

Questionnaire concerning judicial communications in the context of the 1980 Hague Child Abduction Convention

April 2002

Response by the delegation of the Netherlands

A. The feasibility and/or desirability of the appointment of a liaison judge or authority

1. The appointment of a liaison judge or authority might be formalized in the legislation implementing of the 1996 Hague Child Protection Convention, which legislation is currently being prepared. It seems obvious that the same judge or authority should be given corresponding tasks under the 1980 Child Abduction Convention.
2. Tasks might be attributed to a liaison judge or authority by the legislation implementing the Conventions. It would be necessary to make a clear division of tasks between the liaison judges or authority and the Central Authority. Also, safeguards would have to be built in to protect the parties.

B. Administrative aspects

3. a. See A.1. The actual appointment may be made by an authority, e.g. the Council for the Judiciary .
b. The judge or authority would liaise in cases involving the transfer of jurisdiction on the basis of article 8 or 9 of the 1996 Convention, as well as cases where a court in the Netherlands would require information, evidence or follow-up by a foreign court to a Dutch court decision by a Netherlands court.
c. Probably the most practical way of regulating the relationship between the liaison judge and the Central authority would be to instruct the liaison judge to liaise with judicial authorities, and the Central Authority to liaise with administrative authorities abroad. The liaison judge may need the Central Authority's intervention. The Central Authority would have to maintain an up-to-date list of liaison judges and authorities in States parties to the Conventions and help establish contacts, if necessary.
d. Probably arrangements would have to be made for the liaison judge to obtain translation facilities whenever necessary.
4. No difficulties are expected in establishing a liaison structure in the different parts of the Kingdom of the Netherlands, where appropriate.

C. Practical and legal aspects

1. Communications are already practised at the level of Central Authorities appointed under the Convention. Such communications are practised at all stages of a case (the administrative phase preceding return proceedings; the proceedings themselves and the phase of enforcement of return orders. If necessary, following a request by the Netherlands Central Authority, the foreign Central Authority will liaise with judicial authorities within its State.
2. As far as information is available, in the context of the 1980 Convention direct communication between courts in the Netherlands and courts abroad is still very uncommon. It does happen that a court requires the Netherlands Central Authority to liaise with its counterpart in the Requesting State in order to secure the safe return of the child.
3. Limits on the subject-matter of international communication and the role of the parties and their attorneys will have to be clearly defined.

D. General

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2. The Netherlands will be bound by the 2001 European Directive on the Civil Judicial Network. That network may usefully support a judicial network responsible for judicial communication under the Hague Childrens' Conventions.
3. Yes, depending on the resources available for that purpose.