of assistance required during the proceedings (e.g. locating the child, notification in accordance with Art. 16 if required, information of the Central Authority of the requesting State and procurement of information from there, if necessary) <p><input type="checkbox"/> No</p>

7 Locating a child and preventing removal

For best practice on locating a child and preventing removal, see the Guides to Good Practice under the 1980 Hague Child Abduction Convention available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice". In particular, in relation to preventing removal, see Part III of the Guide to Good Practice on Preventive Measures.

<p>a) Can return proceedings commence before the child is located?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes, in certain circumstances (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) What evidence / information does your State require regarding the child's whereabouts to begin to assist with locating the child?</p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Evidence that the child entered your State (e.g., evidence that the child boarded an aeroplane bound for your State):</p> <p><input type="checkbox"/> Information from the applicant as to why he / she believes the child is in your State:</p> <p><input type="checkbox"/> No information or evidence is required; searches for the child can begin upon request:</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>): Any available information on the whereabouts (any kind of address details), because court venue depends on location of the child.</p>
<p>c) What mechanisms or sources of information are available in your State to discover the whereabouts of the child?</p> <p><i>Please indicate in the space provided any associated costs for an applicant or any other necessary information</i></p> <p><i>See Article 7(2) a)</i></p>	<p><input type="checkbox"/> (1) Private location services:</p> <p><input checked="" type="checkbox"/> (2) Population register: free of charge</p> <p><input type="checkbox"/> (3) Employment register:</p> <p><input checked="" type="checkbox"/> (4) Information maintained by other government agencies (e.g., immigration, social welfare): free of charge</p> <p><input checked="" type="checkbox"/> (5) Police: generally free of charge, in exceptional cases where locating the child is very laborious, the police may impose its expenses upon the applicant</p> <p><input checked="" type="checkbox"/> (6) INTERPOL: free of charge</p> <p><input checked="" type="checkbox"/> (7) Court orders to compel the production of information on the whereabouts of the child: costs are part of the general costs of the proceedings</p> <p><input type="checkbox"/> (8) Other (<i>please specify</i>):</p>
<p>d) Please indicate who is responsible for arranging the measures listed above in question c) by</p>	<p>Central Authority: 2, 4, 5, 6</p> <p>The applicant: 7</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

inserting the relevant number next to the responsible person or authority <i>E.g.</i> , Central Authority: 2, 3 The applicant's representative: 7	The applicant's representative: 7 Other (<i>please specify</i>):
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Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

e) Please indicate, by inserting the relevant numbers, which of the measures listed above in question c) need an order from a competent authority?	7
f) What measures can be taken in your State to deter the removal or re-abduction of the child? <i>Please explain where necessary</i> <i>Refer also to the Guide To Good Practice, Part III – Preventive Measures, available at < www.hcch.net >, particularly to paragraph 3.1 on barriers to international travel</i>	<input checked="" type="checkbox"/> (1) Child's passport(s) to be deposited with authorities <input checked="" type="checkbox"/> (2) Alleged abductor's passport to be deposited with authorities <input checked="" type="checkbox"/> (3) Obtain orders to prevent the removal of the child <input checked="" type="checkbox"/> (4) Issuing border and / or port alerts <input checked="" type="checkbox"/> (5) Requiring the alleged abductor to report periodically to authorities <input checked="" type="checkbox"/> (6) Requiring the alleged abductor to pay a bond / deposit <input checked="" type="checkbox"/> (7) Temporary placement of child in institutional care <input checked="" type="checkbox"/> (8) Other (<i>please specify</i>): Request of the competent foreign consulate not to issue new passports for the alleged abductor and/or the child.
g) Please indicate who may apply for the measures listed above in question f) by inserting the relevant number next to the responsible person or authority	Central Authority: 1 - 8 The applicant: 1 - 8 The applicant's representative: 1 - 8 Other (<i>please specify</i>): The courts are also entitled to order the above listed measures ex officio if facts are brought to their attention (1 - 8).
h) Please indicate, by inserting the relevant numbers, which of the measures above in question f) need an order from a competent authority?	1 - 8

8 Legal representation and assistance	
8.1 General	
a) Has your State made a reservation to Article 26 of the Convention?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) Does the Central Authority provide legal advice regarding return applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No, however: <ul style="list-style-type: none"> <input type="checkbox"/> The Central Authority will refer the applicant to the appropriate person or authority to obtain legal advice <input checked="" type="checkbox"/> The Central Authority will provide information that is of a general nature about laws and procedures <input type="checkbox"/> Other (<i>please specify</i>):
c) Is legal representation required in return proceedings? <i>See Article 25</i> <i>Please explain where necessary</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No, but recommended

<p>d) What is the role of the Central Authority in arranging legal representation? <i>See Article 7(2) g)</i></p>	<p><input type="checkbox"/> The applicant is required to make his / her own arrangements for legal representation, but the Central Authority will:</p> <p><input type="checkbox"/> Provide the applicant with a list of lawyers</p> <p><input type="checkbox"/> Provide the applicant with a list of free or reduced rate lawyers</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Legal representation is not required. The Central Authority ensures the application is forwarded to the competent authority for action. Please provide additional information if necessary:</p> <p><input checked="" type="checkbox"/> Legal representation is arranged by the Central Authority. Representation is provided by:</p> <p><input type="checkbox"/> Central Authority lawyers</p> <p><input checked="" type="checkbox"/> Private lawyers</p> <p><input type="checkbox"/> Public prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): The Central Authority is the representative by operation of law and files the application with the court. Thereafter the Central Authority assigns a private lawyer to represent the applicant at the court hearings and to conduct proceedings thenceforth.</p>
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8.2 Free or reduced rate legal assistance

<p>a) Is free or reduced rate legal assistance available to an applicant in return proceedings in your State?</p>	<p><input checked="" type="checkbox"/> Yes, free legal assistance. Go to question c)</p> <p><input checked="" type="checkbox"/> Yes, reduced rate legal assistance. Go to question c)</p> <p><input type="checkbox"/> No, go to question b)</p>
<p>b) If free or reduced rate legal assistance is <u>not</u> available, in what other ways can your State assist an applicant financially?</p>	<p><input type="checkbox"/> There is a system of costs ordering the respondent to pay</p> <p><input type="checkbox"/> <i>Pro bono</i> legal assistance</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> Not at all</p> <p>Go to section 9</p>
<p>c) Is the applicant required to complete an application form for free or reduced rate legal assistance?</p>	<p><input checked="" type="checkbox"/> Yes, please specify how application forms can be obtained (e.g., website) or attach a copy: Usually the Central Authority provides the applicant with the application form. Additionally, the form and an instructions leaflet are available on our website (click on "Application forms", then "Application for legal aid 2014 with instructions for filling in the form (German)" or one of the translations below.</p> <p>If the applicant does not comply with the requirements for legal aid (see below) the Central Authority asks the applicant for an advance deposit before initiating judicial proceedings.</p> <p><input type="checkbox"/> No</p>
<p>d) Please indicate on what basis free or reduced rate legal assistance may be available <i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Income of the applicant</p> <p><input checked="" type="checkbox"/> Assets of the applicant</p> <p><input type="checkbox"/> Country of residence of the applicant</p> <p><input checked="" type="checkbox"/> Likelihood of success of the proceedings</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): action does not seem frivolous</p>
<p>e) Which costs are covered by free or reduced rate legal assistance? <i>Please explain where necessary</i></p>	<p><input type="checkbox"/> (1) Mediation</p> <p><input checked="" type="checkbox"/> (2) Translation Costs for translations required for filing the application with the court, e.g. of the application itself, have to be borne by the applicant (unless funding is available in the requesting State).</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>Costs for translations that become necessary in pending court proceedings are part of the general costs of the proceedings and are therefore covered by legal aid.</p> <p><input checked="" type="checkbox"/> (3) Interpreters (included in court fees, if applicable)</p> <p><input checked="" type="checkbox"/> (4) Service of documents</p> <p><input type="checkbox"/> (5) Costs associated with locating the child</p> <p><input checked="" type="checkbox"/> (6) Court fees (if applicable)</p> <p><input type="checkbox"/> (7) Travel costs for the return of the child (see question 11.1 c))</p> <p><input checked="" type="checkbox"/> (8) Other (<i>please specify</i>): The lawyer's fees of the applicant. In case the applicant loses the proceedings he or she has to bear the lawyer's fees of the other party though.</p>
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f) Please indicate which costs, if any, are covered by the Central Authority by listing the numbers set out in question e) above?	In exceptional cases, fees for mediation (1) can be covered by the Central Authority in whole or in part.
g) Is free or reduced rate legal assistance available for the appeal of decisions?	<input type="checkbox"/> No, go to question i) <input checked="" type="checkbox"/> Yes, free legal assistance; go to question h) <input checked="" type="checkbox"/> Yes, reduced rate legal assistance; go to question h) <input checked="" type="checkbox"/> It depends upon an assessment of the merits of the case and / or the means of the individual concerned (<i>please specify</i>): see above under 8.2 d) Go to question h)
h) Is a new application for free or reduced rate legal assistance required for appeals?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
i) Is free or reduced rate legal assistance available for proceedings needed to enforce a return order?	<input type="checkbox"/> No, go to question k) <input checked="" type="checkbox"/> Yes, free legal assistance; go to question j) <input checked="" type="checkbox"/> Yes, reduced rate legal assistance; go to question j) <input checked="" type="checkbox"/> It depends upon an assessment of the merits of the case and / or the means of the individual concerned (<i>please specify</i>): see above under 8.2 d) Go to question j)
j) Is a new application for free or reduced rate legal assistance required for enforcement applications?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
k) Is free or reduced rate legal assistance available to an alleged abducting party located in your State?	<input checked="" type="checkbox"/> Yes, free legal assistance <input checked="" type="checkbox"/> Yes, reduced rate legal assistance Please specify in what circumstances and on what basis legal assistance will be granted: Same as for an applicant in return proceedings, see above under 8.2 d). <input type="checkbox"/> No
l) Where a child is returned to your State, is free or reduced rate legal assistance available to all parties in the custody proceedings in your State?	<input checked="" type="checkbox"/> Yes, free legal assistance is available to all parties <input checked="" type="checkbox"/> Yes, reduced rate legal assistance is available to all parties Please specify in what circumstances and on what basis legal assistance will be granted: Same as for an applicant in return proceedings, see above under 8.2 d). Further the European directive on legal aid, which was transposed into German national law by sections 1076 - 1078 of the German Code of Civil Procedure, improves access to legal aid for persons that do not live in the Member State where the case will be heard. According to Article 4 of the European directive on legal aid Member States shall grant legal aid without discrimination to Union citizens and third-country nationals residing lawfully in a Member State. Section 1078 subsection 3 of the German Code of Civil Procedure provides that legal aid is also granted if the applicant proves that he or she is unable to pay the costs of the proceedings as a result of differences in the costs of living between the Member State of domicile or habitual residence and of the Member State where the case will be heard. The German Code of Civil Procedure can be found on the Internet: http://www.gesetze-im-internet.de/englisch_zpo/index.html

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>The European directive on legal aid can also be found on the Internet: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0008:EN:NOT</p> <p><input type="checkbox"/> Free legal assistance is only available to certain persons (<i>please specify</i>):</p> <p><input type="checkbox"/> Reduced rate legal assistance is only available to certain persons (<i>please specify</i>):</p> <p>Please specify in what circumstances and on what basis legal assistance will be granted:</p> <p><input type="checkbox"/> No, free and / or reduced rate legal assistance is not available to any party</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
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9 Rights of custody

9.1 Acquisition and exercise of rights of custody

See Articles 3 and 5

<p>a) Do rights of custody arise by operation of law in your State?</p> <p><i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy</i></p>	<p><input checked="" type="checkbox"/> Yes, go to question b)</p> <p><input type="checkbox"/> No, go to question c)</p>
<p>b) To whom are rights of custody attributed by operation of law?</p> <p><i>See Articles 3 and 5</i></p> <p><i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy</i></p>	<p>Please explain: If the parents are married, they have joint custody rights (section 1626 of the German Civil Code). If the parents are not married, the mother has the sole right of custody unless the parents declare that they wish to take on parental custody jointly (section 1626a of the German Civil Code). The declaration of parental custody must be notarially recorded and the reporting agency then notifies the making of such a declaration to the Youth Welfare Office (section 1626d of the German Civil Code).</p> <p>The German Civil Code can be found on the Internet:</p> <p>http://www.gesetze-im-internet.de/englisch_bgb/</p>
<p>c) By what other methods can a person or institution acquire rights of custody?</p>	<p><input checked="" type="checkbox"/> Judicial decision</p> <p><input type="checkbox"/> Administrative decision</p> <p><input checked="" type="checkbox"/> Agreement having legal effect</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): According to decisions of the European Court of Human Rights and the German Federal Constitutional Court unmarried fathers can apply to the family courts in order to obtain joint custody if the mother refuses to make a declaration of parental custody. The family courts then order joint custody if this is expected to be in accordance with the best interests of the child.</p>
<p>d) How, if at all, can the attribution of rights of custody be modified?</p>	<p><input checked="" type="checkbox"/> By order of a judicial or administrative authority</p> <p><input type="checkbox"/> By written agreement</p> <p><input type="checkbox"/> It depends upon how the rights of custody were acquired (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Rights of custody can be established but not withdrawn by declaration of joint custody, see above under 9.1 b).</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

e) How, if at all, can rights of custody be terminated?	<input checked="" type="checkbox"/> By order of a judicial or administrative authority <input type="checkbox"/> By written agreement <input type="checkbox"/> It depends upon how the rights of custody were acquired (<i>please specify</i>): <input type="checkbox"/> Other (<i>please specify</i>):
f) Prior to any order determining the issue, who <i>generally</i> has the right to determine the child's residence?	Please explain: In Germany, the right to determine the child's residence is part of the custody right unless changed by a court order. So if the parents are married they are jointly entitled to determine the child's residence. If they are not married, the mother has the right to determine the child's residence unless the parents did submit a notarially recorded declaration of joint custody or the father has been granted joint custody by the family court (see above under 9.1 b and c).

10 Proceedings for Return	
10.1 Organisation of competent authorities	
a) Does your State limit the number of judicial or administrative authorities who can hear return applications under the Convention? (<i>i.e.</i> , has your State "concentrated jurisdiction" in respect of applications under the Convention)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) If possible, please state exactly how many courts or administrative authorities and how many judges or relevant decision-makers can hear return applications under the Convention?	Courts / administrative authorities: 22 first instance courts and 22 second instance courts. Judges / decision-makers: About 140 judges (about 50 first instance judges and about 90 second instance judges)

<p>c) Please list the judicial or administrative authorities that can make decisions in return applications under the Convention</p>	<p>The competent German courts and their contact details can be found on the website of the German Central Authority: http://www.bundesjustizamt.de/custody-conflicts (click on "Competent German courts" and then on "List of competent German courts").</p>
<p>d) Are the judges or administrative authorities who decide return applications in your State specialists in either family law or international child abduction? <i>See also section 22 on Training below</i></p>	<p><input checked="" type="checkbox"/> Yes, specialists in family law <input checked="" type="checkbox"/> Yes, specialists in international child abduction <input type="checkbox"/> No <input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>e) In ascertaining whether there has been a wrongful removal or retention under the Convention, do judicial or administrative authorities in your State take judicial notice of foreign law and decisions without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable in ascertaining whether there has been a wrongful removal or wrongful retention? <i>See Article 14</i></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>10.2 Articles 15 and 16 of the Convention</p>	
<p>a) In your State is it possible for a decision or other determination to be made, in accordance with Article 15 of the Convention, that the removal or retention of a child was wrongful within the meaning of Article 3? <i>See Article 3 and Article 15</i></p>	<p><input checked="" type="checkbox"/> Yes, go to question b) <input type="checkbox"/> No, go to question e)</p>
<p>b) Which authorities in your State can issue Article 15 decisions / determinations? <i>See Article 15</i></p>	<p>Please list:</p> <p>According to section 41 of the International Family Procedure Act the Family Court:</p> <ul style="list-style-type: none"> - where the child custody matter or matrimonial matter is, or was, pending at first instance, otherwise the Family Court - in whose district the child had his or her last habitual residence in the area for which this Act is in force, alternatively with the Family Court - in whose district the need for care arises. <p>The International Family Procedure Act can be found on the Internet. For English: http://www.gesetze-im-internet.de/englisch_intfamrvg/index.html --- or --- • www.bundesjustizamt.de/custody-conflicts (click on "Legal provisions and Explanatory Reports", then "International Family Law Procedure Act - IFLPA") For German: • http://www.gesetze-im-internet.de/intfamrvg/index.html --- or --- http://www.bundesjustizamt.de/sorgerecht (click on "Rechtsvorschriften und Erläuternde Berichte", then "Internationales Familienrechtsverfahrensgesetz")</p>
<p>c) Who can apply for an Article 15 decision / determination?</p>	<p><input checked="" type="checkbox"/> Central Authority <input checked="" type="checkbox"/> The applicant in the return proceedings</p>

	<input type="checkbox"/> Other (<i>please specify</i>):
d) Are Article 15 decisions / determinations of other States accepted by the judicial or administrative authorities in your State?	<input checked="" type="checkbox"/> Yes, <i>please explain if necessary</i> : Nevertheless they are not binding on German courts. <input type="checkbox"/> No
e) Who notifies the relevant judicial or administrative bodies that a decision on the merits of rights of custody should not be made until it has been determined that the child should not be returned? <i>See Article 16</i>	<input checked="" type="checkbox"/> Central Authority <input type="checkbox"/> The applicant's legal representative <input checked="" type="checkbox"/> Other (<i>please specify</i>): The courts. Some of the specialized courts with jurisdiction for Hague return cases also do so when a return application is filed with them.
f) When does notification in accordance with Article 16 take place?	<input checked="" type="checkbox"/> Automatically upon receipt of a return application <input type="checkbox"/> Upon request of either party <input checked="" type="checkbox"/> Other (<i>please specify</i>): The German Central Authority does so as soon as the whereabouts of the child have been located. For the courts see above under 10.2 e).

10.3 Procedures

<p>a) How does the Central Authority fulfil its obligation to initiate or facilitate the initiation of proceedings in your State?</p> <p><i>See Article 7(2) f)</i></p> <p><i>See also question 8.1 d) above</i></p>	<p><input checked="" type="checkbox"/> The Central Authority itself initiates the proceedings for return</p> <p><input type="checkbox"/> The Central Authority sends the file to an appropriate lawyer</p> <p><input type="checkbox"/> The Central Authority sends the file to the Public Prosecutor</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Private lawyers then continue the proceedings, see above under 8.1 d)</p>
<p>b) Who is the formal applicant in return proceedings before the court / administrative authority in your State?</p>	<p><input checked="" type="checkbox"/> The person, institution or other body which made the application under the Convention</p> <p><input type="checkbox"/> The Central Authority</p> <p><input type="checkbox"/> The Public Prosecutor</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>c) Does documentation submitted to the court / administrative authority have to be translated into the official language(s) of your State?</p> <p><i>See question 2 a) for the official language(s) of the State</i></p>	<p><input checked="" type="checkbox"/> Yes, please state who is responsible for the organisation and cost of the translation: The applicant.</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> It depends upon the type of documentation submitted (<i>please specify</i>):</p>
<p>d) Have measures been taken to ensure that the judicial and administrative authorities in your State act expeditiously in return proceedings?</p> <p><i>See Article 11</i></p>	<p><input checked="" type="checkbox"/> Yes, please explain briefly what the measures are:</p> <p><input checked="" type="checkbox"/> In the implementing legislation:</p> <p>In 1999 jurisdiction was concentrated, see above under 10.1.</p> <p>According to section 38 of the International Family Law Procedure Act, the court shall deal with proceedings for the return of a child with priority at all instances.</p> <p>Except in the case of Article 12 paragraph 3 of the Hague Child Abduction Convention there shall be no stay of the proceedings.</p> <p>The court shall apply all measures needed to expedite the proceedings.</p> <p>At every stage of the proceedings the court shall examine whether the right of personal access can be ensured.</p> <p>The participants shall assist in establishing the facts, in conformity with a procedure that is intent on advancing and expediting the proceedings.</p> <p>There is only one appeal and only two weeks to file the appeal.</p> <p>Where a child is abducted from one EU Member State to another (except Denmark), according to Article 11 paragraph 3 of the Brussels II a-Regulation, the court shall issue its judgment no later than six weeks after the application is lodged.</p> <p>Training and exchange of experience for specialised judges is organised twice a year by the German Central Authority and Germany has designated 2 judges for the International Hague Network of Judges (see 21a)).</p> <p><input type="checkbox"/> In procedural rules:</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p>Please specify how the legislation or rules can be obtained (e.g., website) or attach a copy: The International Family Law Procedure Act can be found on the Internet (see above under 10.2 b)).</p> <p>The Brussels II a-Regulation can also be found on the</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>Internet, e.g. on the website of the German Central Authority: http://www.bundesjustizamt.de/custody-conflicts (click on "Legal provisions and Explanatory Reports" and then on "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").</p> <p><input type="checkbox"/> No</p>
<p>e) Generally, what is the expected time from the commencement of the proceedings for return to a final order (excluding appeals)?</p> <p><i>See Article 11</i></p>	<p><input checked="" type="checkbox"/> Up to 6 weeks <input type="checkbox"/> 6 to 12 weeks <input type="checkbox"/> More than 12 weeks (<i>please provide further information</i>):</p>
<p>f) Is the applicant generally required to participate in the return proceedings?</p> <p><i>Please note that attendance in person is not required under the Convention (see paragraph 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances: <input checked="" type="checkbox"/> No, but advisable <input type="checkbox"/> No</p>
<p>g) Are facilities available to enable the applicant to participate in return proceedings from outside your State?</p>	<p><input checked="" type="checkbox"/> Yes: <input checked="" type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Through a legal representative <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No</p>
<p>h) If the applicant does participate in return proceedings in your State, is simultaneous interpretation available, where necessary?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> It depends upon the circumstances of the case (<i>please specify</i>):</p>

<p>i) Where the facilities set out in question 10.3 g) and h) above are required, who is responsible for the cost of providing such facilities?</p>	<p> <input type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): The cost of providing such facilities is part of the court fees and according to section 81 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction the court decides at its own discretion who has to bear those fees. Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction http://www.gesetze-im-internet.de/englisch_famfg/ </p>
<p>j) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend return proceedings in person if he / she so wishes?</p>	<p> <input checked="" type="checkbox"/> Yes (<i>please specify</i>): If the court cites the applicant in person, obtaining a certification from the court regarding the citation which can be submitted to the authorities that are responsible for visa proceedings will facilitate grant of visas. <input type="checkbox"/> No </p>
<p>k) Is it possible for a return application to be decided solely on the basis of the papers <i>i.e.</i>, with no court (or administrative authority) hearing at all?</p>	<p> <input type="checkbox"/> Yes <input type="checkbox"/> Yes, but it is unlikely <input checked="" type="checkbox"/> No, there will always be a hearing </p>
<p>l) Can oral evidence (<i>i.e.</i>, in-person evidence) be received in return proceedings?</p>	<p> <input type="checkbox"/> Yes, oral evidence will always be received in return proceedings <input checked="" type="checkbox"/> Yes, oral evidence can be received in return proceedings but in limited circumstances only (<i>please specify</i>): Only if evidence is available on site. <input type="checkbox"/> No, oral evidence can never be received in return proceedings </p>
<p>10.4 Participation of the child</p>	
<p>a) Does the child have an opportunity to be heard in return proceedings in your State?</p>	<p> <input type="checkbox"/> Yes, in every case; go to question b) <input checked="" type="checkbox"/> It depends upon the particular case and is always at the discretion of the judge / authority hearing the case. <i>Please explain if necessary</i>: The court shall conduct an in-person hearing with the child when he/she has reached the age of 14, section 159 subsection 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction. Children of a younger age shall be heard in-person when the preferences, relationships, or the desires of the child are significant to the decision or when an in-person hearing is otherwise indicated, section 159 subsection 2. Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction http://www.gesetze-im-internet.de/englisch_famfg/ Go to question b) <input type="checkbox"/> Only where Article 13(2) is relied upon; go to question b) <input type="checkbox"/> Other (<i>please specify</i>): Go to question b) <input type="checkbox"/> No, never. Go to section 10.5 </p>
<p>b) How is the child heard in return proceedings?</p>	<p> <input checked="" type="checkbox"/> Direct interview with judge <input checked="" type="checkbox"/> Report prepared for court by independent expert </p>

	<input checked="" type="checkbox"/> Child's own legal representative <input checked="" type="checkbox"/> Other (<i>please specify</i>): Report prepared by the Youth Welfare Office
c) How does your State ensure that no undue delay results from hearing the child in the course of return proceedings?	<i>Please explain: For us it remains unclear how hearing a child could possibly delay the proceedings. The child is in Germany, this is why the return proceedings have been brought before the German court. Normally the court will schedule only one oral hearing, and the child is heard by the judge on that day immediately before the hearing. German family courts normally have appropriate rooms with toys and a child-friendly atmosphere, and the family judges are hearing children on a regular basis. They will normally also have received training by child psychologists. Normally, there is no "undue" delay possible.</i>
d) Can judicial or administrative authorities appoint a legal representative (attorney or <i>guardian ad litem</i>) to represent the child's best interests in return proceedings?	<input checked="" type="checkbox"/> Yes, please specify under what circumstances: In return proceedings the appointment of a legal representative is made on a regular basis. <input type="checkbox"/> No

10.5 Protective measures	
<p>a) Where there are concerns about the care being given to a child in your State, which authorities provide services for the assessment and protection of the child?</p> <p><i>Please provide additional information if necessary</i></p> <p><i>On the role of the Central Authority in this respect, see also question 6.2 j) above</i></p>	<p><input checked="" type="checkbox"/> Government social / welfare agency: Youth Welfare Office</p> <p><input checked="" type="checkbox"/> Non-governmental organisations / agencies: Deutscher Kinderschutzbund Bundesverband e.V. (www.dksb.de)</p> <p><input checked="" type="checkbox"/> Central Authority:</p> <p><input checked="" type="checkbox"/> Police:</p> <p><input checked="" type="checkbox"/> Courts:</p> <p><input type="checkbox"/> Other (please specify):</p>
<p>b) What measures are available to ensure the protection of a child in your State (both prior to the initiation of return proceedings and whilst return proceedings are ongoing)?</p>	<p><input checked="" type="checkbox"/> 1. Injunctive orders can be placed on the alleged abducting party prohibiting certain forms of conduct e.g., violence, drinking etc.</p> <p><input checked="" type="checkbox"/> 2. Placement of the child in foster care</p> <p><input checked="" type="checkbox"/> 3. Placement of the child in State care</p> <p><input checked="" type="checkbox"/> 4. Supervision of the alleged abducting party's care of the child by a social / welfare agency</p> <p><input type="checkbox"/> 5. Other (please specify):</p>
<p>c) Which of the above measures require a court order? Please list the relevant numbers from question 10.5 b) above</p>	<p>1, 2, 3</p> <p>If the child is in danger the Youth Welfare Office is allowed to place the child temporarily in foster or State care without any court order. However they have to apply immediately for a court order then if the holder of parental responsibility objects.</p>
<p>d) Who is responsible for applying for any protective measure requiring a court order? Please list next to the relevant individual or body the number of the measure from question b) above, which they are required to apply for</p> <p><i>On the role of the Central Authority in this respect, see also question 6.2 j) above</i></p>	<p><input checked="" type="checkbox"/> The applicant: 1, 2, 3</p> <p><input type="checkbox"/> The requesting Central Authority:</p> <p><input checked="" type="checkbox"/> The requested Central Authority: 1, 2, 3</p> <p><input type="checkbox"/> The Public Prosecutor:</p> <p><input checked="" type="checkbox"/> The judge (ex officio): 1, 2, 3</p> <p><input checked="" type="checkbox"/> A government social / welfare agency: 1, 2, 3</p> <p><input type="checkbox"/> The police:</p> <p><input type="checkbox"/> Other (please specify):</p>
10.6 Contact or access during return proceedings	
<p>a) Can judicial or administrative authorities take provisional or interim measures to enable an applicant to exercise contact or access in respect of the child while return proceedings are pending?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
10.7 Appeals	
<p>a) Can a decision in return proceedings be appealed?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> Only in certain circumstances (please specify):</p> <p>If either of the boxes above are ticked, please specify how many levels of appeal exist and to which court(s) / authority(ies) an appeal may be made: There is only one level of appeal. According to section 40 subsection 2 of the International Family Law Procedure Act the appeal shall be filed, and grounds shall be stated therefore, within two weeks. Section 64 subsection 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction provides that the appeal shall be filed with the court of first instance. The appeal is then transferred to the second instance court.</p> <p>The International Family Law Procedure Act can be found on the Internet (see above under 10.2 b)).</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction can also be found on the Internet (see above under 10.3 i)).</p> <p><input type="checkbox"/> No, go to section 11</p>
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<p>b) Is there an expedited procedure or special process of appeal for Hague return cases?</p> <p><i>Please specify the legislation and / or rules which provide for this and how they can be obtained (e.g., website) or attach a copy</i></p>	<p><input checked="" type="checkbox"/> Yes, please specify: Legal challenges are restricted to one instead of the usual two levels with a deadline of two weeks for filing the appeal instead of the usual four weeks (see section 40 subsection 2 of the International Family Procedure Act).</p> <p>The International Family Law Procedure Act can be found on the Internet (see above under 10.2 b)).</p> <p><input type="checkbox"/> No</p>
<p>c) Who can initiate the appeal process?</p>	<p><input checked="" type="checkbox"/> Either party to the proceedings</p> <p><input checked="" type="checkbox"/> Central Authority</p> <p><input type="checkbox"/> Public Prosecutor</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): According to section 40 subsection 2 of the International Family Procedure Act the right of complaint against a decision ordering the return of a child shall vest only in the person opposing the application, in the child, so far as he or she has reached the age of 14 years, and in the Youth Welfare Office concerned.</p> <p>The International Family Law Procedure Act can be found on the Internet (see above under 10.2 b)).</p>
<p>d) Is leave to appeal required?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> In certain circumstances (<i>please specify</i>):</p>
<p>e) If a return order is made, can it be suspended (i.e., "stayed") pending an appeal?</p>	<p><input checked="" type="checkbox"/> Yes, a return order is <i>automatically</i> suspended pending an appeal</p> <p><input type="checkbox"/> Yes, a return order can be suspended pending an appeal at the request of either party</p> <p><input type="checkbox"/> Yes, a return order can be suspended pending an appeal at the request of either party <u>and</u> after determination by the judge / authority</p> <p><input type="checkbox"/> No</p>
<p>f) Is there a time limit by which an appeal must be filed in return proceedings?</p>	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p>The time limit: Two weeks</p> <p>From when the time limit starts to run (e.g., from the date of judgment, from the date of the order, from the date the decision was notified to the parties etc.): From the date the decision was notified to the parties (in writing).</p> <p><input type="checkbox"/> No</p>
<p>g) Generally, what is the expected time within which appeals are filed and decided?</p>	<p><input checked="" type="checkbox"/> Up to 3 months</p> <p><input type="checkbox"/> 3 to 6 months</p> <p><input type="checkbox"/> Longer than 6 months</p>
<p>h) Is the applicant generally required to participate in the appeal proceedings?</p> <p><i>Please note that attendance in person is not required under the Convention (see para. 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i></p>	<p><input type="checkbox"/> Yes, please specify in what circumstances:</p> <p><input checked="" type="checkbox"/> No, but advisable</p> <p><input type="checkbox"/> No</p>
<p>i) Are facilities available to enable the applicant to attend appeal proceedings from outside your State?</p>	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p><input checked="" type="checkbox"/> Video-conference</p> <p><input type="checkbox"/> Telephone</p> <p><input checked="" type="checkbox"/> Through a legal representative</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

j) If the applicant does participate in appeal proceedings in your State, is simultaneous interpretation available, where necessary?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
k) Where the facilities set out in questions i) and j) above are required, who is responsible for the cost of providing such facilities?	<input type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): Normally the losing party (discretion of the court), see section 81 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction and Article 26 paragraph 4 of the 1980 Hague Child Abduction Convention. The Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction can be found on the Internet (see above under 10.3 i)).
l) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend appeal proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes (<i>please specify</i>): See above under 10.3 j) <input type="checkbox"/> No

11 Return of the child

11.1 Arrangements for return and the costs of return

a) Who is responsible for making travel arrangements for the return of the child?	<input checked="" type="checkbox"/> The abducting party <input type="checkbox"/> The applicant <input type="checkbox"/> The abducting party and the applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input checked="" type="checkbox"/> The judicial or administrative authority will direct who is to make arrangements on a case-by-case basis. Please explain if necessary: If the abducting party does not return the child by the time fixed by the court, the court orders that the child has to be handed over to the applicant so that he or she can return the child. <input type="checkbox"/> Other (<i>please specify</i>):
b) Who is responsible for the travel costs relating to the return of the child?	<input type="checkbox"/> The abducting party <input type="checkbox"/> The applicant <input type="checkbox"/> The abducting party and the applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The costs are decided by the judicial or administrative authority on a case-by-case basis. Please explain if necessary: <input checked="" type="checkbox"/> Other (<i>please specify</i>): If the abducting party returns the child he or she normally pays the travel costs. In case the abducting party does not return the child by the time fixed by the court and the court orders that the child has to be handed over to the applicant, the court can also order that according to Article 26 paragraph 4 of the 1980 Hague Child Abduction Convention the abducting party has to reimburse the travel costs relating to the return of the child.
c) Is there financial assistance available in your State to assist with travel costs associated with	<input type="checkbox"/> Yes, please specify:

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<p>the return of the child?</p> <p><i>See also question 8.2 e)</i></p>	<input checked="" type="checkbox"/> No
<p>d) Can special immigration arrangements (e.g., visas) be made, where necessary, to enable an applicant to travel to your State to collect a child (following a return order or a voluntary agreement to return the child)?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain, if necessary: See above under 10.3 j)

<p>e) Can special immigration arrangements (e.g., visas) be made, where necessary, for abducting parties and children returning to your State?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please explain, if necessary: In those cases the German Central Authority provides assistance and tries to collaborate with the immigration offices as well as the embassies and consulates and other authorities involved.</p>
<p>11.2 Provisions for safe return</p>	
<p><i>See also: Article 7(2) b)</i></p> <p>Part VI: Direct judicial communications</p> <p><i>Section 6: Applications through Central Authorities</i></p>	
<p>a) Does the law in your State provide for the protection of children from domestic violence or other forms of abuse?</p>	<p><input checked="" type="checkbox"/> Yes, please specify how legislation can be accessed (e.g., website) or attach a copy: Gesetz zum zivilrechtlichen Schutz vor Gewalttaten und Nachstellungen (Gewaltschutzgesetz) http://bundesrecht.juris.de/gewschg/index.html <input type="checkbox"/> No</p>
<p>b) Does the law in your State provide for the protection of adults from domestic violence or other forms of abuse?</p>	<p><input checked="" type="checkbox"/> Yes, please specify how legislation can be accessed (e.g., website) or attach a copy: Gesetz zum zivilrechtlichen Schutz vor Gewalttaten und Nachstellungen (Gewaltschutzgesetz) http://bundesrecht.juris.de/gewschg/index.html <input type="checkbox"/> No</p>
<p>c) Which authorities provide services for the protection, if necessary, of the child? <i>Please provide additional information if necessary</i></p>	<p><input checked="" type="checkbox"/> Government social / welfare agency: <input checked="" type="checkbox"/> Non-governmental organisations: Deutscher Kinderschutzbund Bundesverband e.V. (www.dksb.de) <input type="checkbox"/> Central Authority: <input checked="" type="checkbox"/> Police: <input checked="" type="checkbox"/> Courts: <input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>d) What action can the Central Authority in your State take, where necessary, to ensure the safe return of the child? <i>See Article 7(2) h)</i></p>	<p>Please explain: The German Central Authority can inform the other Central Authority and ask it to inform the competent authorities in the other State (e.g. child protection bodies). Another channel that is sometimes used is direct judicial communication with or without the assistance of liaison judges. If the safety of the child is seriously at issue, German courts would often require protective measures to be already in place before the return order is made - or at least before the child is actually returned to the other State.</p>
<p>Requested State</p>	
<p>e) Where a judge or administrative authority in your State is ordering the return of the child, what can the authority do to create conditions for a safe return? <i>Please explain where necessary</i> <i>Please tick all boxes which apply</i></p>	<p><input checked="" type="checkbox"/> Make a protective order or other order designed to prevent harm occurring to the child (see above) <input checked="" type="checkbox"/> Accept undertakings from either party designed to prevent harm occurring to the child Please specify the subject-matter of, and any limitations on, the undertakings the authority can accept: There are no limitations (except for evidently illegal undertakings). <input checked="" type="checkbox"/> Other (<i>please specify</i>): Ask a party to obtain a mirror order in the requesting State.</p>

<p>f) Where a judge or administrative authority in your State takes measures to create conditions for a safe return, what can the authority do to ensure compliance with those measures?</p>	<p><i>Please specify:</i> The court can impose a coercive fine, and in the event of such fine not being recoverable, the court can order coercive detention. Where the imposition of a coercive fine offers no prospect of success, the court can order coercive detention.</p>
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Requesting State

<p>g) Can judicial or administrative authorities in your State:</p> <p>i. Recognise and enforce protective orders or other orders made in the requested State designed to prevent harm occurring to the child?</p> <p>ii. Insist upon undertakings given in the requested State being carried out?</p> <p>iii. Make any "mirror orders" necessary as a result of protective measures taken in the requested State?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please explain where necessary: In accordance with the German provisions regarding recognition and enforcement of foreign decisions (Hague Child Protection Convention, European Custody Convention, Brussels II a-Regulation, section 108 et seq. of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction).</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> It depends upon the subject-matter of the undertakings given</p> <p>Please explain where necessary: German authorities can insist upon undertakings given in the requested State if they are by some means or other binding in Germany, for example on the basis of a mirror order.</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please explain where necessary: If Germany as the requesting state has jurisdiction, the German court will take into account the foreign protective measure but will make its own decision.</p>
<h3>11.3 Criminal law and the return of the child</h3>	
<p>a) Is the wrongful <i>removal</i> of a child by a parent from your State a criminal offence?</p> <p><i>See Article 3</i></p> <p><i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation</i></p>	<p><input checked="" type="checkbox"/> Yes See Section 235 of the Criminal Code, http://www.gesetze-im-internet.de/englisch_stgb/index.html</p> <p><input type="checkbox"/> It depends upon the circumstances of the case, please specify:</p> <p><input type="checkbox"/> No</p>
<p>b) Is the wrongful <i>retention</i> of a child by a parent outside your State a criminal offence?</p> <p><i>See Article 3</i></p> <p><i>Please specify the relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation</i></p>	<p><input checked="" type="checkbox"/> Yes See Section 235 of the Criminal Code, http://www.gesetze-im-internet.de/englisch_stgb/index.html</p> <p><input type="checkbox"/> It depends upon the circumstances of the case, please specify:</p> <p><input type="checkbox"/> No</p>
<p>If the answer to both question 11.3 a) and b) is "no", go to section 12</p>	
<p>c) What penalties are available for the wrongful removal or wrongful retention of a child by a parent?</p>	<p><input checked="" type="checkbox"/> (1) Pecuniary measures <input checked="" type="checkbox"/> (2) Imprisonment <input type="checkbox"/> (3) Other (<i>please specify</i>):</p>
<p>d) Please indicate which of the penalties listed above are mandatory</p>	<p>None of them</p>
<p>e) Can criminal proceedings in your State proceed without a complaint being presented (e.g., by the applicant to the return proceedings or any other concerned person / body)?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, please specify: Generally, criminal proceedings regarding wrongful removal or retention of a child by a parent require prior complaint of the aggrieved party. In particularly serious cases or in case of special public interest, criminal proceedings can also proceed without a complaint being presented.</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

f) Once initiated, can criminal proceedings in your State be withdrawn or suspended to facilitate the return of a child?	<input checked="" type="checkbox"/> Yes, please specify: But even if the criminal complaint is withdrawn by the aggrieved party, it is up to the public prosecutor to decide whether special public interest requires continuation of the proceedings. <input type="checkbox"/> No, go to section 12
g) Who is able to initiate the withdrawal or suspension of criminal proceedings relating to the wrongful removal or wrongful retention of a child?	<input checked="" type="checkbox"/> Prosecuting authority <input type="checkbox"/> Police <input checked="" type="checkbox"/> The person / body / institution alleging a wrongful removal or retention <input checked="" type="checkbox"/> Judicial or administrative authority <input checked="" type="checkbox"/> Other (<i>please specify</i>): See above under 11.3 f)
h) Who will determine whether the criminal proceedings are to be withdrawn or suspended?	<input checked="" type="checkbox"/> Prosecuting authority <input type="checkbox"/> Police <input type="checkbox"/> The person / body / institution alleging a wrongful removal or retention <input checked="" type="checkbox"/> Judicial or administrative authority <input type="checkbox"/> Other (<i>please specify</i>):
i) What assistance can the Central Authority provide regarding the suspension or withdrawal of criminal proceedings?	<input type="checkbox"/> None <input type="checkbox"/> Refer the matter to prosecuting authority <input checked="" type="checkbox"/> Other (<i>please specify</i>): The Central Authority has no formal role within criminal proceedings but provides assistance regarding communication with competent authorities and for example explains to them spirit and purpose of the Hague Child Abduction Convention and tries to find a solution that does not pose obstacles regarding the return of the child (e.g. suspension/lift of arrest warrant).

12 Enforcement of return orders

For best practice in relation to the enforcement of return orders, see the Guide to Good Practice, Part IV – Enforcement available at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

a) What procedure may be used to enforce a return order?	<input checked="" type="checkbox"/> Directions by a judicial or administrative authority to make arrangements for return <input checked="" type="checkbox"/> Measures for the immediate execution of final orders <input checked="" type="checkbox"/> Issue of a warrant for the apprehension or detention of the child <input checked="" type="checkbox"/> Authority for coercive detention or use of force <input checked="" type="checkbox"/> Other (<i>please specify</i>): The court can impose a coercive fine, and in the event of such fine not being recoverable, the court can order coercive detention. Where the imposition of a coercive fine offers no prospect of success, the court can order coercive detention (section 44 subsection 1 of the International Family Procedure Act and section 89 subsection 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction). Immediately along with the issuing of the return order the court indicates that it has the power to grant coercive measures if the obligated parent does not comply with the return order (section 89 subsection 2 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction). In case of non-compliance with the return order, the court will then order these measures. The International Family Law Procedure Act can be found on the Internet (see above under 10.2 b)).
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Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction can also be found on the Internet (see above under 10.3 i)).
b) Who is generally responsible for exercising supervision over the process of enforcement?	<input type="checkbox"/> The applicant <input type="checkbox"/> Central Authority <input type="checkbox"/> Public Prosecutor <input checked="" type="checkbox"/> The court / administrative authority <input type="checkbox"/> Police <input type="checkbox"/> No one body has general responsibility <input checked="" type="checkbox"/> Other (<i>please specify</i>): The Central Authority provides assistance if necessary.
c) Where parties do not voluntarily comply with a return order, is it necessary to commence additional proceedings to enforce the order?	<input type="checkbox"/> Yes, go to question d) <input checked="" type="checkbox"/> It depends on the circumstances (<i>please specify</i>): The courts shall carry out enforcement proprio motu. To be able to do so, facts have to be brought to their attention, that is to say they have to be informed that the abducting party did not voluntarily comply with the return order. If applicable, the parties would also have to apply again for legal aid and appointment of an attorney. Go to question d) <input type="checkbox"/> No, go to Part IV: Applications relating to access
d) What is the procedure to commence enforcement proceedings?	<input type="checkbox"/> The Central Authority will apply for enforcement <input type="checkbox"/> The applicant must apply for enforcement <input checked="" type="checkbox"/> Other (<i>please specify</i>): The court shall carry out enforcement proprio motu (see above).
e) Can the merits of the proceedings for return be reviewed in enforcement proceedings?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f) What coercive measures, if any, are available to enforce a return order?	<input checked="" type="checkbox"/> Intervention by government agency (e.g., <i>police, social welfare</i>) <input checked="" type="checkbox"/> Removal of the child from the abducting party <input type="checkbox"/> Removal of the child from the State <input type="checkbox"/> Criminal charges <input checked="" type="checkbox"/> Imprisonment <input checked="" type="checkbox"/> Pecuniary measures <input checked="" type="checkbox"/> An order placing the child under supervision <input type="checkbox"/> Other (<i>please specify</i>):

Part IV: Applications relating to access

13 Applications through Central Authorities	
13.1 Outgoing applications (requesting State)	
<p>a) What assistance is available to applicants in your State in the preparation of outgoing access applications?</p> <p><i>See Articles 7 and 21</i></p>	<p><input checked="" type="checkbox"/> Assistance from the Central Authority to apply under Article 21</p> <p><input type="checkbox"/> Assistance from another authority or body to apply under Article 21</p> <p><input type="checkbox"/> Referral to a legal representative for assistance to apply under Article 21</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): See above under 6.1 a)</p>
13.2 Incoming applications (requested State)	
<p>a) Has your State developed a specific form for access applications under the Convention?</p>	<p><input checked="" type="checkbox"/> Yes Please specify how this form can be accessed (<i>e.g.</i>, website) or attach a copy: The form can be accessed on our website (click "Application forms" and then on "1980 Hague Convention access/contact" and the language you require).</p> <p>Although the use of the Application Form developed by the German Central Authority is not mandatory (see 13.2 b) the German Central Authority prefers applications to be submitted by using this form. Go to question c)</p> <p><input type="checkbox"/> No, go to question b)</p>
<p>b) If your State does not require a particular form for access applications, what information or documents are requested?</p>	<p><input checked="" type="checkbox"/> Information concerning the identity of the child:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Name and previous name/s <input checked="" type="checkbox"/> Date of birth, where available <input checked="" type="checkbox"/> Address <input type="checkbox"/> Telephone number <input checked="" type="checkbox"/> Nationality / nationalities <input checked="" type="checkbox"/> Passport number(s) <input checked="" type="checkbox"/> Physical description (height, eye and hair colour) <input checked="" type="checkbox"/> Photograph (as recent as possible) <input type="checkbox"/> Information identifying the child's parents <i>e.g.</i>, nationalities – where a parent is not the applicant or respondent to proceedings (<i>please specify</i>): <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> Information concerning the identity of the applicant:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Name and previous name/s <input checked="" type="checkbox"/> Date of birth <input checked="" type="checkbox"/> Address <input checked="" type="checkbox"/> Telephone number <input checked="" type="checkbox"/> Nationality / Nationalities <input checked="" type="checkbox"/> Passport number(s) <input checked="" type="checkbox"/> Relationship of the applicant to the child <input checked="" type="checkbox"/> Name(s) of legal adviser, if any <input type="checkbox"/> Other (<i>please specify</i>): <p><input checked="" type="checkbox"/> Information concerning the identity of the person with whom the child is presumed to be (the</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, *e.g.*, website, or provide a copy of the legislation.

	<p>proposed respondent to the application):</p> <p><input checked="" type="checkbox"/> Name and previous name/s</p> <p><input checked="" type="checkbox"/> Date of birth</p> <p><input checked="" type="checkbox"/> Address</p> <p><input checked="" type="checkbox"/> Telephone number</p> <p><input checked="" type="checkbox"/> Nationality / nationalities</p> <p><input checked="" type="checkbox"/> Passport number(s)</p> <p><input checked="" type="checkbox"/> Physical description (height, eye and hair colour)</p> <p><input checked="" type="checkbox"/> Photograph (as recent as possible)</p> <p><input checked="" type="checkbox"/> Relationship of the person to the child</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input checked="" type="checkbox"/> The grounds upon which the applicant's claim for access to the child is based</p> <p><input checked="" type="checkbox"/> Evidence of the applicant's rights of access (whether obtained by operation of law, or otherwise)</p> <p><input type="checkbox"/> An authenticated copy of any relevant decision or agreement</p> <p><input type="checkbox"/> A certificate or an affidavit emanating from the Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Simple copy of any relevant decision or agreement and of the relevant law of the State of the child's habitual residence. Where enforcement of a foreign order is requested, an authenticated copy of this order is required.</p> <p><input checked="" type="checkbox"/> All available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be</p> <p><input checked="" type="checkbox"/> Any other relevant document / information</p> <p><input checked="" type="checkbox"/> Concerning any child protection issues</p> <p><input checked="" type="checkbox"/> Marriage certificate (if applicable)</p> <p><input checked="" type="checkbox"/> Divorce decree (if applicable)</p> <p><input checked="" type="checkbox"/> Civil and / or criminal proceedings in progress (if applicable)</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Birth certificate of the child</p> <p>Although the use of the Application Form developed by the German Central Authority (see 13.2 a)) is not mandatory the German Central Authority prefers applications to be submitted by using this form.</p>
<p>c) Does your Central Authority accept an application and accompanying documentation transmitted by electronic means?</p>	<p><input type="checkbox"/> Yes, please specify any requirements for electronically transmitted applications / documentation:</p> <p><input checked="" type="checkbox"/> Yes, but any documentation sent electronically is not accepted by the court / administrative authority (<i>please specify</i>): A signed application can be transmitted by electronic means (e.g. as pdf-file). Regarding applications for legal aid, authenticated copies of foreign orders and the authorisation for the German Central Authority to act on behalf of the</p>

	<p>applicant original documents are required.</p> <p><input type="checkbox"/> No</p>
<p>d) Does the Central Authority require a written authorisation empowering it or a designated representative (e.g., <i>lawyer</i>) to act on behalf of the applicant?</p> <p><i>See Article 28</i></p>	<p><input checked="" type="checkbox"/> Yes, the authorisation should be provided:</p> <p><input type="checkbox"/> On the application form</p> <p><input checked="" type="checkbox"/> In a signed statement or declaration</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>
<p>e) Does the Central Authority acknowledge receipt of the application?</p>	<p><input checked="" type="checkbox"/> Yes, acknowledgment generally is provided by:</p> <p><input checked="" type="checkbox"/> E-mail</p> <p><input checked="" type="checkbox"/> Facsimile</p> <p><input checked="" type="checkbox"/> Post</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>

<p>f) Can the Central Authority proceed with an application where the information provided is incomplete?</p>	<p><input checked="" type="checkbox"/> Yes, the Central Authority will begin processing the application and will immediately inform the requesting Central Authority of what additional information is required to complete the request</p> <p><input type="checkbox"/> No:</p> <p><input type="checkbox"/> The Central Authority will not process an application without all of the necessary supporting documentation</p> <p><input type="checkbox"/> The Central Authority is unable to process the application but will immediately inform the requesting Central Authority of what additional information is required before further action can be taken</p> <p><input type="checkbox"/> It depends upon what type of information is missing (<i>please specify</i>):</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p>
<p>g) Who does the Central Authority prefer to communicate with in incoming applications?</p>	<p><input checked="" type="checkbox"/> The requesting Central Authority</p> <p><input type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The applicant's legal representative</p> <p><input type="checkbox"/> All of the above</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>h) What measures are taken by the Central Authority (directly, or through an intermediary) to attempt to secure agreement between parties in international access cases?</p> <p><i>See Article 21</i></p> <p><i>See Part V: Mediation and other forms of alternative dispute resolution</i></p>	<p><input checked="" type="checkbox"/> Contact is made with the respondent to the application</p> <p><input checked="" type="checkbox"/> Mediation and / or other forms of alternative dispute resolution are offered to the parties (see Part V: Mediation and other forms of alternative dispute resolution)</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): Prior to initiate judicial proceedings contact is made with the Youth Welfare Office in order to ask them to get back to the respondent and the applicant and to try to arrange for access with the child and to accompany them when they meet each other if necessary.</p>
<p>i) How is it ensured that no undue delay results from the measures taken, or attempted, to secure an agreement between parties in international access cases (see question h) above)?</p>	<p><i>Please explain: The measures taken by the German Central Authority are similar to the measures a court would take and therefore do not delay but prepare court proceedings. According to the legal practice of some German courts it is also possible that granting of legal aid might be refused if the application is filed directly with the court without prior consultation of the Youth Welfare Office. However the applicant may at any time go directly to court without the assistance of the German Central Authority.</i></p>
<p>j) What general assistance can be provided by the Central Authority in respect of arrangements for rights of access?</p> <p><i>See Article 21</i></p>	<p><input checked="" type="checkbox"/> The Central Authority can facilitate contact with the parties:</p> <p><input checked="" type="checkbox"/> Directly through the Central Authority</p> <p><input checked="" type="checkbox"/> Through intermediaries</p> <p><input checked="" type="checkbox"/> The Central Authority can provide information to the applicant on services available, e.g., mediation, legal services, social welfare services (<i>please specify</i>): The German Central Authority informs the applicant regarding extrajudicial arrangements for rights of access (via mediation or the assistance of the Youth Welfare Office) as well as regarding the possibilities of judicial arrangements.</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>k) Will the Central Authority's assistance depend on:</p> <p><i>See paragraph 4.6 of the General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children (available at < www.hcch.net ></i></p>	<p><input type="checkbox"/> Existence of a judicial or administrative order establishing or confirming rights of access</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<p><i>under "Child Abduction Section" then "Guides to Good Practice") recommending that Central Authorities should make their services available in all cases where cross-frontier contact rights of parents and children are in issue</i></p>	
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<p>l) Can an applicant commence proceedings in your State with respect to access without using the Central Authority channel?</p>	<p><input checked="" type="checkbox"/> Yes; if so, please explain:</p> <ul style="list-style-type: none"> Where an applicant can obtain information about commencing proceedings: On our website or with the aid of a lawyer. The applicant can also apply directly to the Youth Welfare Office or to the court. What role, if any, the Central Authority has in these proceedings: The Central Authority provides assistance if desired. <p><input type="checkbox"/> No</p>
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14 Locating a child and preventing removal

<p>a) Are the responses to the questions in this section the same as for applications for return (see section 7)?</p>	<p><input checked="" type="checkbox"/> Yes, go to section 15</p> <p><input type="checkbox"/> No, continue to question b)</p>
<p>b) What evidence / information does your State require regarding the child's whereabouts to begin to assist with locating the child?</p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Evidence that the child entered your State (e.g., evidence that the child boarded an aeroplane bound for your State):</p> <p><input type="checkbox"/> Information from the applicant as to why he / she believes the child is in your State:</p> <p><input type="checkbox"/> No information or evidence is required; searches for the child can begin upon request:</p> <p><input type="checkbox"/> Other (please explain):</p>
<p>c) What mechanisms or sources of information are available in your State to discover the whereabouts of a child who is the subject of an access application?</p> <p><i>Please indicate in the space provided any associated costs for the applicant or any other necessary information</i></p>	<p><input type="checkbox"/> (1) Private location services:</p> <p><input type="checkbox"/> (2) Population register:</p> <p><input type="checkbox"/> (3) Employment register:</p> <p><input type="checkbox"/> (4) Information maintained by other government agencies (e.g., immigration, social welfare):</p> <p><input type="checkbox"/> (5) Police:</p> <p><input type="checkbox"/> (6) INTERPOL:</p> <p><input type="checkbox"/> (7) Court orders to compel the production of information on the whereabouts of the child:</p> <p><input type="checkbox"/> (8) Other (please specify):</p>
<p>d) Please indicate who is responsible for arranging the measures indicated above in question c) by listing the relevant number next to the responsible person or authority</p> <p><i>E.g., Central Authority: 2, 3</i> <i>The applicant's representative: 6</i></p>	<p>Central Authority:</p> <p>The applicant:</p> <p>The applicant's representative:</p> <p>Other (please specify):</p>
<p>e) Please indicate by listing numbers which of the measures above in question c) need an order from a competent authority?</p>	

15 Legal representation and assistance

15.1 General

<p>a) Are the responses to the questions in this section the same as for applications for return (see section 8)?</p>	<p><input type="checkbox"/> Yes, go to section 15.2</p> <p><input checked="" type="checkbox"/> No, continue to question b)</p>
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b) Does the Central Authority provide legal advice regarding access applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No, however: <input type="checkbox"/> The Central Authority will refer the applicant to the appropriate person or authority to obtain legal advice <input checked="" type="checkbox"/> The Central Authority will provide information that is of a general nature about laws and procedures <input type="checkbox"/> Other (<i>please specify</i>):
c) Is legal representation needed in access proceedings? <i>Please explain where necessary</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, but advisable <input type="checkbox"/> No
d) What is the role of the Central Authority in making arrangements to progress the application? <i>See Article 7(2) g)</i>	<input type="checkbox"/> The applicant is required to make his / her own arrangements for legal representation, but the Central Authority will: <input type="checkbox"/> Provide the applicant with a list of lawyers <input type="checkbox"/> Provide the applicant with a list of free or reduced rate lawyers <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Legal representation is not required. The Central Authority ensures the application is forwarded to the competent authority for action. Please provide additional information if necessary: <input checked="" type="checkbox"/> Legal representation is arranged by the Central Authority. Representation is provided by: <input type="checkbox"/> Central Authority lawyers <input checked="" type="checkbox"/> Private lawyers <input type="checkbox"/> Public prosecutor <input type="checkbox"/> Other (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): The Central Authority asks the applicant for authorization to initiate proceedings and thereafter files the application with the court. Then the Central Authority assigns a private lawyer to represent the applicant at the court hearings and to conduct proceedings thenceforth.
15.2 Free or reduced rate legal assistance	
a) Are the responses to the questions in this section the same as for applications for return (see section 8.2)?	<input checked="" type="checkbox"/> Yes, go to section 16 <input type="checkbox"/> No, go to question b)
b) Is free or reduced rate legal assistance for access applications available for applicants located in another Contracting State?	<input type="checkbox"/> Yes, free legal assistance; go to question d) <input type="checkbox"/> Yes, reduced rate legal assistance; go to question d) <input type="checkbox"/> No; go to question c)
c) If free or reduced rate legal assistance is <u>not</u> available, in what other ways can your State assist an applicant financially?	<input type="checkbox"/> There is a system of costs ordering the respondent to pay <input type="checkbox"/> <i>Pro bono</i> legal assistance <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> Not at all Go to section 16
d) Is the applicant required to complete an application form for free or reduced rate legal assistance?	<input type="checkbox"/> Yes. Please specify how application forms can be obtained (<i>e.g.</i> , website) or attach a copy: <input type="checkbox"/> No

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

e) Please indicate on what basis free or reduced rate legal assistance may be available <i>Please explain where necessary</i>	<input type="checkbox"/> Income of the applicant <input type="checkbox"/> Assets of the applicant <input type="checkbox"/> Country of residence of the applicant <input type="checkbox"/> Likelihood of success of the proceedings <input type="checkbox"/> Other (<i>please specify</i>):
f) Which costs are covered by free or reduced rate legal assistance? <i>Please explain where necessary</i>	<input type="checkbox"/> (1) Mediation <input type="checkbox"/> (2) Translation <input type="checkbox"/> (3) Interpreters <input type="checkbox"/> (4) Service of documents <input type="checkbox"/> (5) Costs associated with locating the child <input type="checkbox"/> (6) Court fees <input type="checkbox"/> (7) Travel costs for the return of the child (see question 11.1 c)) <input type="checkbox"/> (8) Other (<i>please specify</i>):
g) Please list the corresponding numbers of the costs, if any, listed in question f) which are covered by the Central Authority?	
h) Is free or reduced rate legal assistance available for the appeal of decisions?	<input type="checkbox"/> No, go to question j) <input type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance
i) Is a new application for free or reduced rate legal assistance needed for appeals?	<input type="checkbox"/> Yes <input type="checkbox"/> No
j) Is free or reduced rate legal assistance available for proceedings needed to enforce an access order?	<input type="checkbox"/> No, go to section 16 <input type="checkbox"/> Yes, free legal assistance <input type="checkbox"/> Yes, reduced rate legal assistance
k) Is a new application for free or reduced rate legal assistance needed for enforcement applications?	<input type="checkbox"/> Yes <input type="checkbox"/> No

16 Rights of access

16.1 Determining rights of access

a) Which legislation in your State governs the establishment and exercise of rights of access? <i>See Article 5</i>	Please specify how legislation can be accessed (e.g., website) or attach a copy: The German Civil Code (sections 1684, 1685). It can be found on the Internet: http://www.gesetze-im-internet.de/bgb/ (German) or http://www.gesetze-im-internet.de/englisch_bgb/index.html (English)
b) Which judicial and / or administrative authorities can make decisions with respect to rights of access?	The family courts
c) In your State, who may seek rights of access in respect of a child?	<input checked="" type="checkbox"/> Parent <input checked="" type="checkbox"/> Step-parent <input checked="" type="checkbox"/> Grandparent <input checked="" type="checkbox"/> Other family member (<i>please specify</i>): Siblings <input checked="" type="checkbox"/> Other (<i>please specify</i>): According to section 1685 subsection 2 of the German Civil Code, persons having de facto family ties may also seek rights of access in respect of a child.

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<p>d) Are the best interests of the child a primary consideration in access proceedings?</p> <p><i>See Articles 3 and 9 of the United Nations Convention on the Rights of the Child</i></p> <p><i>Please explain, if necessary</i></p>	<p><input checked="" type="checkbox"/> Yes According to section 1684 subsection 4 of the German Civil Code the court can restrict or exclude the right of access of the parents to the extent that this is necessary for the the best interests of the child. The right of access of the grandparents, the siblings or other persons having de facto family ties only exists if this serves the best interests of the child (section 1685 subsections 1, 2 of the German Civil Code).</p> <p><input type="checkbox"/> No, please specify what are the primary considerations:</p>
<p>16.2 Exercising rights of access</p>	
<p>a) Where necessary, what guarantees and safeguards do your courts or administrative authorities have to enable them to secure rights of access for children and applicants?</p>	<p><input checked="" type="checkbox"/> Surrender of passport or travel documents</p> <p><input checked="" type="checkbox"/> Applicant to regularly report to police or other authority</p> <p><input checked="" type="checkbox"/> Deposit of a monetary bond or surety</p> <p><input checked="" type="checkbox"/> Supervised contact</p> <p><input checked="" type="checkbox"/> Placing restrictions on how contact is exercised</p> <p><input type="checkbox"/> Signing an affidavit or religious oath</p> <p><input checked="" type="checkbox"/> Provision of a detailed itinerary with contact details</p> <p><input checked="" type="checkbox"/> Requesting foreign consulates / embassies should not issues new passports / travel documents for the child</p> <p><input type="checkbox"/> Other:</p>
<p>16.3 Supervised access</p>	
<p>a) Do facilities exist in your State for the exercise of rights of access in a supervised environment?</p>	<p><input checked="" type="checkbox"/> Yes, please explain if necessary:</p> <p><input type="checkbox"/> No, go to section 17</p>
<p>b) Under what circumstances is access supervised?</p>	<p><input checked="" type="checkbox"/> Where it is agreed between the parties</p> <p><input type="checkbox"/> Where it is requested by one party</p> <p><input type="checkbox"/> As a result of a decision by a social welfare agency</p> <p><input checked="" type="checkbox"/> By order of a judicial or administrative authority</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>c) Which authorities provide supervised access?</p>	<p><input checked="" type="checkbox"/> Government social / welfare agency: The Youth Welfare Offices provide supervised access via private organisations (e.g. "Deutscher Kinderschutzbund", see below).</p> <p><input checked="" type="checkbox"/> Non-government organisations: Deutscher Kinderschutzbund Bundesverband e.V. (www.dksb.de)</p> <p><input type="checkbox"/> Central Authority:</p> <p><input type="checkbox"/> Police:</p> <p><input type="checkbox"/> Courts:</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>d) Who will pay the costs associated with exercising supervised access?</p>	<p><input type="checkbox"/> The applicant</p> <p><input type="checkbox"/> The person(s) with day to day care of the child</p> <p><input type="checkbox"/> The Central Authority</p> <p><input checked="" type="checkbox"/> It depends upon the order of the judicial or administrative authority</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): If the parents apply to the Youth Welfare Office, the Youth Welfare Office will assign a private organisation to provide supervised access. The costs are then covered by the Youth Welfare Office. Otherwise (e.g. in case of supervised access provided by private persons) the parents would have to pay the costs unless agreed differently or ordered by a court.</p>

17 Proceedings for access / contact

17.1 Organisation of competent authorities

<p>a) Does your State limit the judicial or administrative authorities who can hear access applications under the Convention?</p> <p>(i.e., has your State "concentrated jurisdiction" in respect of access applications under the Convention?)</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) If possible, please state exactly how many courts or administrative authorities and how many judges or relevant decision-makers can hear access applications under the Convention?</p>	<p>Courts / administrative authorities: If concentrated jurisdiction applies (see below): 22 first instance courts and 22 second instance courts. If concentrated jurisdiction does not apply, all German family courts (more than 600) can hear access applications.</p> <p>Judges / decision-makers: If concentrated jurisdiction applies (see below) about 140 judges (about 50 first instance judges and about 90 second instance judges)</p> <p>If concentrated jurisdiction does not apply, all German family judges can hear access applications.</p>
<p>c) Which courts or administrative authorities can make decisions in applications relating to access under the Convention?</p>	<p>In Germany only access applications brought by the Central Authority are access applications "under the Convention". In this case, concentrated jurisdiction applies. The competent German courts can be found on our website (click on "Competent German courts" and then on "List of competent German courts").</p> <p>Access applications that are filed without the Central Authority are treated like domestic access applications (i.e. no concentrated jurisdiction applies). The applicant can then choose between the court with special jurisdiction (one of 22) mentioned above and the ordinary family court in the district of which the child is habitually resident (one of 656).</p>
<p>d) Are the judges or administrative authorities who decide access applications in your State specialists in family law?</p> <p><i>See also section 22 on Training below</i></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other (please specify):</p>

17.2 Procedures

<p>a) Is a special procedure applied by judicial or administrative authorities to access applications made under Article 21 of the Convention?</p> <p><i>Please explain where necessary</i></p>	<p><input type="checkbox"/> Yes:</p> <p><input checked="" type="checkbox"/> No:</p>
<p>b) Does documentation submitted to the court / administrative authority have to be translated into the official language(s) of your State?</p> <p><i>See question 2 a) for the official language(s) of the State</i></p>	<p><input checked="" type="checkbox"/> Yes, please state who is responsible for the organisation and cost of the translation: The applicant</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> It depends upon the type of documentation submitted (please specify):</p>
<p>c) Generally, how long are proceedings relating to access from commencement to final order (excluding appeals)?</p>	<p><input type="checkbox"/> Up to 6 weeks</p> <p><input type="checkbox"/> 6 to 12 weeks</p> <p><input checked="" type="checkbox"/> 3 to 6 months</p> <p><input type="checkbox"/> Longer than 6 months</p>
<p>d) Is the applicant generally required to participate in proceedings relating to access?</p>	<p><input type="checkbox"/> Yes, please specify in what circumstances:</p> <p><input checked="" type="checkbox"/> No, but advisable</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

Please note that attendance in person is not required under the Convention (see para. 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)

☐ No

e) Are facilities available to enable an applicant to participate in access proceedings from outside your State?	<input checked="" type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Through a legal representative <input type="checkbox"/> Other (<i>please specify</i>): <input type="checkbox"/> No
f) If the applicant does participate in access proceedings in your State, is simultaneous interpretation available, where necessary?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g) Where the facilities set out in questions e) and f) above are required, who is responsible for the cost of providing such facilities?	<input type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): See above under 10.3 i)
h) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend access proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes (<i>please specify</i>): See above under 10.3 j) <input type="checkbox"/> No
17.3 Participation of the child	
a) Are the responses to the questions in this section the same as for applications for return (see section 10.4)?	<input type="checkbox"/> Yes, go to section 17.4 <input checked="" type="checkbox"/> No, continue to question b)
b) Does the child have an opportunity to be heard in access proceedings under the Convention in your State?	<input type="checkbox"/> Yes, always; go to question c) <input type="checkbox"/> It depends upon the particular case and is always at the discretion of the judge / authority hearing the case. <i>Please explain if necessary:</i> Go to question c) <input checked="" type="checkbox"/> Other (<i>please specify</i>): The court shall conduct an in-person hearing with the child when he/she has reached the age of 14, section 159 subsection 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction. Children of a younger age shall be heard in-person when the preferences, relationships, or the desires of the child are significant to the decision or when an in-person hearing is otherwise indicated, section 159 subsection 2. The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction can be found on the Internet: http://www.gesetze-im-internet.de/englisch_famfg/index.html Go to question c) <input type="checkbox"/> No, never; go to section 17.4
c) How can the child be heard in access proceedings?	<input checked="" type="checkbox"/> Direct interview with judge <input checked="" type="checkbox"/> Report prepared for court by independent expert <input checked="" type="checkbox"/> Child's own legal representative <input checked="" type="checkbox"/> Other (<i>please specify</i>): Report prepared by the Youth Welfare Office
d) How does your State ensure that no undue delay results from hearing the child in the course of	Please explain: <i>For us it remains unclear how hearing a child could possibly delay the proceedings. The child is in</i>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

access proceedings?	<i>Germany, this is why the access proceedings have been brought before the German court. Normally the court will schedule only one oral hearing, and the child is heard by the judge on that day immediately before the hearing. German family courts normally have appropriate rooms with toys and a child-friendly atmosphere, and the family judges are hearing children on a regular basis. They will normally also have received training by child psychologists. Normally, there is no "undue" delay possible.</i>
e) Can judicial or administrative authorities appoint a legal representative (attorney or <i>guardian ad litem</i>) to represent the child's best interests?	<input checked="" type="checkbox"/> Yes, please specify under what circumstances: The appointment of a legal representative is made if necessary to represent the interests of the child. <input type="checkbox"/> No

17.4 Appeals

<p>a) Can a decision in applications relating to access be appealed?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> Only in certain circumstances (<i>please specify</i>):</p> <p>If either of the boxes above are ticked, please specify how many levels of appeal exist and to which courts / authorities an appeal may be made: There are two levels of appeal. The first appeal (on points of fact and points of law) has to be filed with the court that made the decision (section 64 subsection 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction) which is the local court and will then be heard by the court of appeal. The second appeal (on points of law only) has to be filed with the German Federal Court of Justice (section 71 subsection 1 Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction, 133 of the Courts Constitution Act).</p> <p>The Courts Constitution Act can be found on the Internet:</p> <p>http://www.gesetze-im-internet.de/englisch_gvg/index.html</p> <p>The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction can also be found on the Internet:</p> <p>http://www.gesetze-im-internet.de/englisch_famfg/index.html</p> <p><input type="checkbox"/> No, go to section 18</p>
<p>b) Is there an expedited procedure or special process of appeal for Hague access cases?</p> <p><i>Please specify the legislation and / or rules which provide for this and how they can be obtained (e.g., website) or attach a copy</i></p>	<p><input type="checkbox"/> Yes, please specify:</p> <p><input checked="" type="checkbox"/> No</p>
<p>c) Who can initiate the appeal process?</p>	<p><input type="checkbox"/> Either party to the proceedings</p> <p><input checked="" type="checkbox"/> Central Authority</p> <p><input type="checkbox"/> Public Prosecutor</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): The losing party, the involved Youth Welfare Office</p>
<p>d) Is leave to appeal required?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> In certain circumstances (<i>please specify</i>): The second appeal requires explicit special leave (section 70 subsection 1 Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction) granted by the court of the first appeal.</p> <p>The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction can be found on the Internet:</p> <p>http://www.gesetze-im-internet.de/englisch_famfg/index.html</p>
<p>e) If an access order is made, can it be suspended (i.e., "stayed") pending an appeal?</p>	<p><input type="checkbox"/> Yes, an access order is <i>automatically</i> suspended pending an appeal</p> <p><input type="checkbox"/> Yes, an access order can be suspended pending an appeal at the request of either party</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<input checked="" type="checkbox"/> Yes, an access order can be suspended pending an appeal at the request of either party and after determination by the relevant judge / authority <input type="checkbox"/> No
f) Is there a time limit by which an appeal must be filed in access proceedings?	<input checked="" type="checkbox"/> Yes, please specify: The time limit: One month From when the time limit starts to run (e.g., from the date of judgment, from the date of the order, from the date the decision is notified to the parties etc.): From the date the decision was notified to the parties (in writing) <input type="checkbox"/> No
g) Generally, what is the expected time within which appeals are filed and decided?	<input checked="" type="checkbox"/> Up to 3 months <input type="checkbox"/> 3 to 6 months <input type="checkbox"/> Longer than 6 months
h) Is the applicant generally required to participate in appeal proceedings? <i>Please note that attendance in person is not required under the Convention (see paragraph 6.5.3 of the Guide to Good Practice, Part II - Implementing Measures)</i>	<input type="checkbox"/> Yes, please specify in what circumstances: <input checked="" type="checkbox"/> No

i) Is the applicant able to participate in proceedings without being physically present?	<input checked="" type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> Video-conference <input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Through a legal representative <input type="checkbox"/> Other (please specify): <input type="checkbox"/> No
j) If the applicant does participate in appeal proceedings in your State, is simultaneous interpretation available, where necessary?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
k) Where the facilities set out in questions i) and j) above are required, who is responsible for the cost of providing such facilities?	<input type="checkbox"/> The applicant <input type="checkbox"/> The requesting Central Authority <input type="checkbox"/> The requested Central Authority <input type="checkbox"/> The court / administrative authority <input type="checkbox"/> It depends upon the facility used (<i>please specify</i>): <input checked="" type="checkbox"/> Other (<i>please specify</i>): See above under 10.3 i)
l) Can special immigration arrangements (e.g., visas) be made to enable the applicant to attend appeal proceedings in person if he / she so wishes?	<input checked="" type="checkbox"/> Yes, please specify: See above under 10.3 j) <input type="checkbox"/> No

18 Enforcement of rights of access

a) Can an order relating to rights of access made in another State be registered for enforcement or be declared enforceable in your State?	<input type="checkbox"/> Yes, all orders made in another State are recognised and are enforceable. Please explain or specify how relevant legislation can be accessed (e.g., website) or attach a copy: <input checked="" type="checkbox"/> Yes, if there is an international agreement in place with the foreign State. Please specify: <input checked="" type="checkbox"/> Brussels II a (Council Regulation (EC) 2201/2003 of 27 November 2003) <input checked="" type="checkbox"/> 1996 Hague Child Protection Convention <input checked="" type="checkbox"/> Other (<i>please specify</i>): 1980 European Custody Convention <input checked="" type="checkbox"/> Yes, subject to conditions. Please explain or specify how relevant legislation can be accessed (e.g., website) or attach a copy: In default of an international agreement German law applies to recognition and declaration of enforceability. In this case foreign access orders are recognised and declared enforceable according to sections 108 - 110 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction which can be found on the Internet: http://www.gesetze-im-internet.de/englisch_famfg/index.html <input type="checkbox"/> No, however the party can seek to have "mirror orders" made by the judicial or administrative authorities <input type="checkbox"/> No
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<p>b) Can an agreement relating to rights of access made in another State be registered for enforcement or be declared enforceable in your State?</p>	<p><input checked="" type="checkbox"/> Yes, if there is an international agreement in place with the foreign State. Please specify:</p> <p><input checked="" type="checkbox"/> Brussels II a (Council Regulation (EC) 2201/2003 of 27 November 2003)</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): 1996 Hague Child Protection Convention, 1980 European Custody Convention, section 108 and section 109 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction.</p> <p><input checked="" type="checkbox"/> Yes, subject to conditions. Please explain: Provided the agreement is comparable to a court decision. This requires the involvement of the judicial or administrative authorities of the foreign State.</p> <p><input type="checkbox"/> No, however the party can seek to have "mirror orders" made by the judicial or administrative authorities</p> <p><input type="checkbox"/> No</p>
<p>c) Can a party seek to have orders made in your State in respect of a decision from another State on rights of access?</p>	<p><input type="checkbox"/> Yes, the party must apply to the judicial or administrative authorities</p> <p><input checked="" type="checkbox"/> Yes, the Central Authority will apply to the judicial or administrative authorities on behalf of the party</p> <p><input type="checkbox"/> No</p>
<p>d) What is the procedure for the applicant to commence enforcement proceedings?</p>	<p><input checked="" type="checkbox"/> The Central Authority can apply for enforcement on behalf of the applicant</p> <p><input type="checkbox"/> The applicant must seek enforcement</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>e) What coercive measures, if any, are available to enforce an order relating to access and contact?</p>	<p><input checked="" type="checkbox"/> Intervention by government agency (e.g., <i>police, social welfare, etc.</i>)</p> <p><input type="checkbox"/> Removal of the child from the custodial person(s)</p> <p><input type="checkbox"/> Criminal charges</p> <p><input checked="" type="checkbox"/> Imprisonment</p> <p><input checked="" type="checkbox"/> Pecuniary measures</p> <p><input type="checkbox"/> An order placing the child under supervision</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
<p>f) Does the application of coercive measures require a separate order from judicial or administrative authorities?</p>	<p><input checked="" type="checkbox"/> Yes. If so, who must apply for the order:</p> <p><input checked="" type="checkbox"/> The applicant</p> <p><input type="checkbox"/> Public Prosecutor</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p> <p><input type="checkbox"/> No</p>

Part V: Mediation and other forms of alternative dispute resolution

19 Mediation	
<p>For best practice in relation to mediation in the context of the 1980 Hague Child Abduction Convention see the forthcoming Guide to Good Practice on Mediation under the 1980 Hague Child Abduction Convention. When published, the Guide will be available to download at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".</p>	
19.1 Mediation services	
<p>a) What family matters can be dealt with by mediation in your State?</p>	<p><input checked="" type="checkbox"/> Return / non-return of a child following an alleged wrongful removal / retention</p> <p><input checked="" type="checkbox"/> Custody</p> <p><input checked="" type="checkbox"/> Access / contact</p> <p><input checked="" type="checkbox"/> Relocation</p> <p><input checked="" type="checkbox"/> Child support</p> <p><input checked="" type="checkbox"/> Property disputes on relationship breakdown</p> <p><input checked="" type="checkbox"/> Other (<i>please specify</i>): everything</p>
<p>b) What mediation services / structures exist in your State where an incoming application has been received for the return of a child?</p> <p><i>See Articles 7(2) c) and 10</i></p>	<p><input checked="" type="checkbox"/> Private mediation services / structures (<i>please specify</i>): Parties are free to choose any private mediator.</p> <p><input checked="" type="checkbox"/> Mediation services / structures within the judicial or administrative system (<i>please explain</i>): Family courts in some German states offer in-house mediation services. This means that mediation is conducted by judges who passed through a special mediation training and who are not the judges hearing the particular case.</p> <p><input checked="" type="checkbox"/> Mediation services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>): The Central Authority and the competent courts refer the parties to MiKK e.V., a charity organisation that provides information about the possibilities and limits of mediation for individual cases and can aid in initiating an international co-mediation. For further information please refer to their website: http://www.mikk-ev.de/</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p> <p><input type="checkbox"/> There are no mediation services / structures available</p>
<p>c) What mediation services / structures exist in your State where an incoming application has been received for access / contact with a child?</p> <p><i>See Article 21</i></p>	<p><input checked="" type="checkbox"/> Private mediation services / structures (<i>please specify</i>): Parties are free to choose any private mediator.</p> <p><input checked="" type="checkbox"/> Mediation services / structures within the judicial or administrative system (<i>please explain</i>): see above under 19.1 b)</p> <p><input checked="" type="checkbox"/> Mediation services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>): The Central Authority and the competent courts refer the parties to MiKK e.V., a charity organisation that provides information about the possibilities and limits of mediation for individual cases and can aid in initiating an international co-mediation. For further information please refer to their website: http://www.mikk-ev.de/</p> <p><input type="checkbox"/> Other (<i>please explain</i>):</p> <p><input type="checkbox"/> There are no mediation services / structures available</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>If you answered that there are no mediation services / structures available in your State in response to both questions b) and c) above, go to section 20</p>
<p>d) Is co-mediation (<i>i.e.</i> mediation involving two mediators – one from each State) available in your State for the mediation of international family disputes which are within the scope of the Convention?</p>	<p><input checked="" type="checkbox"/> Yes (<i>please provide brief details of any available scheme e.g., bi-national mediation programmes</i>): MiKK e.V. (http://www.mikk-ev.de/) offers the organisation of mediation conducted by both a male and a female mediator, one of whom has a legal and the other a psychological or education background. Furthermore the mediators come from the same countries as the parties and therefore share with them the same cultural and linguistic backgrounds. The mediators are qualified not only by their training and experience, but also by special further training on the specific circumstances surrounding abduction proceedings and the legal bases.</p> <p>This mediation scheme has basically been developed within a German-French pilot project on mediation. Another bi-national pilot project between Germany and the United States has helped to resolve highly conflictual cases. Further there is a German-Polish pilot project on mediation that has mainly been developed by the mediators themselves. A similar pilot project between Germany and Spain is currently establishing.</p> <p><input type="checkbox"/> No</p>

19.2 Legislation and / or rules on mediation

a) Is mediation in family matters regulated in your State?

Please tick all boxes which apply

EU Member States, excluding Denmark, should note that Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters will apply from May 2011. EU Member States, excluding Denmark, should reference the laws, regulations and administrative provisions brought into force to comply with this Directive if known at the time of completion of this Country Profile

☐ Yes, there is general legislation relating to mediation which also applies to mediation in family matters. Please specify how the legislation can be accessed (e.g., website) or attach a copy:

☒ Yes, there is specific legislation relating to mediation in family matters. Please specify how the legislation can be accessed (e.g., website) or attach a copy: section 156 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (FamFG) can be found on the Internet:

http://www.gesetze-im-internet.de/englisch_famfg/index.html

In addition to this, a law on mediation has entered into force on 26 July 2012 which amongst others implements Directive 2008/52/EC. The law on mediation can be found on the Internet:

http://www.gesetze-im-internet.de/englisch_mediationsg/index.html

The Directive 2008/52/EC can also be found on the Internet:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:136:0003:0008:En:PDF>

☐ Yes, there is specific legislation relating to mediation in international family matters within the scope of the Convention. Please specify how the legislation can be accessed (e.g., website) or attach a copy:

☐ Yes, mediation in family matters is regulated in another way (*please specify*):

☐ No, **go to section 19.3**

b) Please indicate which matters are regulated by the legislation / rules in relation to mediation in your State

Please explain where necessary

☒ Formal accreditation of mediators According to section 6 of the above mentioned law on mediation the Federal Ministry of Justice is entitled to issue rules on the formal accreditation of mediators.

☒ Necessary qualifications / experience of mediators Section 5 of the law on mediation provides for rules on necessary qualifications of mediators.

☒ Process of mediation Section 2 of the law on mediation provides for procedural rules.

☒ Confidentiality of mediation Section 4 of the law on mediation provides for confidentiality rules.

☒ Status and enforceability of mediated agreements According to sections 36 subsection 1, 156 subsection 2, 86 subsection 1 number 2 FamFG enforceability of mediated agreements requires the approval of the local family court (see 19.5 b)).

☐ Taking into consideration the child's views in the mediation of disputes relating to him / her

☐ Availability of mediation in disputes involving allegations of domestic violence or other forms of abuse

☒ Other (*please explain*): The former version of section 156 FamFG merely allowed competent courts to inform parties on mediation and recommend it. However, there was no consequence in case mediation was rejected.

The new law on mediation also involved amendments to section 156 FamFG. The amended version of section

	<p>156 now states in subsection 1, sentence 3, that the competent family court may oblige the parents to attend an information meeting about mediation or any other possibility of alternative dispute resolution offered for free by a person or institution named by the court. The parents then have to submit a certificate of attendance to the court. If one parent does not comply with this obligation, the court shall impose all or part of the costs of the proceedings on this parent, see the amended version of Section 81 subsection 2, number 5 FamFG.</p>
<p>19.3 Access to mediation</p>	
<p>a) How can individuals obtain information identifying suitable mediators in your State?</p>	<p><input checked="" type="checkbox"/> Lists of mediators are available:</p> <p><input type="checkbox"/> Through the Central Authority (<i>see also question 19.3 b) below</i>)</p> <p><input type="checkbox"/> Via accrediting bodies (<i>please provide details</i>):</p> <p><input checked="" type="checkbox"/> Through other sources (<i>please specify</i>): Bundes-Arbeitsgemeinschaft für Familien-Mediation (BAFM): http://www.bafm-mediation.de/</p> <p>Bundesverband Mediation (BM): http://www.bmev.de/</p> <p>MiKK e.V. (http://www.mikk-ev.de/)</p> <p><input type="checkbox"/> Other methods of accessing information are available (<i>please specify</i>):</p> <p><input type="checkbox"/> No general information is available. Individuals must carry out research themselves</p>
<p>b) What role, if any, does the Central Authority play in facilitating mediation where an incoming application has been received for the return of a child?</p> <p><i>See Articles 7(2) c) and 10</i></p> <p><i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Provides information about mediation to the parties</p> <p><input checked="" type="checkbox"/> Refers parties to accredited professionals to undertake mediation</p> <p><input type="checkbox"/> Seeks orders from judicial or administrative authorities for mediation between the parties</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) Refers parties to the above mentioned NGO (MiKK e.V.)</p>

<p>c) What role, if any, does the Central Authority play in facilitating mediation where an incoming application has been received for access / contact with a child?</p> <p><i>See Article 21</i></p> <p><i>Please explain where necessary</i></p>	<p><input checked="" type="checkbox"/> Provides information about mediation to the parties The Central Authority provides the parties with an information sheet about mediation.</p> <p><input checked="" type="checkbox"/> Refers parties to accredited professionals to undertake mediation</p> <p><input type="checkbox"/> Seeks orders from judicial or administrative authorities for mediation between the parties</p> <p><input checked="" type="checkbox"/> Other (<i>please explain</i>) Refers parties to the above mentioned NGO (MiKK e.V.)</p>
<p>d) How are the costs of mediation met in disputes where an incoming application has been received for the return of a child?</p> <p><i>Please explain if necessary</i></p>	<p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this will <i>always</i> include the cost of mediation (see question 8.2 e) above)</p> <p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this <i>may</i> cover the cost of mediation (see question 8.2 e) above) (<i>please specify</i>)</p> <p><input type="checkbox"/> The Central Authority will meet the costs associated with mediation</p> <p><input type="checkbox"/> Other sources of funding are available (<i>please specify</i>)</p> <p><input checked="" type="checkbox"/> The costs of mediation must be borne by the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>e) How are the costs of mediation met where an incoming application has been received for access / contact with a child?</p> <p><i>Please explain if necessary</i></p>	<p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this will <i>always</i> include the cost of mediation (see question 15.2 f) above)</p> <p><input type="checkbox"/> If an individual qualifies for free or reduced rate legal assistance, this <i>may</i> cover the cost of mediation (see question 15.2 f) above) (<i>please specify</i>)</p> <p><input type="checkbox"/> The Central Authority will meet the costs associated with mediation</p> <p><input type="checkbox"/> Other sources of funding are available (<i>please specify</i>)</p> <p><input checked="" type="checkbox"/> The costs of mediation must be borne by the parties</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
<p>19.4 The mediation process</p>	
<p>a) At what stage of a return application is mediation available?</p>	<p><input checked="" type="checkbox"/> At all stages, including prior to any application and as a preventive measure where necessary (<i>provide an explanation if necessary</i>)</p> <p><input type="checkbox"/> Only before an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only after an application has been made to the relevant Central Authority</p> <p><input type="checkbox"/> Only before an application has been filed in the relevant court or administrative authority</p> <p><input type="checkbox"/> Only after an application has been filed in the relevant court or administrative authority</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>

b) At what stage of an access / contact application is mediation available?	<input checked="" type="checkbox"/> At all stages, including prior to any application and as a preventive measure where necessary (<i>provide an explanation if necessary</i>) <input type="checkbox"/> Only before an application has been made to the relevant Central Authority <input type="checkbox"/> Only after an application has been made to the relevant Central Authority <input type="checkbox"/> Only before an application has been filed in the relevant court or administrative authority <input type="checkbox"/> Only after an application has been filed in the relevant court or administrative authority <input type="checkbox"/> Other (<i>please explain</i>)
c) Are cases assessed to determine their suitability for mediation?	<input checked="" type="checkbox"/> Yes, always; go to question d) <input type="checkbox"/> No, never; go to question e) <input type="checkbox"/> Other (<i>please explain</i>) ; go to question d) or e) as appropriate
d) Who carries out the assessment of cases to determine whether they are suitable for mediation?	<input type="checkbox"/> Mediator(s) <input checked="" type="checkbox"/> Other (<i>please explain</i>) The German Central Authority generally recommends mediation in any Hague Convention proceedings, see Article 55 lit. e) of Council Regulation (EC) No 2201/2003. The Council Regulation (EC) No 2201/2003 can be found in English on the Internet: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:338:0001:0029:EN:PDF#download=1 or on the website of the German Central Authority: www.bundesjustizamt.de/custody-conflicts (click on "Legal provisions and Explanatory Reports", then "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"). The German Central Authority assesses cases regarding their suitability for mediation in consultation with the applicant. The court assesses cases according to section 156 FamFG (see above 19.2 a), b)). MiKK e.V. (www.mikk-ev.de) also carries out assessment.
e) Where legal proceedings have commenced, can such proceedings be suspended while mediation is undertaken?	<input checked="" type="checkbox"/> Yes, provide additional information if necessary: In general proceedings cannot be suspended (section 38 subsection 1 of the International Family Procedure Act) but if the parties agree the court can grant a stay. The International Family Procedure Act can be found on the Internet (see above under 10.2 b)). <input type="checkbox"/> No
f) How, if at all, are the views of the subject child(ren) taken into account in mediation in your State? <i>See also question 19.2 b) above</i>	<input type="checkbox"/> Rules / legislation require that, if the child is of a sufficient age / maturity, the child must be seen by the mediator (<i>see also question 19.2 b) above</i>) <input type="checkbox"/> Rules / legislation require that, if the child is of a sufficient age / maturity, the views of the child must

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

	<p>be communicated to the mediator but this need not be directly (see also question 19.2 b) above). Please explain the method(s) used</p> <p><input checked="" type="checkbox"/> It is within the discretion of the particular mediator</p> <p><input type="checkbox"/> The child's views play no part in the mediation</p> <p><input type="checkbox"/> Other (<i>please explain</i>)</p>
g) What safeguards are available in your State where allegations of domestic violence and / or other forms of abuse are made in a dispute which goes to mediation?	<p><input checked="" type="checkbox"/> (1) Address and other contact details of the alleged victim are kept confidential</p> <p><input checked="" type="checkbox"/> (2) Other safeguards (<i>please specify</i>) Mediation can take place in neutral and safe surroundings and one of the mediators should have a socio-psychological background. Video and/or online mediation are further possibilities. In addition to this, the parties are asked if they have special needs or wishes.</p>
h) Please specify which, if any, of the safeguards set out in question 19.4 g) above are required by rules / legislation in your State and which safeguards are left to the discretion of the mediator? <i>See also question 19.2 b) above</i>	<p>Required by legislation / rules of State: Domestic law provides safeguards (e.g. protection of address) irrespective of mediation. Further, section 36a subsection 1 FamFG (can be found on the Internet, see above under 19.2 a)) refers to the possibility of the court to propose mediation or any other kind of alternative dispute resolution to the parties but also provides that in cases where domestic violence is an issue the legitimate interests of the person concerned must be protected. In addition to this, section 4 of the law on mediation (can be found on the Internet, see above under 19.2 a)) provides for confidentiality rules.</p> <p>Left to the discretion of the mediator: Safeguards that are related directly to the modalities of the mediation (e.g. selection of the location) are left to the discretion of the mediator.</p>

i) Can judicial or administrative authorities take provisional or interim measures to enable an applicant to exercise contact or access in respect of a child while mediation is ongoing?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
19.5 The enforceability of mediated agreements	
a) Are there legal restrictions on the content of mediated agreements regarding family law matters in your State?	<input checked="" type="checkbox"/> Yes, please specify: According to German domestic law there are no legal restrictions (with the exception of mandatory rules). However, if according to German private international law foreign legal provisions are applicable these may provide for legal restrictions though. <input type="checkbox"/> No
b) Which additional formalities, if any, are required in your State to make mediated agreements in a family dispute involving children enforceable?	<input type="checkbox"/> (1) Notarisation of the mediated agreement <input checked="" type="checkbox"/> (2) Court approval of the mediated agreement Please specify competent court: local family court <input type="checkbox"/> (3) Registration of the mediated agreement with the court. Please specify competent court: <input type="checkbox"/> (4) Other (<i>please specify</i>) <input type="checkbox"/> (5) No additional formalities are required. Mediated agreements in family disputes involving children are immediately enforceable <i>without</i> any additional formalities being required If you ticked one or both of options (2) or (3) above, please go to question 19.5 c). If not, please proceed to question 19.5 d)
c) Is the mediated agreement, once approved by or registered with a court, treated as an order of that court? <i>Please explain where necessary</i>	<input checked="" type="checkbox"/> Yes, Go to question 19.5 e) <input type="checkbox"/> No, Go to question 19.5 d)
d) Is it possible to turn a mediated agreement into a court order?	<input checked="" type="checkbox"/> Yes, please briefly explain what steps are required and which court would be competent: It is necessary that the court competent for the Hague case approves the mediated agreement according to section 156 subsection 2 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction. As a consequence the mediated agreement will be enforceable like a court order. <input type="checkbox"/> No
e) Who bears the cost of rendering the mediated agreement enforceable? Please list the number from question 19.5 b) next to the relevant answer	The parties must pay: 2 According to section 81 subsection 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction it is at the discretion of the court whether the parties have to bear the costs in whole or in part or not at all. The court also decides whether both parties have to bear the costs or only one of them. The Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction can be found on the Internet (see above under 10.3 i)). The cost is covered by any free or reduced rate legal assistance provided to one / both parties: 2 Central Authority: There are no costs:

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

19.6 Agreements mediated in another State

a) Can an agreement mediated in another State in a family dispute involving children be approved by a court or otherwise formalised in your State in the same manner as an agreement mediated in your State (see question 19.5 b) above)?

☒ Yes

☐ No, a different method for formalising the agreement must be used. Please specify:

☐ No, it is not possible to formalise an agreement mediated in another State

☒ Other (*please specify*): The content of a mediated agreement may be approved by the competent court (see above 19.5 a) and b)) regardless of where mediation took place; issues of international jurisdiction need to be respected as concerns action taken by the court (not as concerns mediation as such).

20 Other forms of alternative dispute resolution ("ADR")

<p>a) What other forms of ADR are available in your State for the resolution of international family disputes falling within the scope of the Convention?</p> <p><i>See Articles 7(2) c) and 10</i></p>	<p><input type="checkbox"/> (1) In-court conciliation</p> <p><input type="checkbox"/> (2) Out-of-court conciliation</p> <p><input type="checkbox"/> (3) Collaborative law</p> <p><input type="checkbox"/> (4) Early Neutral Evaluation</p> <p><input checked="" type="checkbox"/> (5) Other (<i>please specify</i>): Parties are free to choose any ADR method they consider appropriate for solving their conflict. However, in practice, mediation is the most important ADR method in family matters and has the best established infrastructure (NGO etc.).</p> <p><input type="checkbox"/> (6) No other forms of ADR are available, go to Part VI: Direct judicial communications</p>
<p>b) What services / structures exist in respect of the other forms of ADR available in your State? Please list the relevant number(s) from question 20 a) above next to the service / structure which is available in respect of that method of ADR</p>	<p>Private ADR services / structures (<i>please specify</i>):</p> <p>ADR services / structures within the judicial or administrative system (<i>please explain</i>):</p> <p>ADR services / structures provided by NGOs (<i>please specify the NGO and give brief details of the service they provide</i>):</p> <p>Other (<i>please explain</i>): see above under 20 a) (5)</p>
<p>c) In relation to:</p> <ul style="list-style-type: none"> • legislation on ADR • access to ADR • the ADR process • the enforceability of agreements reached as a result of ADR; and • the enforceability of agreements reached as a result of ADR in another State <p>are the responses the same as for the section on mediation above – see sections 19.2 to 19.6?</p>	<p><input type="checkbox"/> Yes, go to Part VI: Direct judicial communications</p> <p><input checked="" type="checkbox"/> Some of the responses are the same, go to question d)</p> <p><input type="checkbox"/> No, go to question d)</p>
<p>d) Please briefly specify in what way the answers to the questions in sections 19.2 to 19.6 above are different in relation to other forms of ADR in your State</p>	<p>The following responses are the same: 19.3 d), e), 19.4 a), b), e), f) - i), 19.5, 19.6.</p>

Part VI: Direct judicial communications

21 Direct judicial communications	
<p>a) Has a member of the International Hague Network of Judges been designated for your State?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "Judicial Communications"</p>	<p><input checked="" type="checkbox"/> Yes</p> <p>Name/s: Martina Erb-Klünemann, Sabine Brieger</p> <p><i>Please do not list the contact details of the judge(s) here. Instead, please ensure that the name, position, court and contact details have been provided to the Permanent Bureau</i></p> <p><input type="checkbox"/> No</p>
<p>b) Is there a legislative basis upon which judges in your State can engage in direct judicial communications?</p>	<p><input type="checkbox"/> Yes, please specify how the legislation can be accessed (e.g., website) or attach a copy: Go to Part VII: Other information</p> <p><input checked="" type="checkbox"/> No, go to question c)</p>
<p>c) In the absence of legislation, can judges in your State engage in direct judicial communications?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

Part VII: Other information

22 Training

<p>a) What measures are being taken to ensure that persons responsible for implementing the Convention (e.g., judges, lawyers and Central Authority personnel) have received appropriate information and training?</p> <p><i>Please contact the Permanent Bureau for information in relation to forms of assistance which may be available for this purpose</i></p>	<p> <input type="checkbox"/> Training as required for Central Authority staff <input checked="" type="checkbox"/> Training as required for responsible authorities <input checked="" type="checkbox"/> Updates as required on legal developments related to the Convention provided to staff responsible for its implementation <input type="checkbox"/> Training as required for lawyers <input type="checkbox"/> Training as required for law enforcement <input type="checkbox"/> Other (please specify): </p> <p>Specifically in respect of judges:</p> <p> <input checked="" type="checkbox"/> Sending a basic package of information on the 1980 Convention to judges <input type="checkbox"/> Training through a dedicated judicial studies board <input checked="" type="checkbox"/> Participation in judicial training seminars <input checked="" type="checkbox"/> Participation in the International Hague Network of Judges <input checked="" type="checkbox"/> Accessing <i>The Judges' Newsletter on International Child Protection</i> (available at < www.hcch.net > under "Child Abduction Section" then "Judges' Newsletter on International Child Protection") <input type="checkbox"/> Other (please specify): </p>
<p>b) Is your Central Authority willing to participate in a "twinning arrangement" with another Central Authority?</p> <p><i>A "twinning arrangement" is where two Central Authorities engage in discussions and / or visits to exchange information with the view to improving operations in both Central Authorities</i></p>	<p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </p>

23 Other implementing measures

<p>a) Does your State use iChild?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "iChild"</p>	<p> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </p>
<p>b) Does your State use another electronic case management system other than iChild?</p>	<p> <input checked="" type="checkbox"/> Yes, please specify: See below under e) <input type="checkbox"/> No </p>
<p>c) Does your State use INCASTAT?</p> <p>For more information, go to < www.hcch.net > under "Child Abduction Section" then "INCASTAT"</p>	<p> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </p>
<p>d) Does your State use INCADAT?</p> <p>For more information, go to < www.incadat.com ></p>	<p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </p>

Where applicable, please specify relevant legislation and provisions and indicate how the legislation may be accessed, e.g., website, or provide a copy of the legislation.

<p>e) Are statistics related to applications under the Convention in your State publicly available?</p>	<p><input checked="" type="checkbox"/> Yes, please specify how the statistics can be accessed (e.g., <i>website, annual report</i>): So far the German Central Authority has been using an Excel sheet to keep statistics which was developed according to the needs of the first and second statistical analysis carried out by Professor Lowe for the Hague Conference in the past. In order to simplify maintenance and security issues, the administration of the Federal Office of Justice, of which the German Central Authority is part since 2007, has decided to harmonize IT applications used within the authority. Therefore the statistics will in the future be kept in a single database that also administers our case files, contact details of other Central Authorities, list of Contracting States and country profile information. An anonymized version of these statistics for the past two years is regularly made available on the website of the German Central Authority:</p> <p>www.bundesjustizamt.de/custody-conflicts (click on "Statistics").</p> <p><input type="checkbox"/> No</p>
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24 Other services

<p>a) What general services / resources are available in your State to assist those involved in international child abduction cases?</p> <p><i>Please indicate, where available, contact details, websites and costs for such services</i></p>	<p><input checked="" type="checkbox"/> International Social Service (ISS) (<i>please provide contact information</i>): Internationaler Sozialdienst (ISD) Michaelkirchstr. 17-18 10179 Berlin-Mitte http://www.iss-ger.de/ http://www.zank.de isd@iss-ger.de info@ZAnK.de</p> <p><input type="checkbox"/> Specific NGOs dealing with child abduction:</p> <p><input checked="" type="checkbox"/> Financial assistance: Regarding incoming cases: Legal aid (where applicable) For further information please see the legal aid form on our website (click on "Application forms", then "Form in German/English for legal aid application")</p> <p>Regarding outgoing cases: WEISSER RING e.V. Info-Service Weberstraße 16 55130 Mainz www.weisser-ring.de info@weisser-ring.de</p> <p><input checked="" type="checkbox"/> Social / welfare assistance: The Youth Welfare Offices can provide assistance regarding access cases. This assistance is free of cost.</p> <p><input type="checkbox"/> Immigration services:</p> <p><input type="checkbox"/> Other (<i>please specify</i>):</p>
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