

The Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention – October 2017

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Title	Part II — A statistical analysis of applications made in 2015 under the <i>Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction</i> — Regional report – provisional edition, pending the completion of the French version	
Author	Professor Nigel Lowe QC (Hon) and Victoria Stephens	
Agenda item	TBC	
Mandate(s)	Conclusions and Recommendations Nos 21-23 of Part I (1-10 June 2011) of the Sixth Meeting of the Special Commission on the practical operation of the 1980 Convention and the 1996 Convention	
Objective	To inform discussions of the Seventh Meeting of the Special Commission	
Action to be taken	For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input checked="" type="checkbox"/>	
Annexes	Attached	
Related documents	Preliminary Document No 11 A of October 2017: Global report	

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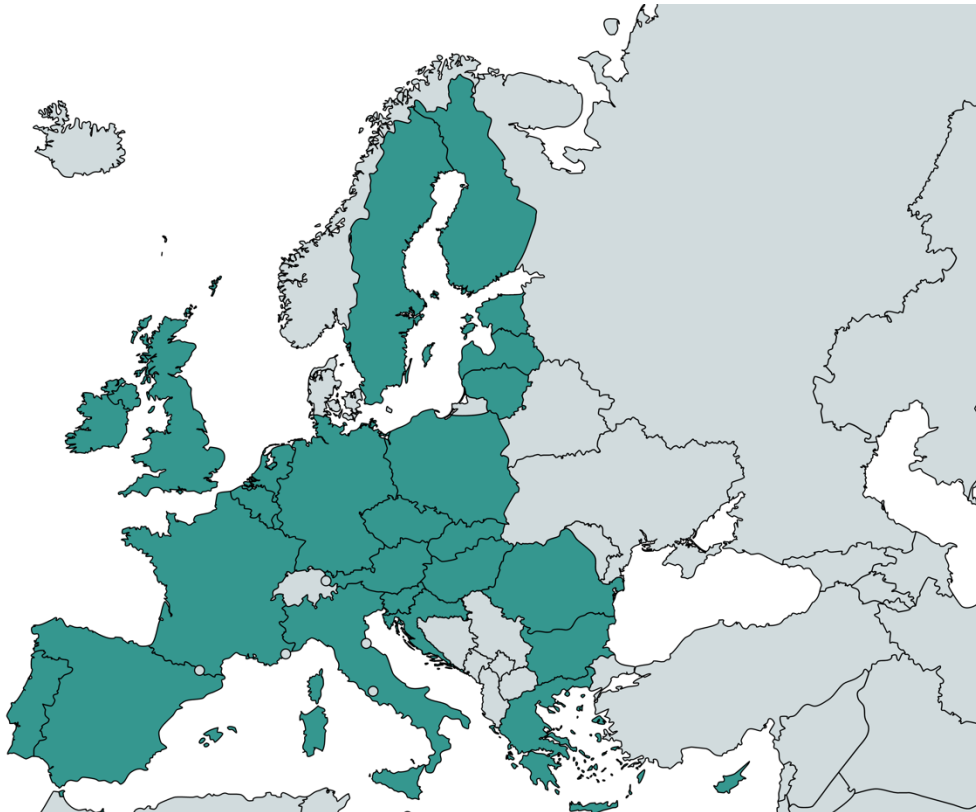
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PART II: REGIONAL REPORT

A. BRUSSELS II A REGULATION

1. The number of applications to which the Regulation applied

1. The Brussels II a Regulation¹ (hereinafter, 'the Regulation') is a regional instrument which is binding on all Member States of the European Union,² except Denmark (see map below; hereinafter, 'Brussels II a States'). Subject to what is said below, it takes precedence, as between Brussels II a States, over the 1980 Hague Child Abduction Convention (hereinafter, 'the Convention').³ The instrument has been in force since 1 March 2005.



2. So far as parental child abduction is concerned, the basic scheme of the Regulation is:

- a. to preserve the pre-eminence of the Convention for dealing with applications for the return of abducted children but nevertheless to give some direction on how that Convention should be applied as between Member States subject to the crucial reservation that in all cases to which the Regulation applies courts must first determine whether a "wrongful removal or retention" has taken place in the sense of the Regulation which means applying Article 2(11) of the Regulation rather than Article 3 of the Convention; and,

¹ 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 full text of the Regulation can be found at: < <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R2201:EN:HTML> >.

² Austria, Belgium, Bulgaria, Cyprus, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom (Central Authorities of England and Wales, Scotland, and Northern Ireland).

³ The full title of this Convention is the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.

- b. to govern the position in cases where a court refuses to make a return order under the Convention (which is governed by Art. 11 (6)-(8)).

3. For the purpose of this report the crucial provisions are Article 11(1)-(5). Article 11(1) enjoins the authorities of Member States when dealing with applications for the return of a child “wrongfully removed in a Member State other than the Member State where the child was habitually resident immediately before the wrongful removal or retention” to apply paragraphs 2-8. Paragraphs 2-5 comprise directions on how return applications should be handled under the Convention. They provide as follows:

“2. When applying Articles 12 and 13 of the 1980 Hague Convention, it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity.

3. A court to which an application for return of a child is made [...] shall act expeditiously in proceedings on the application, using the most expeditious procedures available in national law.

Without prejudice to the first subparagraph, the court shall, except where exceptional circumstances make this impossible, issue its judgment no later than six weeks after the application is lodged.

4. A court cannot refuse to return a child on the basis of Article 13b of the 1980 Hague Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return.

5. A court cannot refuse to return a child unless the person who requested the return of the child has been given an opportunity to be heard.”

4. As the Statistical Study was confined to the operation of the Convention, decisions under Article 11 (6)-(8) of the Regulation following a judicial refusal to return, fell outside its scope. Consequently, judicial refusals under Article 13 of the Convention are recorded as a ‘refusal’, even if, pursuant to Article 11 (8) of the Regulation, the final outcome was a return.

5. The following analysis compares the outcomes and timing of applications to which the Regulation applied (‘Regulation cases’, that is, where the application was between two Brussels II a States) and to those where it did not (‘non-Regulation cases’ that is, in this case, applications received by Brussels II a States that came from States not governed by the Regulation). It compares these findings with those of the 2008 Survey. One object of this analysis is to see whether there is any evidence that Hague applications were treated differently according to whether or not the Regulation applied.

a. The proportion of return applications to which the Regulation applied

6. In 2015, out of a global total of 2,270 return applications, 1,161 were received by Brussels II a States (51%).⁴ 830 of these were made between Brussels II a States and so the Regulation applied to 38% of all applications globally in 2015⁵ and 71% of applications received by Brussels II a States. This can be compared with 36% and 72%, respectively, in 2008.

7. The proportion of applications received from fellow Brussels II a States varied considerably. Annex 1 shows the proportion of applications received by these States that came from other Brussels II a States. A notably high proportion of applications received by Romania came from fellow Brussels II a States (91%, or 71 out of 74 applications). Similarly, a number of States received over 85% of their applications from fellow Brussels II a States (89% in Lithuania; 88% in Czech Republic, Poland and Slovakia; 87% in Latvia; and, 85% in Ireland).⁶

⁴ 50% of the estimated overall number of 2,335 return applications in 2015. See Global Report para. 26.

⁵ 30% of the estimated overall number of 2,335 return applications in 2015.

⁶ Information on the number of applications received by each of these States can be found in Annex 1.

8. By contrast, a number of States received fewer Regulation cases when compared with the overall average. Spain received 54% of their applications from fellow Brussels II a States, Greece received 58% and Italy, Sweden and the United Kingdom - England and Wales (hereinafter, 'England and Wales') each received 60%.

2. Outcomes

a. Overall outcomes

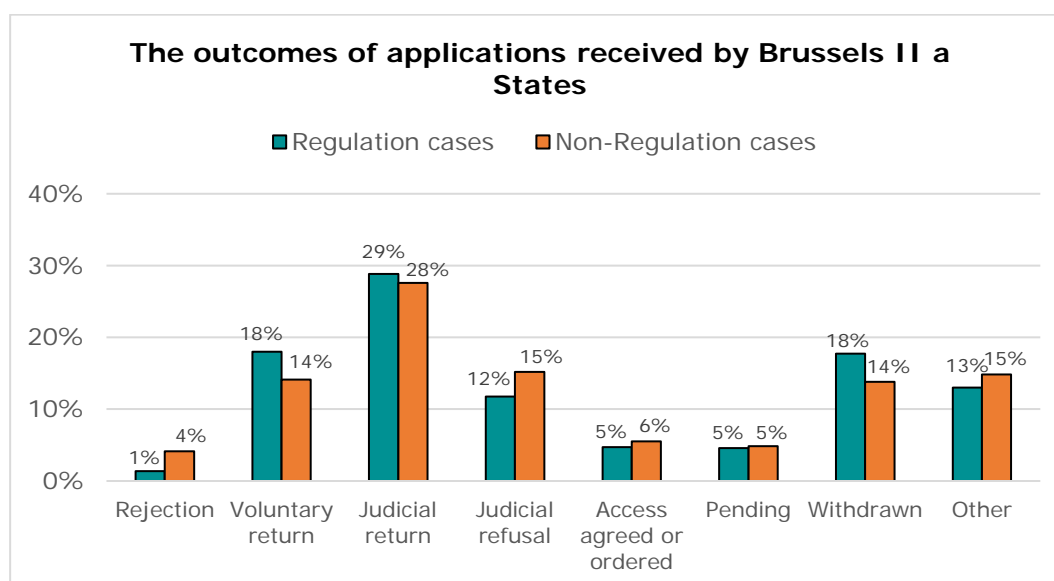
9. As mentioned previously, 1,161 return applications were made to Brussels II a States, 830 of which were Regulation cases. Information on the outcome was known in 1,029 of the applications made to Brussels II a States. The table below compares the differences in the outcome when the Regulation applied as against when it did not.

The outcomes of return applications received by Brussels II a States in 2015

	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Rejection	10	1%	12	4%
Voluntary return	133	18%	41	14%
Judicial return	213	29%	80	28%
Judicial refusal	87	12%	44	15%
Access agreed or ordered	35	5%	16	6%
Pending	34	5%	14	5%
Withdrawn	131	18%	40	14%
Other	96	13%	43	15%
Total	739	≈100%	290	≈100%

10. As can be seen in the table above and the graph below, there was a higher return rate in Regulation cases (47% compared with 42% in non-Regulation cases) but also a higher withdrawal rate (18% compared with 14%).

11. On the other hand, a lower proportion of Regulation cases were rejected by the Central Authority or judicially refused.



12. These findings reflect those of the 2008 Survey, which also found that there was a higher return rate when the Regulation applied. However, the difference in 2015 is not so pronounced: in 2008 the overall return rate in Regulation cases was 52%, compared with 39% in non-Regulation cases.

13. The 2008 Survey also found that proportionately fewer Regulation cases were rejected by the Central Authority or judicially refused. But again, the difference was greater in 2008 when 22% of non-Regulation cases were judicially refused, compared with 15% of Regulation cases, and 5% were rejected by the Central Authority, compared with 3% of Regulation cases.

a. The applications decided in court

14. 40% of Regulation cases were decided in court.⁷ 67% of these ended in a return, 27% in a refusal and 6% in other outcomes.⁸ This can be compared with 47% of Regulation cases in 2008, 60% of which ended in a return, 31% in a refusal and 9% in other outcomes.

15. A slightly higher proportion of non-Regulation cases were decided in court (44%) in 2015.⁹ This was also the case in 2008 (49% as against 47% of Regulation cases). In 2015, 62% of the applications decided in court ended in a return, 34% in a refusal and 4% in other outcomes.¹⁰ This can be compared with 48% ending in a return in 2008, 42% in a refusal and 9% in other outcomes.

b. Judicial refusals and reasons for refusal

16. In 2015, proportionally fewer Regulation cases were refused by the courts – 12% compared with 15% of non-Regulation cases. This was also the case in 2008 (15% compared with 22%).

17. Looking only at Regulation cases, the proportion of applications which were refused has decreased from 15% in 2008 and is now in line with the 12% recorded in 2003 (between what would then have been Brussels II a States). The proportion of refusals in non-Regulation cases has also decreased from 22% in 2008 to 15% in 2015.

18. The Regulation also addresses the reasons for refusal in Hague Convention return applications. Article 11(4) of the Regulation states that a court cannot refuse the return of a child on the basis of Article 13(1)(b) of the Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return.

19. The table below shows the reasons for refusals in applications received by Brussels II a States.¹¹

⁷ 318 of the 793 Regulation cases in which information on outcomes were available.

⁸ Based on 213 applications ending in an order for return, 87 in a judicial refusal and 18 in other outcomes.

⁹ 129 of the 290 non-Regulation cases in which information on outcomes were available.

¹⁰ Based on 80 applications ending in an order for return, 44 in a judicial refusal and 5 in other outcomes.

¹¹ Information was available in 67 of the 87 refusals in Regulation cases and 37 of 44 in non-Regulation cases.

The reasons for refusal and the Regulation

	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	11	16%	7	19%
Applicant had no rights of custody	5	7%	1	3%
Art. 12	9	13%	5	14%
Art. 13(1) a) not exercising rights of custody	0	0%	2	5%
Art. 13(1) a) consent	11	16%	6	16%
Art. 13(1) a) acquiescence	2	3%	4	11%
Art. 13(1) b)	11	16%	6	16%
Child's objections	6	9%	1	3%
Art. 20	1	1%	0	0%
More than one reason	11	16%	5	14%
Total	67	≈ 100%	37	≈ 100%

20. Looking only at the sole reasons for refusal, in Regulation cases proportionally more applications were refused based on the applicant having no rights of custody, the child's objections and Article 20. By contrast, proportionally fewer applications were refused based on the child not being habitually resident in the requesting State, Article 13(1) a) acquiescence and the applicant not exercising rights of custody.

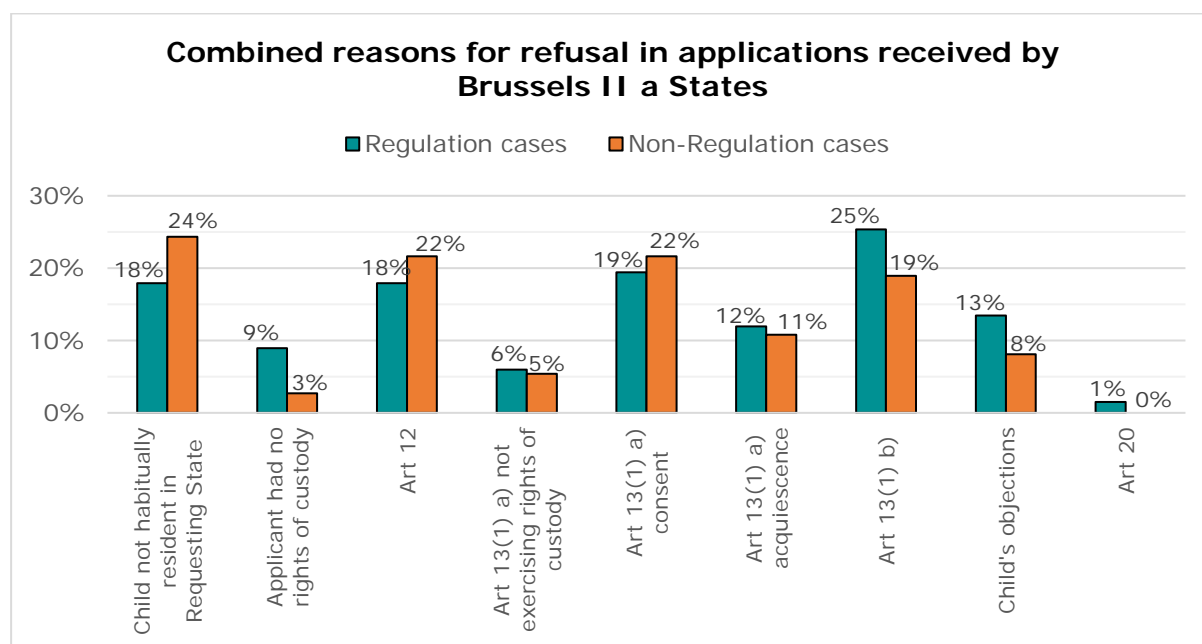
21. Given Article 11(4) of the Regulation, it is perhaps surprising that the same proportion of applications were refused based solely on Article 13(1) b) (16%) whether or not the Regulation applied. However, this was not the case when multiple reasons for refusal are taken into account (see below).

22. A significant proportion of applications were refused for multiple reasons (15%). These cases were decided based on a total of 24 reasons which have been added to the other reasons in the table below.

**The combined reasons for refusal (sole and multiple reasons)
and the Regulation**

	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	12	18%	9	24%
Applicant had no rights of custody	6	9%	1	3%
Art. 12	12	18%	8	22%
Art. 13(1) a) not exercising rights of custody	4	6%	2	5%
Art. 13(1) a) consent	13	19%	8	22%
Art. 13(1) a) acquiescence	8	12%	4	11%
Art. 13(1) b)	17	25%	7	19%
Child's objections	9	13%	3	8%
Art. 20	1	1%	0	0%
Other	0	0%	0	0%
Number of reasons	82	122%	42	114%
Number of applications	67		37	

23. Once the reasons for refusal in applications refused based on multiple reasons are considered there is a clear difference in the proportion of refusals based on Article 13(1) b) in Regulation and non-Regulation cases (relied upon solely or in part in 25% of Regulation cases compared with 19% of non-Regulation cases). This was also the case in 2008 where 34% of Regulation cases were refused based solely or partially upon Article 13(1) b) compared with 20% of non-Regulation cases.



3. Appeals

24. 485 applications received by Brussels II a States went to court and, of these, 151 applications (31%) were appealed.

25. In Regulation cases 31% were appealed (107 of the 348 which went to court); this can be compared with 32% of non-Regulation cases (44 of the 137 which went to court). These findings suggest that the Regulation does not make a significant difference in how Brussels II a States treat applications with regard to appeals.

a. Outcomes on appeal

26. Of the 151 appealed applications, the outcome was known in 147. Of these, 54% ended in a return, 29% in a refusal and 10% were pending. The remaining 7% ended in some other outcome including an agreement for access or the case being withdrawn by the appellant.

27. The first instance decision was recorded in 150 appealed applications, of which, 59% ended in a return and 41% in a judicial refusal. In 63% the same outcome was reached on appeal as at first instance.¹²

28. In Regulation cases that were appealed, 66% confirmed the first instance decision. A higher proportion of judicial orders for return were confirmed on appeal (77%) compared with refusals (49%). This was also the case for non-Regulation cases – 62% of which confirmed the first instance decision, 68% if that decision was for return and only 53% if it was refusal.

b. Multiple appeals

29. The majority of applications decided on appeal were appealed only once. However, 17 applications were appealed twice and a further two applications reached three levels of appeal.

30. The 17 applications that were appealed twice were received by Croatia, Estonia, France, Hungary, Spain and Sweden. Six were Regulation cases and 11 were non-Regulation cases. Of the six Regulation cases, each ended in a return at first instance. In three the court confirmed this decision on appeal, one ended in an 'other' outcome, one was pending and in one the outcome was unknown.

31. In the 11 non-Regulation cases, seven ended in a return order at first instance and four ended in a refusal to return. Of the seven first instance returns, six were confirmed on appeal and the remaining case ended in a voluntary return. Of the judicial refusals to return, one was confirmed on appeal and three ended in an order for return.

32. The two applications that were appealed three times were both Regulation cases received by Estonia. Both were refused at first instance, in one this was confirmed on appeal and the second application ended in an 'other' outcome.

33. The timing of these applications is analysed in more detail below.¹³

4. Timing

(a) Overall timing from the date the application was received by the Central Authority to the date of the final outcome

34. The time taken to dispose of applications is key to the success of the Convention. The basic premise of the Convention is that return applications should be dealt with "promptly". The accepted yardstick of promptness is six weeks but there is uncertainty as to what this period is meant to refer. Article 11(2) of the Convention gives the applicant or Central Authority the right to request the reasons for the delay if the judicial or administrative authority of the requested

¹² 95 of the 150 decisions decided on appeal confirmed the first instance decision.

¹³ See section 4.e., below.

State has not reached a decision within six weeks from the date of the commencement of the proceedings. It is perhaps an open question as to whether it can be construed as applying from the time of receipt of the application by the requested Central Authority rather than from the commencement of court proceedings, though the French version of Article 11 points to it being addressed to court proceedings.¹⁴ But even if it is confined to court proceedings, it has yet to be determined whether that includes appeals. But from the child's point of view it is important that decisions are arrived at as quickly as possible.

35. The table below shows the average time taken to resolve Regulation and non-Regulation cases.¹⁵ The times are recorded from the date the Central Authority received the application until the date the application was concluded, including those which were decided on appeal.

The average number of days taken to conclude applications received by Brussels II a States¹⁶

	Regulation cases	Non-Regulation cases
Mean	150	141
Minimum	0	0
Maximum	649	808

36. On average, Regulation cases were resolved more slowly, at 150 days, compared with non-Regulation cases which took an average of 141 days to conclude.

37. This is in contrast with the results from the 2008 Survey where Regulation cases took an average of 165 days compared with 169 days in non-Regulation cases.

38. 14% of Regulation cases were resolved in six weeks and 55% in 18 weeks.¹⁷ This can be compared with the 2008 figures of 15% and 51%, respectively.

39. In non-Regulation cases, 19% were resolved in six weeks and 59% in 18 weeks, compared with 16% and 58% in 2008.¹⁸ The table below shows these timings in more detail.

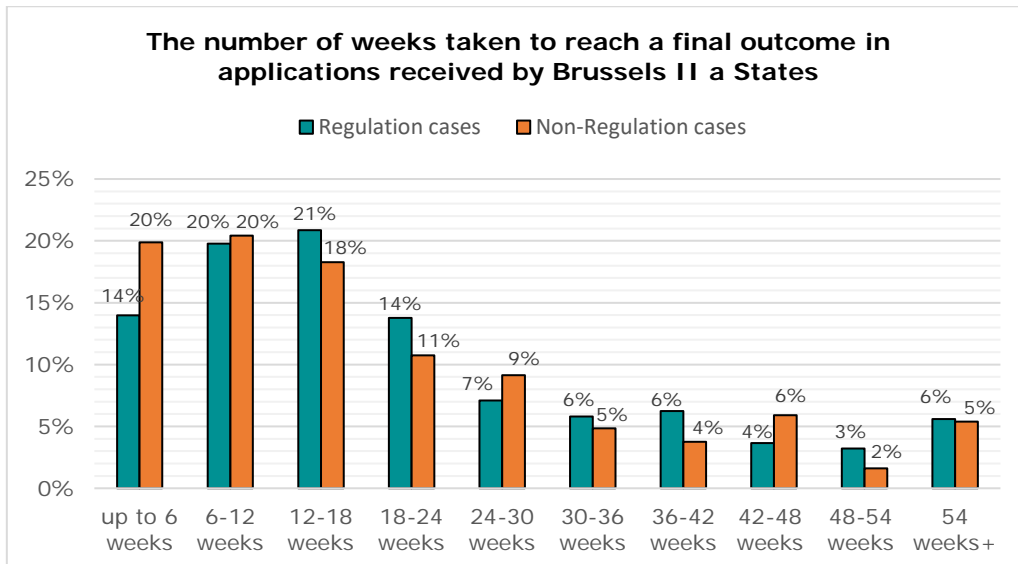
¹⁴ The French version reads: '*Lorsque l'autorité judiciaire ou administrative saisie n'a pas statué dans un délai de six semaines à partir de sa saisine, le demandeur ou l'Autorité centrale de l'Etat requis de sa propre initiative ou sur requête de l'Autorité centrale de l'Etat requérant, peut demander une déclaration sur les raisons de ce retard.*' (emphasis added).

¹⁵ Based on 464 Regulation cases in which information on timing was available and 186 non-Regulation cases.

¹⁶ The table shows two applications which were concluded on the day the application was received by the Central Authority. One of these ended in the child being traced to another Convention State and the other was withdrawn.

¹⁷ Based on 465 applications, 65 of which were resolved in six weeks and 254 in 18 weeks.

¹⁸ Based on 186 applications, 36 of which were resolved in six weeks and 109 in 18 weeks.



40. There was considerable variation between States in the time taken to conclude applications. Notably, of the applications received by England and Wales, 24%, 55 out of 228 applications, were resolved in six weeks, from the time they were received by the Central Authority. This reflects the situation in 2008 when 28% were resolved in this time. A further 51% (117 applications) were resolved in 18 weeks. A significant proportion of applications were also resolved in six weeks in Luxembourg (67%, 2 out of 3 applications), Italy (33%, 3 out of 8 applications), the Netherlands (33%, 2 out of 6 applications) and Sweden (29%, 2 out of 7 applications).

41. By contrast, a number of States did not resolve any applications within six weeks: Austria, Bulgaria, Croatia, Cyprus, Estonia, Finland, Greece, Lithuania, Malta, Slovakia and Slovenia. However, in some of these States information on the timing of applications was available in only a small number of cases.¹⁹

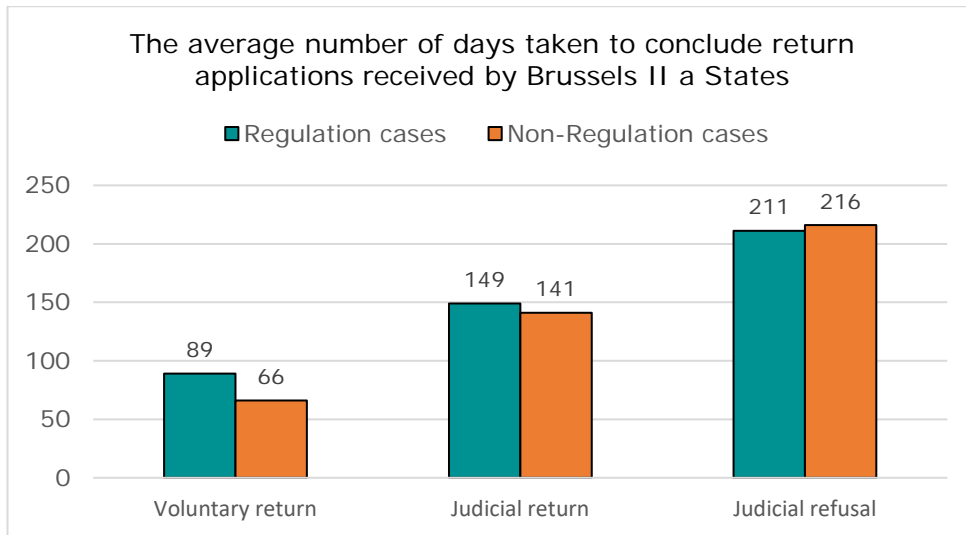
(b) Timing and outcomes

42. The graph below looks at the average time taken to reach different outcomes, from the date the application was received by the Central Authority.²⁰ The Regulation did not make a significant difference to the overall time taken, however, as shown further below, it does make a difference to court disposal times.²¹

¹⁹ Austria (2 applications), Bulgaria (7), Croatia (2), Cyprus (1), Estonia (5), Finland (1), Greece (3), Lithuania (13), Malta (1), Slovakia (5) and Slovenia (1).

²⁰ 67 out of 290 applications.

²¹ Section 4.f.



43. In 2008, applications ending in voluntary returns and judicial refusals were concluded more quickly in Regulation cases but it took slightly longer to conclude judicial returns when compared with non-Regulation cases.

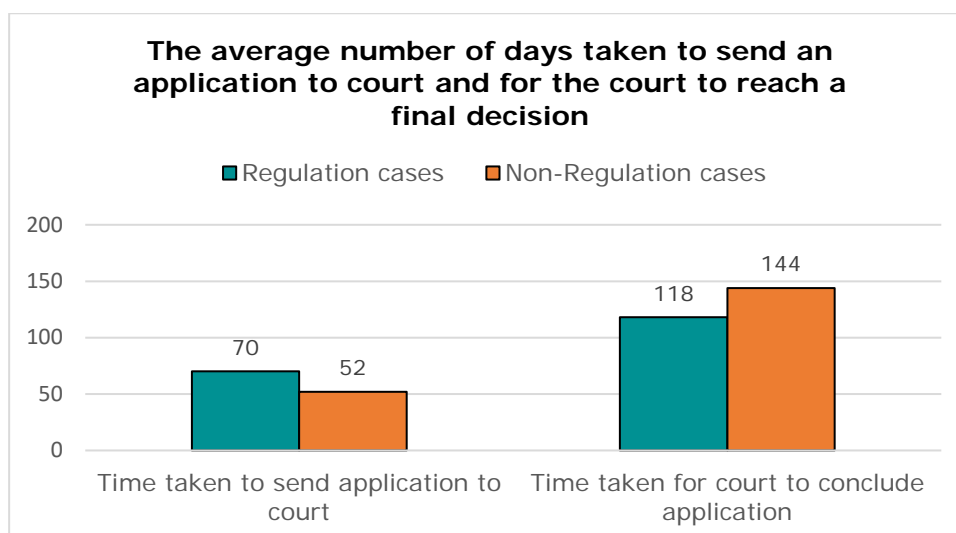
(c) The time taken to send applications to court and the time taken for the court to conclude them

44. Article 11(3) of the Regulation states that, in applying Articles 12 and 13 of the 1980 Hague Convention, the courts must use the most expeditious procedures available in national law and that, barring exceptional circumstances, issue judgment within six weeks. Although it is arguable that this provision also applies to decisions reached on appeal, Article 11(3) is generally taken to apply to first instance court proceedings.

45. The timing of the applications can be broken down into two periods: the time taken for the Central Authority to send the application to court and, subsequently, the time taken for the court to dispose of it. Annex 2 shows the average time taken for each of these periods in applications received by Brussels II a States.

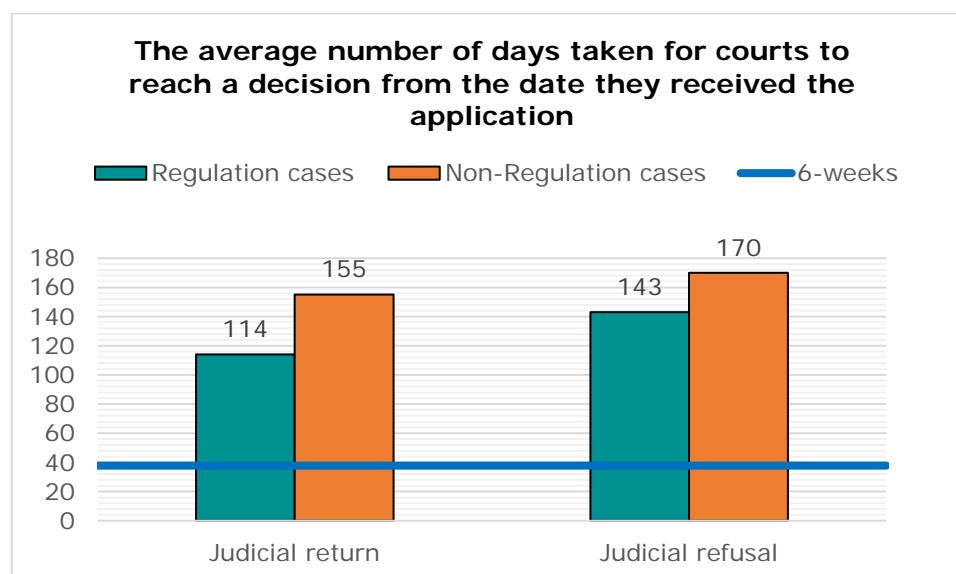
46. As can be seen in the graph below, in Regulation cases, it took an average of 70 days to send the application to court, compared with 52 days in non-Regulation cases. But it then took only a further 118 days for the court to reach a final decision, as against the 144 days in non-Regulation cases.²²

²² Not all Central Authorities recorded the date at which the application was sent to court but information was available for 288 Regulation cases and the court time for 225 applications. The figures for non-Regulation cases was based on 94 applications in which the date the application was sent to court was recorded and 65 applications where the court time was known.



47. In 2008, Regulation cases were both sent to court more quickly and took less time to reach a final outcome. It took an average of 62 days to send Regulation case to court and 142 days for the court to conclude it, compared with 76 days and 184 days, respectively, for non-Regulation cases.

48. Looking more closely at the time taken by the court to reach a decision, Regulation cases were resolved more quickly than non-Regulation cases. This can be seen in the graph below which looks at the overall timing for applications, including any appeals. Judicial returns took an average of 114 days to conclude, compared with 155 days for non-Regulation cases and judicial refusals took 143 days compared with 170 days.²³



49. Although Regulation cases were resolved more quickly than non-Regulation cases on average, it is of note that only 23% of court decisions took less than six weeks to reach a final decision.²⁴ This figure was 15% in non-Regulation cases.²⁵

(d) Timing and appeals

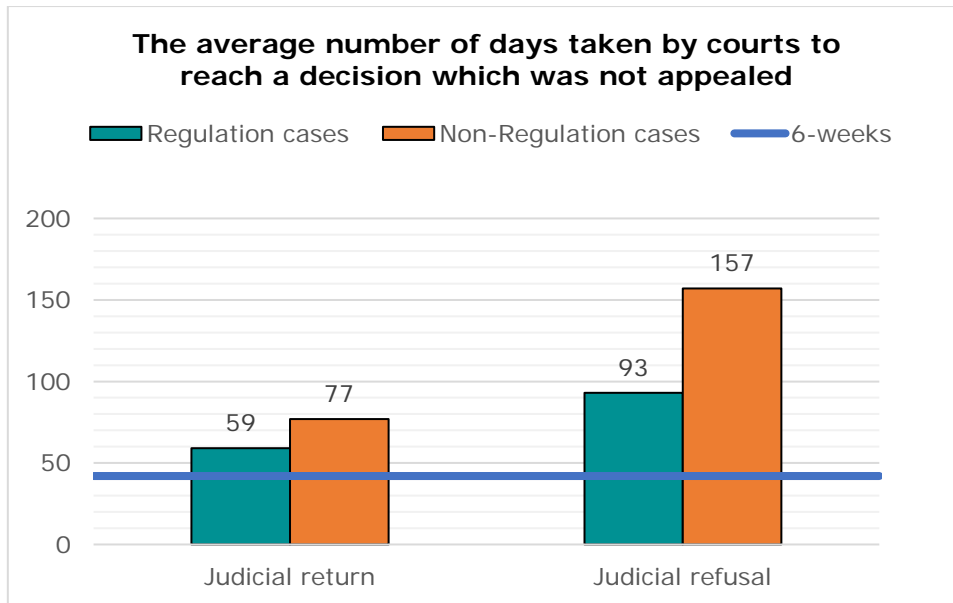
²³ Based on 154 Regulation cases (106 ending in a judicial return and 48 ending in a judicial refusal) and 49 non-Regulation cases (27 ending in a judicial return and 22 ending in a judicial refusal).

²⁴ 36 out of 160 court decisions in which information on the date sent to court and the final decision were available.

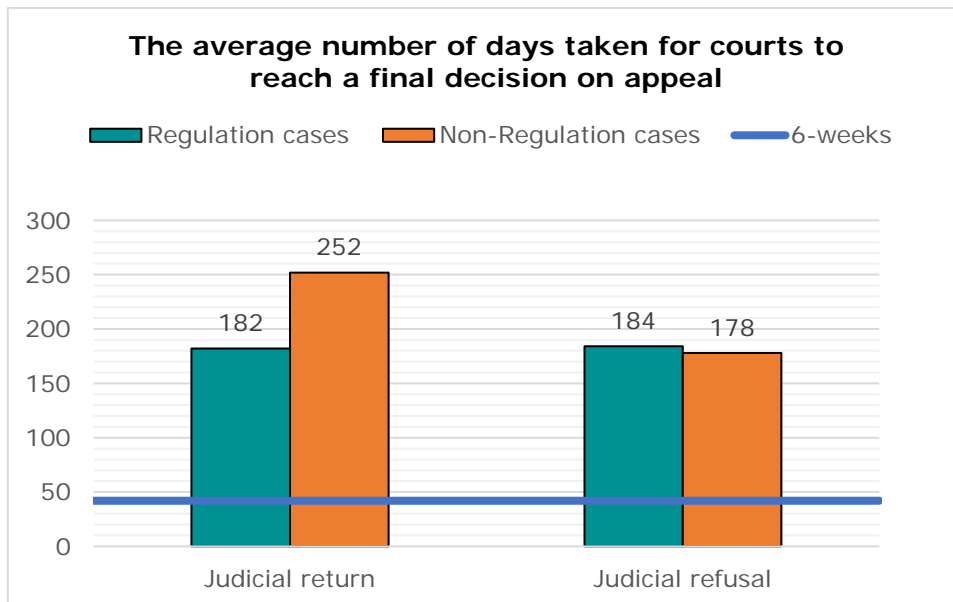
²⁵ 8 out of 52 court decisions in which information on the date sent to court and the final decision were available.

50. Appeals also had an impact on the time taken to reach a final decision. Looking at all applications received by Brussels II a States, the court took an average of 82 days to resolve those that did not involve an appeal compared with 194 days for appealed decisions.²⁶

51. The graph below shows the average time taken by the court to conclude applications ending in judicial orders for return or refusal to return which were not appealed.²⁷ As would be expected, it shows that applications took less time to conclude compared with the overall average time to reach a final decision, including appeals. Regulation cases were also resolved more quickly. The average number of days taken to reach a first-instance judicial order for return was much closer to the six-week target (42 days).



52. The graph below looks at applications that were decided on appeal. Judicial returns were concluded significantly more quickly in Regulation cases whereas judicial refusals took marginally longer, when compared with non-Regulation cases.²⁸



²⁶ Based on 183 applications that were not appealed and 108 applications decided on appeal.

²⁷ Based on 83 Regulation cases (60 ending in a judicial return and 23 in a judicial refusal) and 26 non-Regulation cases (16 ending in a judicial return and 10 in a judicial refusal).

²⁸ Based on 73 Regulation cases (47 ending in a judicial return and 26 in a judicial refusal) and 25 non-Regulation cases (12 ending in a judicial return and 13 in a judicial refusal).

53. The time taken to reach a final decision also depended on the number of times the application was appealed. Applications that were appealed only once took an average of 182 days to conclude from the date they were received by the court, applications that were appealed twice took an average of 340 days and the application that reached three levels of appeal took an average of 524 days.²⁹

ACCESS APPLICATIONS

5. The number of access applications received by Brussels II a States

54. As shown in the table below, 169 access applications were received by 19 Brussels II a States. Of these, 106 (63%) came from fellow Brussels II a States.

The access applications received by Brussels II a States in 2015

	From Brussels II a States		From Non-Brussels II a States		Total
	Freq	%	Freq	%	
Belgium	6	75%	2	25%	8
Bulgaria	1	100%			1
Cyprus	1	100%			1
Estonia	1	100%			1
France	18	62%	11	38%	29
Germany	12	41%	17	59%	29
Greece	1	100%			1
Ireland	4	67%	2	33%	6
Italy	7	54%	6	46%	13
Latvia	2	100%			2
Lithuania	1	50%	1	50%	2
Netherlands - Kingdom in Europe	4	67%	2	33%	6
Poland	3	100%			3
Portugal		0%	1	100%	1
Romania	1	100%			1
Sweden		0%	3	100%	3
United Kingdom - England and Wales	41	71%	17	29%	58
United Kingdom - Northern Ireland	2	100%			2
United Kingdom - Scotland	1	50%	1	50%	2
Total	106	63%	63	37%	169

55. The finding that such a large proportion of access applications is between Brussels II a States is interesting as recognition and enforcement of access *orders* is exclusively governed by the regulation (see Article 60(e)) but the Regulation does not exclude applications being made under the Hague Abduction Convention where, in the absence of a court order, application is made under Article 21 for arrangements to be made for organising or securing the effective

²⁹ Based on 100 applications that were appealed once, six that were appealed twice and one application appealed three times.

exercise of rights of access. However, in the absence of data being specifically sought on this issue, it cannot be said whether all the access applications recorded in this Survey fell into this category.

6. Outcomes

b. Overall outcomes

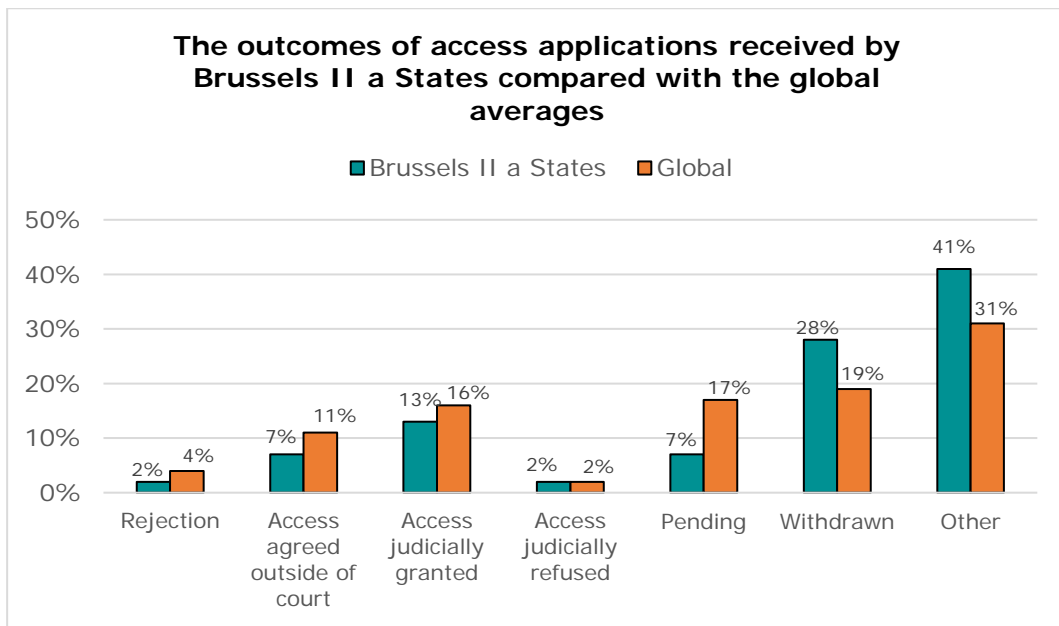
56. Information on the outcome was known in 138 of the 169 access applications received by Brussels II a States. The table below compares the differences in outcome for applications

The outcomes of access applications received by Brussels II a States in 2015

	From Brussels II a States		From Non-Brussels II a States		Total
	Freq	%	Freq	%	
Rejection	2	2%	1	2%	2%
Access agreed outside of court	6	7%	3	6%	7%
Access judicially granted	13	15%	5	10%	13%
Access judicially refused	2	2%	1	2%	2%
Pending	4	4%	5	10%	7%
Withdrawn	24	27%	15	31%	28%
Other	38	43%	19	39%	41%
Total	89	100%	49	100%	138

57. The overall rate at which access was agreed or ordered was 20%, 21% where the application was from a fellow Brussels II a State and 16% where it was from a non-Brussels II a State.

58. The graph below compares the overall figures for all applications received by Brussels II a States with the global findings. In the applications received by Brussels II a States, proportionally more applications were withdrawn or ended in 'other' outcomes. By contrast, proportionally fewer applications were rejected, pending or ended in agreements or orders for access.



c. Cases decided under the Hague Convention and under domestic law

59. Of the 21 applications ending in a judicial order for access or a judicial refusal, information on nature of the order was available in 13. Twelve of these applications ended in an order for access, 11 decided under domestic law (nine of these being in England and Wales) and one under the Hague Convention. The remaining application ended in a refusal to order access and was decided under the Hague Convention.

7. Appeals

60. No applications were recorded as having been appealed, compared with 9% of access applications, globally.

8. Timing

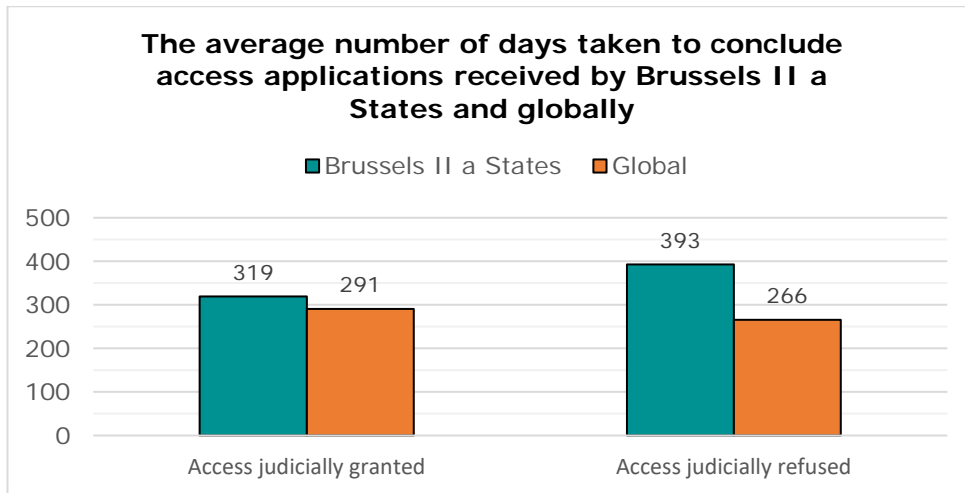
(a) Overall timing from the date the application was received by the Central Authority to the date of the final outcome

61. Applications received by Brussels II a States were resolved in an average of 298 days compared with 254 days globally.

(b) Timing and outcomes

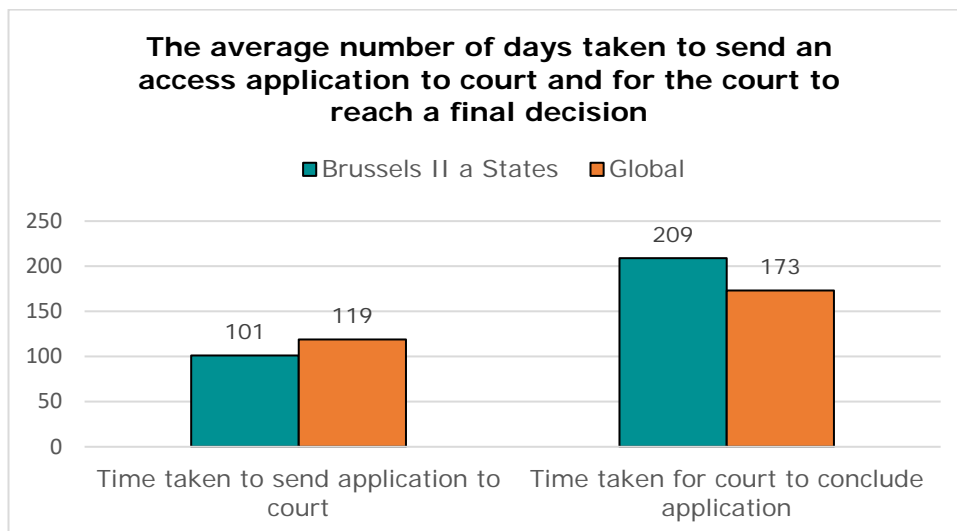
62. The graph below looks at the average time taken to reach different outcomes, from the date the application was received by the Central Authority, compared with the global average.³⁰ For each outcome, applications received by Brussels II a States were resolved more slowly, in particular in the case of judicial orders refusing access. No information was available on the time taken to conclude agreements for access.

³⁰ Based on 14 applications ending an order for access and 1 application in which access was refused.



(c) *The time taken to send applications to court and the time taken for the court to conclude them*

63. The graph below shows the number of days taken for the Central Authorities to send applications to court, from the date at which they received them, and the subsequent time taken for the court to conclude the applications. When compared with the global averages, the time taken to send access applications to court was in line with the global average but the court took longer to conclude them once they were received.³¹



(d) *Timing and appeals*

64. No access applications received by Brussels II a States in 2015 involved an appeal. Globally, appealed applications took an average of 433 days to conclude.

³¹ Based on 27 applications in which the time taken to send to court was known and 4 cases in which court time was known.

Return applications received by Brussels II a States

State	Regulation cases		Non-Regulation cases		Total
	Number	Percentage	Number	Percentage	
Austria	13	65%	7	35%	20
Belgium	22	81%	5	19%	27
Bulgaria	11	73%	4	27%	15
Croatia	0	0%	2	100%	2
Cyprus	2	67%	1	33%	3
Czech Republic	29	88%	4	12%	33
Estonia	5	83%	1	17%	6
Finland	2	100%	0	0%	2
France	67	64%	38	36%	105
Germany	122	71%	50	29%	172
Greece	7	58%	5	42%	12
Hungary	11	79%	3	21%	14
Ireland	34	85%	6	15%	40
Italy	33	60%	22	40%	55
Latvia	13	87%	2	13%	15
Lithuania	16	89%	2	11%	18
Luxembourg	3	75%	1	25%	4
Malta	1	100%	0	0%	1
Netherlands	21	68%	10	32%	31
Poland	43	88%	6	12%	49
Portugal	15	71%	6	29%	21
Romania	71	96%	3	4%	74
Slovakia	28	88%	4	13%	32
Slovenia	1	100%	0	0%	1
Spain	50	54%	42	46%	92
Sweden	15	60%	10	40%	25
UK - England and Wales	175	67%	86	33%	261
UK - Northern Ireland	5	83%	1	17%	6
UK - Scotland	15	60%	10	40%	25
Total	830	71%	331	29%	1161

**Proportion of return applications resolved within 6 weeks of receipt by the
Central Authority**

Central Authority	Under 6 weeks		6 - 18 weeks		Over 18 weeks		Total
	No.	%	No.	%	No.	%	
Austria			2	100%			2
Belgium	1	14%	2	29%	4	57%	7
Bulgaria			1	14%	6	86%	7
Croatia					2	100%	2
Cyprus					1	100%	1
Czech Republic	3	11%	13	46%	12	43%	28
Estonia					5	100%	5
Finland			1	100%			1
France	8	15%	17	31%	30	55%	55
Germany	4	7%	16	29%	35	64%	55
Greece					3	100%	3
Hungary	2	18%	4	36%	5	45%	11
Ireland	3	12%	7	28%	15	60%	25
Italy	3	38%	3	38%	2	25%	8
Latvia	1	7%	11	79%	2	14%	14
Lithuania			4	31%	9	69%	13
Luxembourg	2	67%			1	33%	3
Malta					1	100%	1
Netherlands	2	33%	1	17%	3	50%	6
Poland	5	11%	18	41%	21	48%	44
Portugal	3	19%	8	50%	5	31%	16
Romania	2	6%	2	6%	30	88%	34
Slovakia					5	100%	5
Slovenia					1	100%	1
Spain	2	5%	17	40%	23	55%	42
Sweden	2	29%	2	29%	3	43%	7
UK - England and Wales	55	24%	117	51%	56	25%	228
UK - Northern Ireland	1	17%	2	33%	3	50%	6
UK - Scotland	3	14%	13	62%	5	24%	21
Total	102	16%	261	40%	288	44%	651

Time taken for the Central Authority to send return applications to court and the time the court then took to finalise the application

State	Average time taken to send to court		Average time taken from receipt by the court to final decision	
	Regulation cases	Non-Regulation cases	Regulation cases	Non-Regulation cases
Belgium	109	210	196	139
Bulgaria	88	178	214	
Croatia		84		194
Cyprus	290		13	
Czech Republic	71	0	114	255
Estonia	38	21	238	339
Finland	19		72	
France	50	81	100	171
Germany	100	64	73	110
Greece	241	88	150	248
Hungary	124	70	82	120
Ireland	45	76	135	176
Italy			61	120
Latvia	25	73	71	62
Lithuania	128	49	117	101
Luxembourg	65		131	
Malta	50		360	
Netherlands	83	28	85	
Portugal	46	37	100	513
Romania	121	95	203	183
Slovakia			320	
Slovenia	14		422	
Sweden	140			
UK - England and Wales	14	11	81	65
UK - Northern Ireland	15	0	180	202
UK - Scotland	75	43	34	65
Overall average	74 days	62 days	117 days	144 days

B. LATIN AMERICA AND THE CARIBBEAN ISLANDS

RETURN APPLICATIONS

1. The number of return applications received by Latin American States



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1. The 16 Latin American and Caribbean Island States ("Latin American States") that responded¹ received a total of 330 return applications. This amounts to 15% of the 2,270 return applications received globally in 2015 and can be compared with 315 applications received by 15 States in 2008. Of the applications received, 138 of these came from fellow Latin American States (42%, compared with 19% in 2008). Excluding Mexico, which received 78% of its applications from the USA, the proportion of applications from fellow Latin American States was 53%. However, this survey does not include applications under the Inter-American Convention about the International Restitution of Minors (Return of Children) 1989. on the International Return of Children.²

2. As shown in the table below, the proportion of applications coming from fellow Latin American States varied considerably from State to State. In Costa Rica, Nicaragua, Colombia and Uruguay the vast majority of applications came from fellow Latin American States (89%, 80%, 71% and 67%, respectively). In contrast, such applications were in the minority in Mexico, Brazil and Dominican Republic (10%, 22% and 31%, respectively).

¹ Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay and Venezuela.

² Signed in Montevideo, Uruguay, in 1989. The Convention has been in force since 1994. Where a State is party to both the 1980 Hague Convention and the Inter-American Convention, the latter is given priority by Art. 34 of the Inter American Convention unless otherwise agreed between the States concerned.

The applications received by Latin American States in 2015

	From Latin American States		From non-Latin American States		Total
	Freq	%	Freq	%	
Argentina	7	50%	7	50%	14
Brazil	10	22%	36	78%	46
Chile	6	50%	6	50%	12
Colombia	39	71%	16	29%	55
Costa Rica	8	89%	1	11%	9
Dominican Republic	4	31%	9	69%	13
El Salvador	3	60%	2	40%	5
Honduras	1	50%	1	50%	2
Mexico	8	10%	75	90%	83
Nicaragua	12	80%	3	20%	15
Panama	3	60%	2	40%	5
Paraguay	19	48%	21	53%	40
Peru	7	54%	6	46%	13
Uruguay	8	67%	4	33%	12
Venezuela	3	50%	3	50%	6
Total	138	42%	192	58%	330

2. Outcomes

c. Overall outcomes

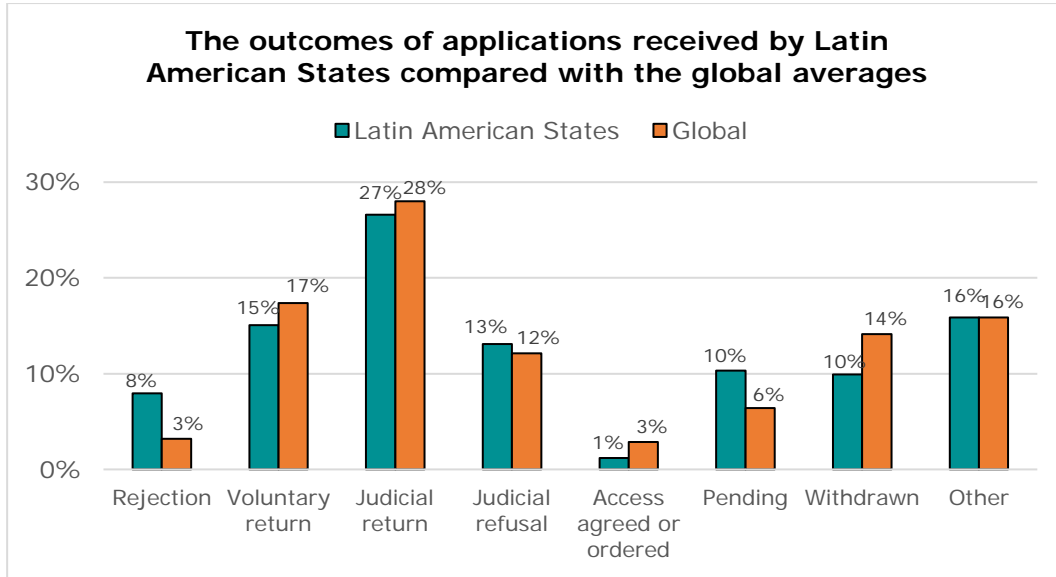
3. Information on the outcome was known in 252 of the 330 applications received by Latin American States. The table below compares the differences in the outcome for applications received from fellow Latin American States and from those from outside Latin America.

The outcomes of return applications received by Latin American in 2015

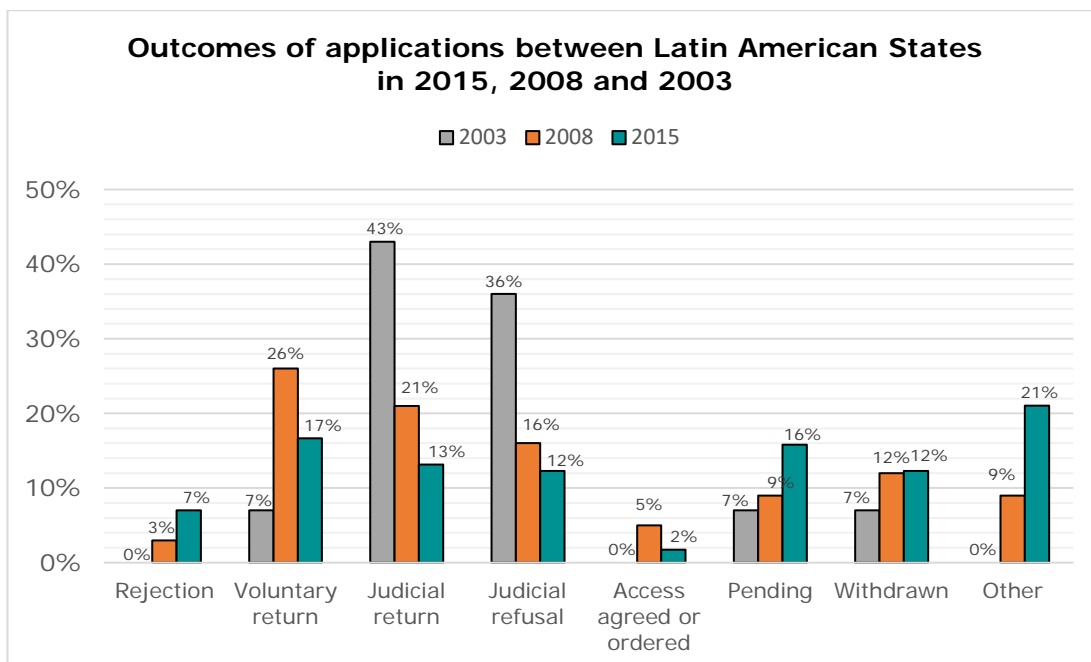
	From fellow Latin American State		From non-Latin American State		Total
	Freq	%	Freq	%	
Rejection	8	7%	12	9%	8%
Voluntary return	19	17%	19	14%	15%
Judicial return	15	13%	52	38%	27%
Judicial refusal	14	12%	19	14%	13%
Access agreed or ordered	2	2%	1	1%	1%
Pending	18	16%	8	6%	10%
Withdrawn	14	12%	11	8%	10%
Other	24	21%	16	12%	16%
Total	114	100%	138	100%	100%

4. As can be seen in the table above, the overall return rate was significantly higher if the application came from non-Latin American States (51%) compared with applications from Latin American States (30%). This was also the case in 2008, though less pronounced at 46% and 42%, respectively.

5. The overall figures for all applications received by Latin American States are roughly in line with the global findings, though, as the graph below illustrates, proportionally more applications received by Latin American States were rejected or pending but fewer being withdrawn and slightly fewer ending in a return order.



6. The graph below shows the outcomes of applications between Latin American States in 2015, 2008 and 2003. There has been a gradual decrease in the proportion of applications ending in a judicial return or judicial refusal, while the proportion of rejections and pending cases has increased. In 2015 a significantly high proportion of applications ended in 'other' outcomes which included 13 cases in which the child was not traced, two cases in which the child was traced to another Convention country, 3 cases closed due to the 'inaction' of the applicant and one unspecified voluntary agreement. The remaining five outcomes were simply recorded as 'other'.



c. *The applications decided in court*

7. 30% of applications received by Latin American States were decided in court. 67% of these ended in an order for return and 33% in a refusal to return.³ This can be compared with the global averages of 43% of applications being decided in court, 65% ending in an order for return, 28% in a refusal and 6% in an order for access.

8. Fewer applications received from fellow Latin American States were decided in court (21% compared with 37% of applications from non-Latin American States). Furthermore, a lower proportion of these ended in an order for return: 52% compared with 73% of court cases in applications from non-Latin American States.⁴

d. *Judicial refusals and reasons for refusal*

9. In 2015, 13% of all applications received by Latin American States were refused – in line with the 12% recorded globally. The table below shows the reasons for refusals in these applications compared with the global figures. Though based on relatively low numbers it is possible to see certain differences between the reasons for refusal in Latin America compared with the global averages.

The reasons for refusal in applications received by Latin American States compared with globally

	Latin American States		Global	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	3	10%	36	19%
Applicant had no rights of custody	0	0%	11	6%
Art. 12	2	7%	21	11%
Art. 13(1) a) not exercising rights of custody	1	3%	4	2%
Art. 13(1) a) consent	0	0%	21	11%
Art. 13(1) a) acquiescence	3	10%	9	5%
Art. 13(1) b)	8	28%	33	18%
Child's objections	6	21%	18	10%
Art. 20	0	0%	2	1%
More than one reason	6	21%	30	16%
Total	29	100%	185	≈100%

10. Analysis of refusals is complicated because some applications are refused for multiple reasons. In 2015, in the case of Latin American States, 21% of cases ending in a refusal were based upon on more than one ground. This compares with 16% globally.

11. Looking only at the sole reasons for refusal, a significantly higher proportion of applications received by Latin American States were refused solely based on Article 13(1) b) (28% compared with 18% globally) and based on the child's objections (21% compared with 10% globally). By contrast, proportionally fewer were refused based on the child not being

³ 100 applications were decided in court, 67 of these ended in a return and 33 in a refusal.

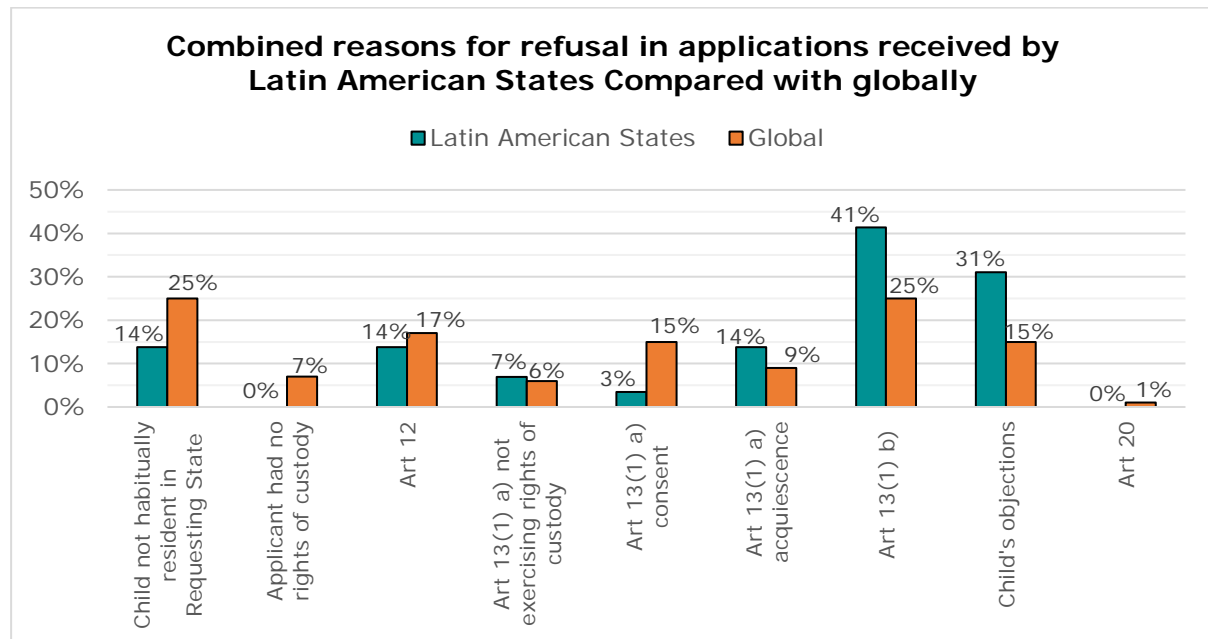
⁴ 29 applications from Latin American States were decided in court, 15 ended in a return and 14 in a refusal to return. By contrast, 71 applications from non-Latin American States were decided in court, 52 ended in a return and 19 in a refusal to return.

habitually resident in the requesting State (10% compared with 19% globally) and no applications were refused based on the consent of the applicant (compared with 11% globally).

12. The table and graph below show the reasons for refusal including those decided for more than one reason.

The combined reasons for refusal in applications received by Latin American States compared with globally

	Latin American States		Global	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	4	14%	46	25%
Applicant had no rights of custody	0	0%	13	7%
Art. 12	4	14%	32	17%
Art. 13(1) a) not exercising rights of custody	2	7%	11	6%
Art. 13(1) a) consent	1	3%	28	15%
Art. 13(1) a) acquiescence	4	14%	16	9%
Art. 13(1) b)	12	41%	47	25%
Child's objections	9	31%	27	15%
Art. 20	0	0%	2	1%
Other	0	0%	0	0%
Number of reasons	36	124%	222	120%
Number of applications	29		185	



13. The graph shows clearly that a much higher proportion of return applications were refused based on Article 13(1) b) and the child's objections.

3. Appeals

14. 124 applications received by Latin American States went to court, including 24 applications which had not yet reached a final decision. Of these, 39 applications (31%) were appealed, the same as the global average.

d. Outcomes on appeal

15. Of the 39 appealed applications, the outcome was known in 33. Of these, 52% ended in a return, 27% in a refusal and 9% were pending. The remaining 12% ended in some other outcome including an agreement to return, the child not being traced or the case being withdrawn by the appellant.

16. The first instance decision was recorded in all of the appealed applications, of which, 44% ended in a return and 56% in a judicial refusal. In cases where both the first and appealed outcome were known, 61% of appeals confirmed the first instance decision, compared with 67% globally. This figure was 81% if this was an order for return and 41% if it was a refusal.

e. Multiple appeals

17. Though the overall appeal rate was the same in Latin America as globally (31%), proportionally more of these applications were appealed more than once. 38% were appealed once, 51% were appealed twice and 10% reached three levels of appeal. This can be compared with the global averaged of 81%, 16% and 2%, respectively.

4. Timing

(a) Overall timing from the date the application was received by the Central Authority to the date of the final outcome

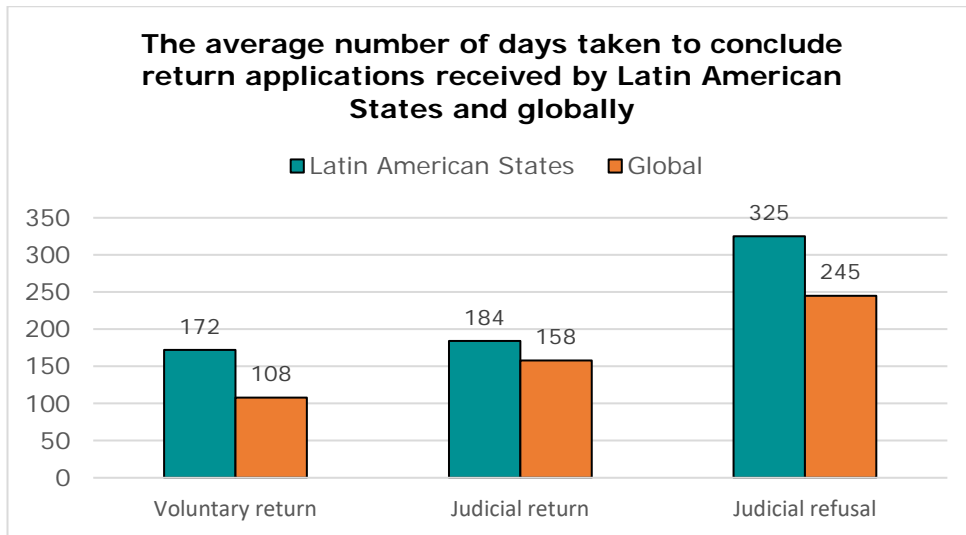
18. On average, applications received by Latin American States were resolved in an average of 217 days compared with the global average of 164 days. This average was 230 days if the application came from a fellow Latin American State and 210 days if they came from non-Latin American States.⁵

(b) Timing and outcomes

19. The graph below looks at the average time taken to reach different outcomes, from the date the application was received by the Central Authority, compared with the global average.⁶ For each outcome, applications received by Latin American States took longer to resolve, compared with the global averages.

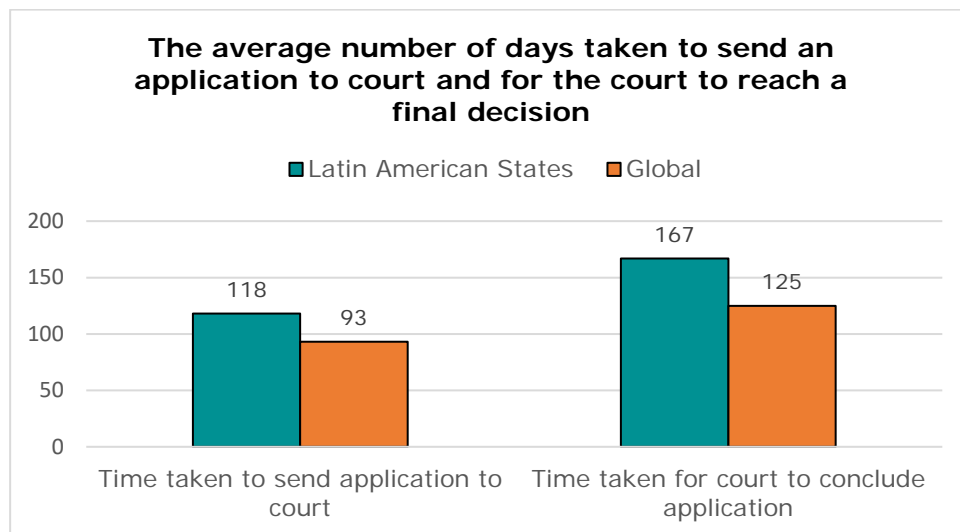
⁵ Based on 55 applications from fellow Latin American States and 106 applications from non-Latin American States.

⁶ Based on 23 applications ending in a voluntary return, 53 ending in a judicial order for return and 27 ending in a judicial refusal.



(c) *The time taken to send applications to court and the time taken for the court to conclude them*

20. The graph below shows the number of days taken for the Central Authorities to send applications to court, from the date at which they received them, and the subsequent time taken for the court to conclude the applications. When compared with the global averages, applications received by Latin American States took longer to send to court and longer to be concluded in court.⁷



(d) *Timing and appeals*

21. Appeals also had an impact on the time taken to reach a final decision. In Latin America, the courts took an average of 155 days to resolve those that did not involve an appeal compared with 208 days for appealed decisions.⁸

22. The time taken to reach a final decision also depended on the number of times the application was appealed. Surprisingly, applications that were appealed only once took longer

⁷ Based on 187 applications in which the time taken to send to court was known and 167 cases in which court time was known.

⁸ Timings calculated from the date the application was sent to court. Based on 95 applications that were not appealed and 29 applications decided on appeal.

to conclude in an average of 235 days to conclude from the date they were received by the court, compared with applications that were appealed twice taking an average of 206 days and the applications that reached three levels of appeal taking an average of just 124 days.⁹

ACCESS APPLICATIONS

5. The number of access applications received by Latin American States

23. As shown in the table below, 62 access applications were received by 12 Latin American States. Of these, 33 came from fellow Latin American States, 53%.

The access applications received by Latin American States in 2015

	From Latin American States		From non-Latin American States		Total
	Freq	%	Freq	%	
Argentina	3	43%	4	57%	7
Brazil	0	0%	3	100%	3
Chile	3	75%	1	25%	4
Colombia	7	78%	2	22%	9
Dominican Republic	1	50%	1	50%	2
El Salvador	0	0%	1	100%	1
Mexico	7	33%	14	67%	21
Panama	1	100%	0	0%	1
Paraguay	4	100%	0	0%	4
Peru	4	100%	0	0%	4
Uruguay	2	50%	2	50%	4
Venezuela	1	50%	1	50%	2
Total	33	53%	29	47%	62

6. Outcomes

d. Overall outcomes

24. Information on the outcome was known in 41 of the 62 applications received by Latin American States. The table below compares the differences in the outcome for applications received from fellow Latin American States and from those from outside Latin America.

The outcomes of access applications received by Latin American in 2015

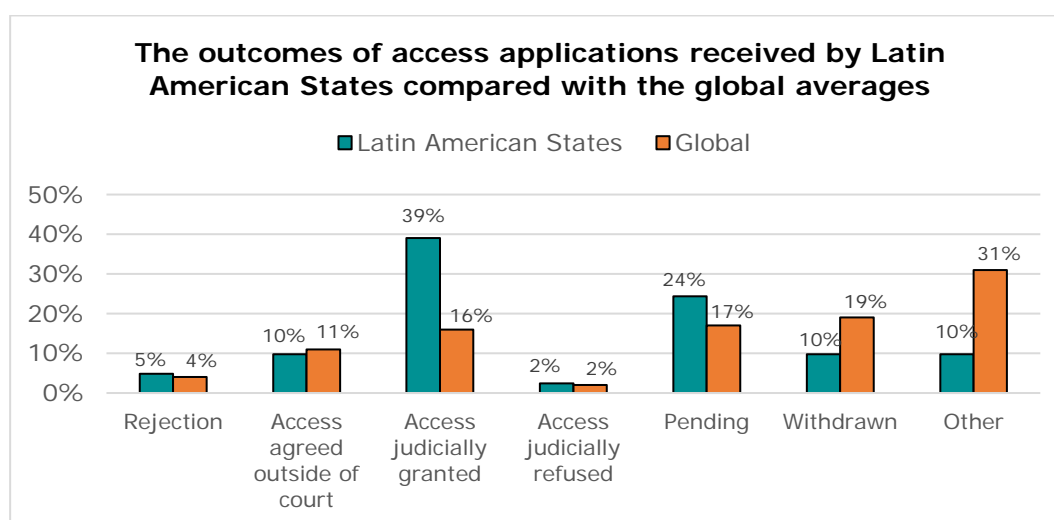
	From fellow Latin American State		From non-Latin American State		Total
	Freq	%	Freq	%	
Rejection		0%	2	9%	5%

⁹ Based on 11 applications that were appealed once, 15 that were appealed twice and 3 appealed three times.

Access agreed outside of court	3	16%	1	5%	10%
Access judicially granted	5	26%	11	50%	39%
Access judicially refused	1	5%		0%	2%
Pending	6	32%	4	18%	24%
Withdrawn	1	5%	3	14%	10%
Other	3	16%	1	5%	10%
Total	19	100%	22	100%	100%

25. The overall rate at which access was agreed or ordered was 49% overall. As with the return rate in return applications, the access rate was higher if the application came from non-Latin American States (55%) compared with applications from Latin American States (42%).

26. The graph below compares the overall figures for all applications received by Latin American States with the global findings. In the applications received by Latin American States, proportionally more applications ended in a judicial order for access or were pending. By contrast, fewer were withdrawn or ended in 'other' outcomes.



f. Cases decided under the Hague Convention and under domestic law

27. Of the 16 judicial orders for access, information on the nature of the order was available in 14. In each of these the case was decided under the Hague Convention. It is interesting to note that of the 16 judicial orders for access, 13 were made in Mexico.

28. By contrast, the single application which was refused by the court was resolved under domestic law. This application was also decided in Mexico.

7. Appeals

29. 18 applications received by Latin American States went to court, including one application which had not yet reached a final decision. Of these, two applications (11%) were appealed, slightly higher than the global average of 9%.

30. The appealed cases were received by Mexico and Uruguay, in both cases access was ordered at first instance and on appeal.

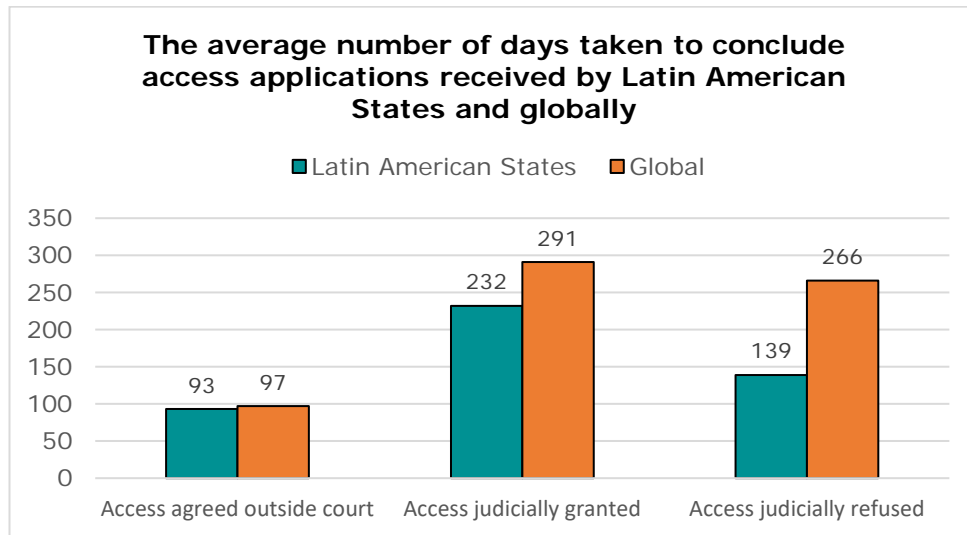
8. Timing

(a) Overall timing from the date the application was received by the Central Authority to the date of the final outcome

31. On average, applications received by Latin American States were resolved in an average of 197 days compared with the global average of 254 days. This average was 213 days if the application came from a fellow Latin American State and 189 days if they came from non-Latin American States.¹⁰

(b) Timing and outcomes

32. The graph below looks at the average time taken to reach different outcomes, from the date the application was received by the Central Authority, compared with the global average.¹¹ For each outcome, applications received by Latin American States were resolved more quickly, in particular in the case of judicial orders refusing access.



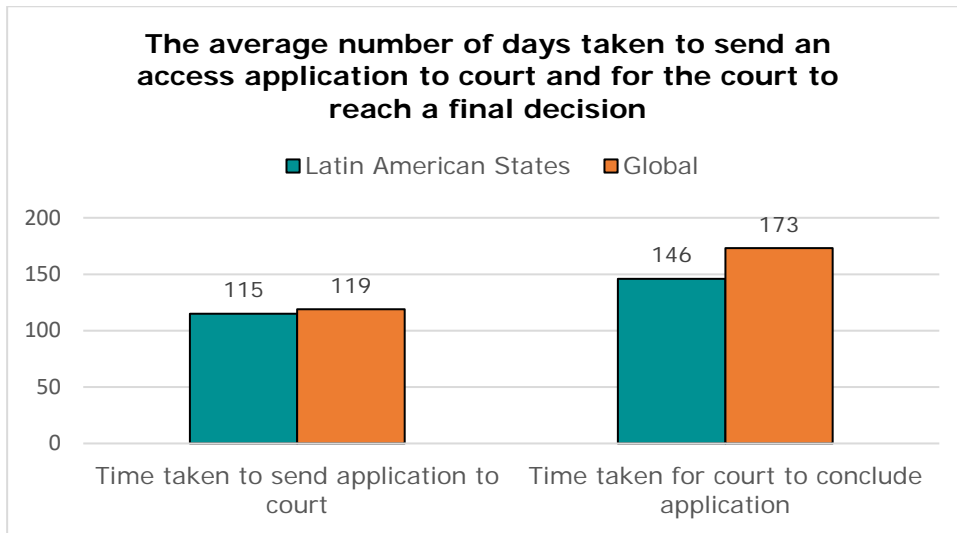
(c) The time taken to send applications to court and the time taken for the court to conclude them

33. The graph below shows the number of days taken for the Central Authorities to send applications to court, from the date at which they received them, and the subsequent time taken for the court to conclude the applications. When compared with the global averages, the time taken to send access applications to court was in line with the global average and the courts concluded the cases more quickly once they were received.¹²

¹⁰ Based on 10 applications from fellow Latin American States and 18 applications from non-Latin American States.

¹¹ Based on 5 applications ending in a voluntary return, 16 ending in a judicial order for return and 2 ending in a judicial refusal.

¹² Based on 38 applications in which the time taken to send to court was known and 25 cases in which court time was known.



(d) Timing and appeals

34. The two applications decided on appeal took significantly longer to conclude, taking 310 and 442 days, from the date at which they were received by the Central Authority.
35. Globally, appealed applications took an average of 433 days to conclude.

C. ASIA PACIFIC

RETURN APPLICATIONS

1. The number of return applications received by Asia Pacific States



1. As part of the 2008 survey, we analysed the operation of the Convention between Australia, Fiji and New Zealand ('the Australasia Report'). Since then a number of Asia Pacific States have ratified or acceded to the Hague Convention and for the 2015 survey we have analysed the operation of the Convention across the Asia-Pacific region as a whole, comprising Australia, China (Hong Kong and Macau), Fiji, Japan, Republic of Korea, New Zealand, and Singapore.¹

2. These seven Asia Pacific States received a total of 116 return applications, amounting to 5% of the 2,270 return applications received globally in 2015.

3. Of the applications received, 47 of these came from fellow Asia Pacific States (41%). No direct comparison can be made with the 2008 findings, but what can be said is that whereas the 2008 Australasia Report showed that 61% of applications received came from Australia, Fiji and New Zealand, in 2015 the comparable proportion was 48%.

4. As shown in the table below, the proportion of applications coming from fellow Asia Pacific States varied considerably from State to State. Notably, 61% of applications to New Zealand came from the Asia Pacific region, but only 33% of applications to Australia. No information was available on the origin of the six applications received by the Republic of Korea.

¹ No information was received from Thailand in time to be included in the 2015 Survey. Philippines' accession came into force in 2016 and was therefore not included in the Survey.

The applications received by Asia Pacific States in 2015

	From Asia Pacific States		From non-Asia Pacific States		
	Frequency	Percentage	Frequency	Percentage	
Australia	15	33%	30	67%	45
China (Hong Kong)	2	40%	3	60%	5
China (Macao)	0	0%	1	100%	1
Fiji	4	100%	0	0%	4
Japan	5	24%	16	76%	21
New Zealand	19	61%	12	39%	31
Republic of Korea					6
Singapore	2	67%	1	33%	3
Total	47	41%	69	59%	116

2. Outcomes

e. Overall outcomes

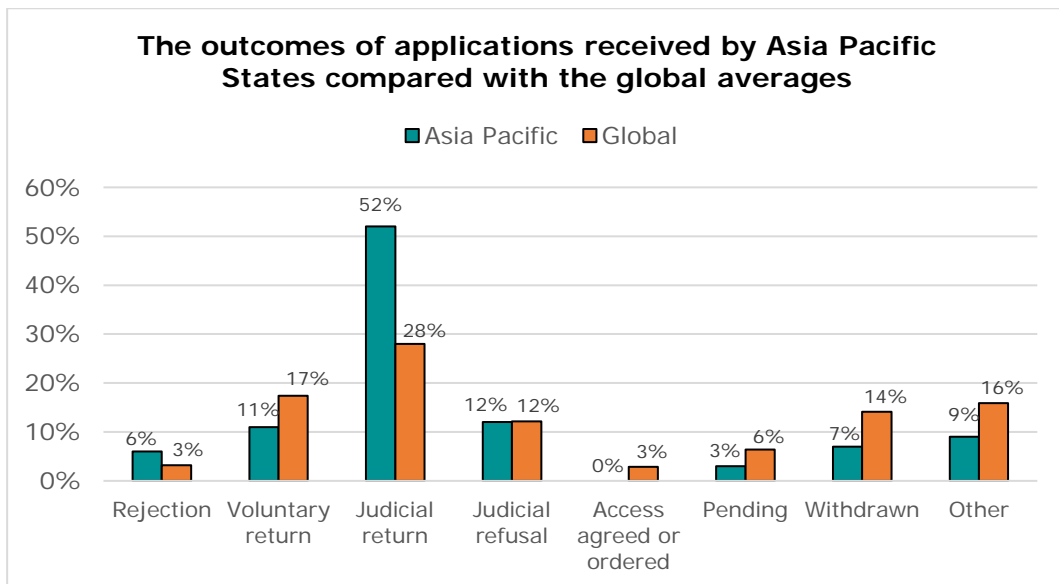
5. Information on the outcome was known in 114 of the 116 applications received by Asia Pacific States, including six applications received by Republic of Korea in which the State of origin was not known. The table below compares the differences in the outcome for applications received from fellow Asia Pacific States and from those from outside the region.

The outcomes of return applications received by Asia Pacific States in 2015

	From fellow Asia Pacific State		From non-Asia Pacific State		Total	
	Freq	%	Freq	%		
Rejection	2	4%	5	8%	7	6%
Voluntary return	5	11%	7	11%	13	11%
Judicial return	25	56%	32	51%	59	52%
Judicial refusal	6	13%	8	13%	14	12%
Access agreed or ordered	0	0%	0	0%	0	0%
Pending	0	0%	1	2%	3	3%
Withdrawn	3	7%	4	6%	8	7%
Other	4	9%	6	10%	10	9%
Total	45	100%	63	100%	114	100%

6. As can be seen from the table above, whether or not the application came from a fellow Asia Pacific State did not greatly affect the outcome, though there was a higher rate of judicial return rate for applications from the region (56% compared with 51% in applications from non-Asia Pacific States.)

7. As the graph below shows, the overall return rate was 63%, significantly higher than the global rate of 45%. A higher proportion of applications were refused, the same proportion were rejected and a lower proportion were pending, withdrawn or ended in other outcomes.



8. Compared with the global averages, the return rate was also found to be higher for applications received by Australia and New Zealand at 68% in 2008 and 64% in 2003.

e. The applications decided in court

9. In 2015, 78 applications received by Asia Pacific States went to court. Of these, 75 reached a final court decision (66% of applications received by Asia Pacific States). 79% of these ended in an order for return, 19% in a refusal to return and 3% in other voluntary agreements. This can be compared with the global averages of 43% of applications being decided in court, 65% ending in an order for return, 28% in a refusal and 6% in an order for access.

10. Proportionally more applications received from fellow Asia Pacific States were decided in court (71% compared with 65% of applications from non-Asia Pacific States). Exactly the same proportion of court decisions were for the return of the child (78%) whether or not the application came from a fellow Asia Pacific State.²

f. Judicial refusals and reasons for refusal

11. In 2015, 12% of all applications received by Asia Pacific States were refused which the same proportion recorded globally. The reasons for refusal were recorded for only seven applications, shown in the table below.

12. Analysis of refusals is complicated because some applications are refused for multiple reasons. In 2015, in the case of Asian Pacific States, only one refusal was recorded as being based upon on more than one ground. This compares with 16% globally. This one application was received by New Zealand and the refusal was based on both the child not being habitually resident in the Requesting State and Article 13(1) a) consent.

13. Notwithstanding the low numbers it is possible to see certain differences between the reasons for refusal in Asia Pacific compared with the global averages, for example, a high proportion of applications were refused based on the consent of the left-behind parent.

² Note: an additional two applications received by Republic of Korea went to court and ended in the return of the child, however the State from which the application originated was not known.

The combined reasons for refusal in applications received by Asia Pacific States compared with globally

	Asia Pacific States		Global	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	2	29%	46	25%
Applicant had no rights of custody	0	0%	13	7%
Art. 12	2	29%	32	17%
Art. 13(1) a) not exercising rights of custody	0	0%	11	6%
Art. 13(1) a) consent	3	43%	28	15%
Art. 13(1) a) acquiescence	0	0%	16	9%
Art. 13(1) b)	0	0%	47	25%
Child's objections	1	14%	27	15%
Art. 20	0	0%	2	1%
Other	0	0%	0	0%
Number of reasons	8	114%	222	120%
Number of applications	7		185	

3. Appeals

14. In 2015, 78 applications received by Asia Pacific States went to court and 19 of these were appealed (24%). This can be compared with the global average of 31%.

g. Outcomes on appeal

15. Of the 19 appealed applications, the outcome was known in 18. Of these, 61% ended in a return, 33% in a refusal and one application ended in a voluntary return (6%).

16. The first instance decision was recorded in 18 appealed applications, of which, 72% ended in a return and 28% in a judicial refusal. In cases where both the first and appealed outcome were known, 76% of appeals confirmed the first instance decision, compared with 67% globally. This figure was 75% if this was an order for return and 80% if it was a refusal.

h. Multiple appeals

17. No applications received by Asia Pacific States were appealed more than once, compared with 6% globally.

4. Timing

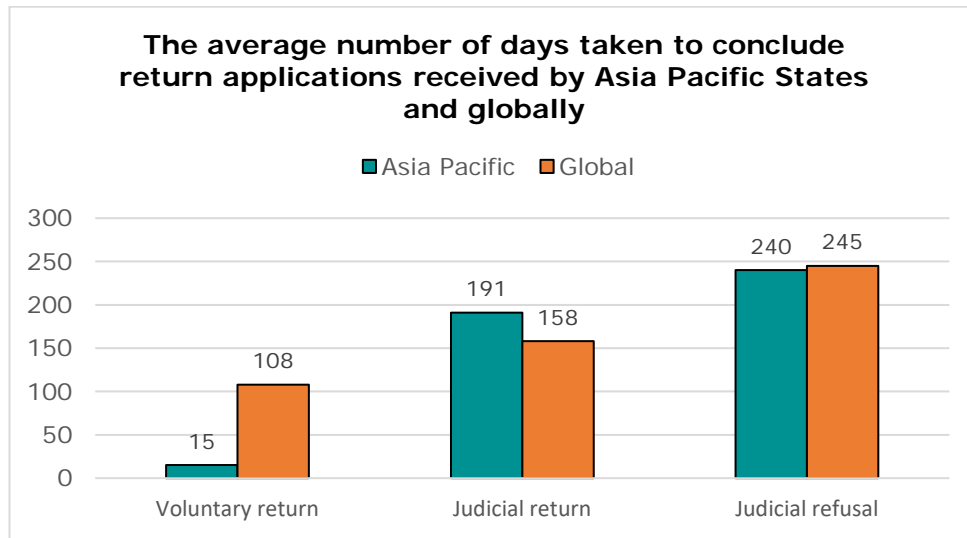
(a) Overall timing from the date the application was received by the Central Authority to the date of the final outcome

18. On average, applications received by Asia Pacific States were resolved in an average of 94 days if they came from a fellow Asia Pacific State and 177 days if they came from a non-Asia Pacific State. Overall applications took an average 144 days to conclude compared with the global average of 164 days.

(b) Timing and outcomes

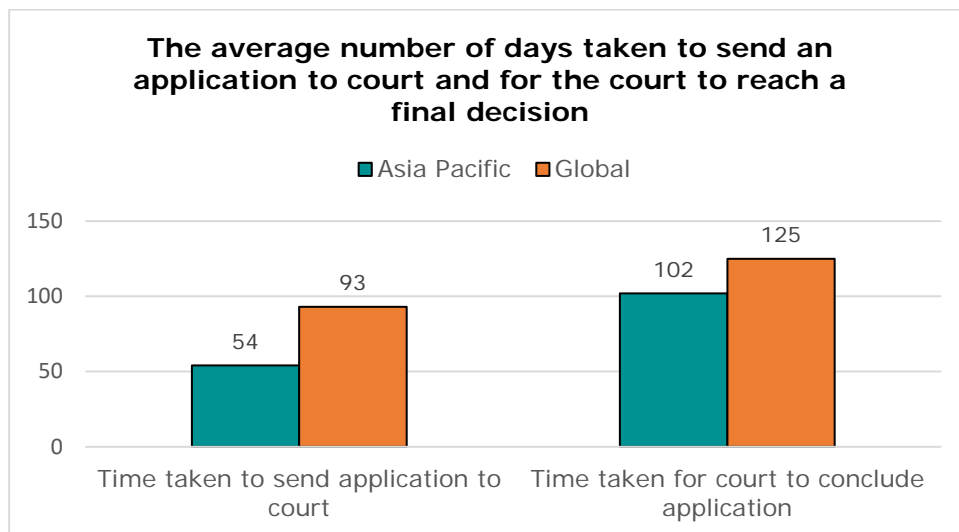
19. The graph below looks at the average time taken to reach different outcomes, from the date the application was received by the Central Authority, compared with the global average. The three applications ending in voluntary returns were resolved very quickly and judicial

refusals also took less time, compared with the global average. By contrast, judicial orders for return took longer to conclude.



(c) The time taken to send applications to court and the time taken for the court to conclude them

20. Compared with the global averages, applications received by Asia Pacific States were both sent to court and concluded more quickly.



(d) Timing and appeals

21. Appeals also had an impact on the time taken to reach a final decision. In Asia Pacific States, the courts took an average of 88 days to resolve cases that did not involve an appeal compared with 160 days for appealed decisions. Globally, it took an average of 93 days for a court to resolve a case that was not appealed and 190 days to resolve a case that was appealed once.

ACCESS APPLICATIONS

5. The number of access applications received by Asia Pacific States

22. As shown in the table below, 31 access applications were received by 4 Asia Pacific States. Of these, 6 came from fellow Asia Pacific States, 19%. The origin of the access application received by the Republic of Korea was not known.

The access applications received by Asia Pacific States in 2015

	From Asia Pacific States		From non- Asia Pacific States		Total
	Freq	%	Freq	%	
Australia	2	18%	9	82%	11
China (Hong Kong)	1	100%			1
Japan	3	17%	15	83%	18
Republic of Korea					1
Total	6	19%	24	77%	31

6. Outcomes

f. Overall outcomes

23. The table below compares the differences in the outcome for applications received from fellow Asia Pacific States and from those from outside the Asia Pacific region.

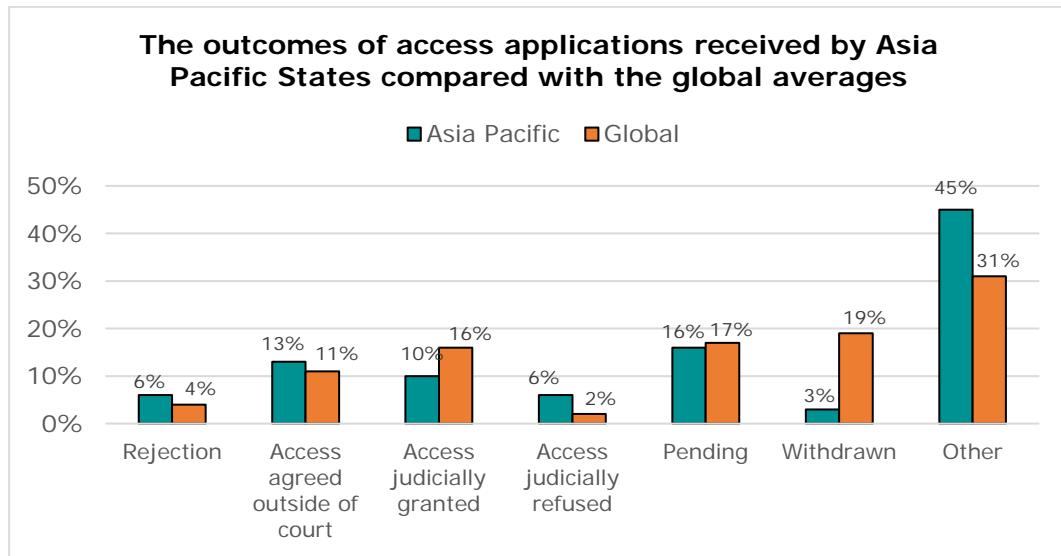
The outcomes of access applications received by Asia Pacific States in 2015

	From fellow Asia Pacific State		From non-Asia Pacific State		Total	
	Freq	%	Freq	%	Freq	%
Rejection	1	17%	1	4%	2	6%
Access agreed outside of court	0	0%	4	16%	4	13%
Access judicially granted	1	17%	2	8%	3	10%
Access judicially refused	0	0%	2	8%	2	6%
Pending	2	33%	3	12%	5	16%
Withdrawn	0	0%	1	4%	1	3%
Other	2	33%	12	48%	14	45%
Total	6	100%	25	100%	31	100%

24. Bearing in mind the small numbers involved, the overall rate at which access was agreed or ordered was 23% overall, 17% if the application came from a fellow Asia Pacific State and 24% if it came from a non-Asia Pacific State.

25. The graph below compares the overall figures for all applications received by Asia Pacific States with the global findings. In the applications received by Asia Pacific States, proportionally more applications ended in 'other' outcomes (45% compared with 31%). These applications ended for a variety of reasons, including four which were closed due to the applicant's 'inaction',

one in which the child was not traced and another where the applicant moved to the Requested State, a judicial order for access or were pending. By contrast, fewer were withdrawn or ended in 'other' outcomes.



i. Cases decided under the Hague Convention and under domestic law

26. Information was unavailable on whether the judicial orders were decided under the Hague Convention or national law.

7. Appeals

27. Five applications received by Asia Pacific States went to court. Of these, only one application (20%) was appealed, compared with the global average of 9%.

28. The appealed cases was received by Japan and a return was ordered at first instance and on appeal.

8. Timing

(a) Overall timing from the date the application was received by the Central Authority to the date of the final outcome

29. Information on the time taken to conclude applications was only available for two access applications received by Asia Pacific States, both ending in an order for access. The first, from a non-Asia Pacific State, took 446 days and the second, from an Asia Pacific State and involving an appeal, took 658 days.

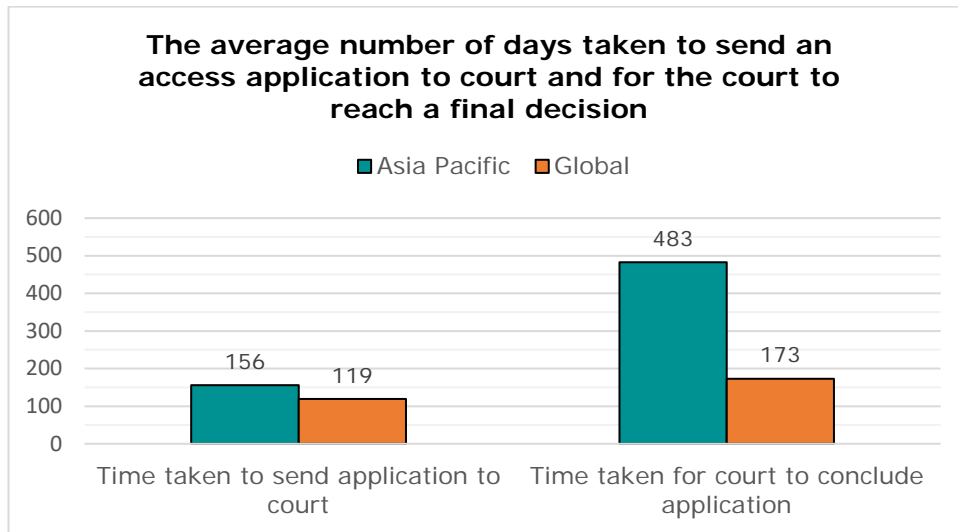
(b) Timing and outcomes

30. These timings are significantly longer than the global average of 291 days to conclude a judicial order for return.

(c) The time taken to send applications to court and the time taken for the court to conclude them

31. The graph below shows the number of days taken for the Central Authorities to send applications to court, from the date at which they received them, and the subsequent time taken for the court to conclude the applications. Information on the time taken to send applications to court was available in seven applications and took an average of 156 days. 161 days if the application came from an Asia Pacific State and 152 days if it came from a non-Asia Pacific State.

32. The time taken for the court to then conclude applications was only available for two applications, taking an average of 483 days, 609 days for an application from an Asia Pacific State and 357 days for an application from a non-Asia Pacific State.



(d) Timing and appeals

33. The application decided on appeal took significantly longer to conclude, taking 658 days, from the date at which it was received by the Central Authority.

34. Globally, appealed applications took an average of 433 days to conclude.