

**ANALYSE STATISTIQUE DES DEMANDES DÉPOSÉES EN 2003 EN
APPLICATION DE LA CONVENTION DE LA HAYE DU 25 OCTOBRE 1980 SUR
LES ASPECTS CIVILS DE L'ENLÈVEMENT INTERNATIONAL D'ENFANTS**

RAPPORTS NATIONAUX

*établie par le Professeur Nigel Lowe, Mme Emily Atkinson,
Mme Katarina Horosova et Mme Samantha Patterson*

* * *

**A STATISTICAL ANALYSIS OF APPLICATIONS MADE IN 2003 UNDER THE
HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF
INTERNATIONAL CHILD ABDUCTION**

NATIONAL REPORTS

*drawn up by Professor Nigel Lowe, Ms Emily Atkinson,
Ms Katarina Horosova and Ms Samantha Patterson*

* * *

**ESTUDIO ESTADÍSTICO DE LAS SOLICITUDES EFECTUADAS EN EL 2003 EN
EL MARCO DEL CONVENIO DE LA HAYA DE 1980 SOBRE LOS ASPECTOS
CIVILES DE LA SUSTRACCIÓN INTERNACIONAL DE MENORES**

INFORMES NACIONALES

*Por el Profesor Nigel Lowe, Sra. Emily Atkinson,
Sra. Katarina Horosova y Sra. Samantha Patterson*

*Document préliminaire No 3, Partie II, d'octobre 2006
à l'intention de la Cinquième réunion de la Commission spéciale sur le fonctionnement
de la Convention de La Haye du 25 octobre 1980
sur les aspects civils de l'enlèvement international d'enfants
(La Haye, 30 octobre – 9 novembre 2006)*

*Preliminary Document No 3, Part II, of October 2006
for the attention of the Fifth meeting of the Special Commission to review the operation of the
Hague Convention of 25 October 1980
on the Civil Aspects of International Child Abduction
(The Hague, 30 October – 9 November 2006)*

*Documento Preliminar No 3, Parte I, de octubre de 2006
a la atención de la Quinta reunión de la Comisión Especial
sobre el funcionamiento del Convenio de La Haya de 25 de octubre de 1980
sobre los Aspectos Civiles de la Sustracción Internacional de Menores
(La Haya, 30 de octubre – 9 de noviembre de 2006)*

**ANALYSE STATISTIQUE DES DEMANDES DÉPOSÉES EN 2003 EN
APPLICATION DE LA CONVENTION DE LA HAYE DU 25 OCTOBRE 1980 SUR
LES ASPECTS CIVILS DE L'ENLÈVEMENT INTERNATIONAL D'ENFANTS**

RAPPORTS NATIONAUX

*établie par le Professeur Nigel Lowel, Mme Emily Atkinson,
Mme Katarina Horosova et Mme Samantha Patterson*

* * *

**A STATISTICAL ANALYSIS OF APPLICATIONS MADE IN 2003 UNDER THE
HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF
INTERNATIONAL CHILD ABDUCTION**

NATIONAL REPORTS

*drawn up by Professor Nigel Lowel, Ms Emily Atkinson,
Ms Katarina Horosova and Ms Samantha Patterson*

* * *

**ESTUDIO ESTADÍSTICO DE LAS SOLICITUDES EFECTUADAS EN EL 2003 EN
EL MARCO DEL CONVENIO DE LA HAYA DE 1980 SOBRE LOS ASPECTOS
CIVILES DE LA SUSTRACCIÓN INTERNACIONAL DE MENORES**

INFORMES NACIONALES

*Por el Profesor Nigel Lowe, Sra. Emily Atkinson,
Sra. Katarina Horosova y Sra. Samantha Patterson*

INTRODUCTION

Background and rationale to the project

Previous statistical research on the operation of the *Hague Convention on the Civil Aspects of International Child Abduction 1980* was conducted during 2000-2001. This research involved a detailed statistical analysis on all applications received by Contracting States in the year 1999. The intention of the study was to provide the 4th Meeting of the Special Commission to Review the Operation of the 1980 Convention with a global insight into the contemporaneous working of the 1980 Convention. The research was undertaken by Professor Nigel Lowe, from the Centre for International Family Law Studies, Cardiff Law School in consultation with the Permanent Bureau. Funding was generously made available by the Nuffield Foundation. A questionnaire was distributed to all Contracting States asking for details on all applications that commenced in 1999. Replies from 34 Contracting States were analysed for the study and a report 'A Statistical Analysis of Applications made in 1999 under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*' was presented to the 4th Special Commission in March 2001 (Preliminary Document 3). A final revised version of the Report was published in November 2001 and is available at http://hcch.e-vision.nl/index_en.php?act=publications.details&pid=2268&dtid=32.

A number of new Contracting States have joined the 1980 Convention since 1999. In order to provide updated information concerning the operation of the 1980 Convention, it was considered important to conduct a further statistical analysis study. This study was undertaken on applications that commenced during 2003 with the results to be presented on at the 5th Special Commission concerning the operation of the 1980 Convention. This project was again undertaken by Professor Nigel Lowe, the Centre for International Family Law Studies, Cardiff Law School, in consultation with the Permanent Bureau. Accuracy was sought by approaching each Contracting State for their own data, and objectivity was ensured as the study was jointly conducted with the Permanent Bureau. The Nuffield foundation once again agreed to fund the project and we are grateful for their generous contribution.

Methodology

The 2003 survey is similar to the 1999 study. However, this project built on the 1999 study and provides some useful comparative information, including an analysis of statistical trends. A questionnaire was distributed to all Contracting States asking for details on all applications that commenced in 2003 regardless of when, or even if, an outcome was reached. The year 2003 was chosen to give as contemporaneous view as possible. The questionnaire sought similar information to the questionnaire used in 1999. This ensured that the data were comparable to that provided for 1999 applications.

In all, we received some information from 58 of the 74 Contracting States. We have experienced generous co-operation from many Central Authorities who have given their time to completing the questionnaires and dealing with subsequent queries, or have allowed us access to the requested information to retrieve the necessary data. In producing this report, we are indebted to the Central Authorities for their hard work and co-operation.

Report

This report is a compilation of individual country reports. A separate global report has also been produced. These reports will be presented at the 5th Special

Commission and are based on replies received by the end of April 2006. To avoid being judgemental and to remain objective, we have been careful in the terminology used. For example, rather than refer to 'abductor' which may in any event be inappropriate for access applications, we have referred to the person who takes the child in return applications as the 'taking person' and the person with care of the child in access applications as the 'respondent'.

The data contained in this report was submitted by Central Authorities from their own record keeping. We received the data between August 2004 and April 2006. Although we have information on incoming and outgoing applications, we have not cross-checked one Central Authority against another. Having initially received the data over a number of months there were inevitably problems in assessing pending applications, some of which had been resolved in the interim. Accordingly, in follow-up research conducted between July 2005 and April 2006 we have sought to collect data on all pending cases up until 30th June 2005. This date was chosen as it is 18 months after the last possible application in 2003 could have been made, and having one single date by which to assess pending cases, makes the data comparable. Most countries contacted during this period have replied and consequently, most cases stated as pending were pending as at 30th June 2005.

INTRODUCTION

Historique et motivation du projet

Une étude statistique antérieure sur le fonctionnement de la *Convention de La Haye de 1980 sur les aspects civils de l'enlèvement international d'enfants* avait été menée en 2000-2001. Cette étude portait sur une analyse statistique détaillée de toutes les demandes reçues par les Etats contractants en 1999. Elle avait pour objectif d'offrir lors de la quatrième réunion de la Commission spéciale sur le fonctionnement pratique de la Convention de 1980 un aperçu général contemporain du fonctionnement de la Convention de 1980. L'étude fut menée par le professeur Nigel Lowe du Centre d'Etudes de Droit International de la Famille de la Faculté de Droit de l'Université de Cardiff, en consultation avec le Bureau Permanent. Le financement fut généreusement apporté par la Fondation Nuffield. Un questionnaire fut envoyé à tous les Etats contractants, requérant des informations sur toutes les demandes déposées en 1999. Les réponses de 34 Etats contractants furent analysées dans l'étude et le rapport « Analyse statistique des demandes déposées en 1999 dans le cadre de la *Convention de La Haye du 25 octobre 1980 sur les aspects civils de l'enlèvement international d'enfants* » fut présenté lors de la quatrième Commission spéciale de mars 2001 (Document préliminaire 3). Une version définitive corrigée du rapport fut publiée en novembre 2001, laquelle peut être consultée sur http://hcch.e-vision.nl/index_en.php?act=publications.details&pid=2268&dtid=32.

Un certain nombre de nouveaux Etats contractants ont rejoint la Convention de 1980 depuis 1999. En vue d'offrir des informations mises à jour sur le fonctionnement de la Convention de 1980, on a estimé important de mener plus loin l'analyse statistique. La présente étude porte sur les demandes déposées en 2003, avec pour intention d'en exposer les résultats lors de la cinquième Commission spéciale sur le fonctionnement de la Convention de 1980. Ce projet a une fois de plus été mené par le professeur Nigel Lowe du Centre d'Etudes de Droit International de la Famille de la Faculté de Droit de l'Université de Cardiff, en consultation avec le Bureau Permanent. La précision des informations a été recherchée en recueillant de chaque Etat contractant lui-même ses propres données et l'objectivité a été assurée dans la mesure où l'analyse a été menée conjointement avec le Bureau Permanent. La Fondation Nuffield a une fois de plus accepté de financer le projet et nous lui sommes très reconnaissants de son généreux don.

Méthodologie

L'étude de 2003 est similaire à l'étude de 1999. Néanmoins, le présent projet s'est appuyé sur l'étude de 1999 pour offrir un certain nombre d'éléments de comparaison utiles, y compris une analyse de tendances statistiques. Un questionnaire a été envoyé à tous les Etats contractants, requérant des informations sur toutes les demandes déposées en 2003, quel que soit le moment où la demande a abouti ou si elle a effectivement abouti. L'année 2003 a été choisie pour offrir une analyse aussi contemporaine que possible. Le questionnaire cherchait à recueillir le même type d'informations que le questionnaire de 1999. Ceci garantissait des données comparables avec celles concernant les demandes de 1999.

En tout et pour tout, nous avons reçu des réponses de 58 des 74 Etats contractants. De nombreuses Autorités centrales ont généreusement pris le temps de collaborer en remplissant le questionnaire et en répondant aux questions, ou bien elles nous ont permis d'accéder aux informations sollicitées pour obtenir les

données nécessaires. Nous leur sommes reconnaissants de leurs efforts et de leur collaboration à la rédaction de ce rapport.

Rapport

Ce rapport regroupe les rapports statistiques individuels. Un rapport global séparé a également été élaboré. Ces rapports, qui seront présentés lors de la cinquième Commission spéciale, reposent sur les réponses reçues jusqu'en avril 2006. Pour rester objectifs et éviter de porter tout jugement, nous avons été prudents dans le choix de la terminologie utilisée. Par exemple, au lieu de faire référence à la personne qui « enlève » l'enfant, terme qui peut de toute façon s'avérer peu approprié dans le contexte de demandes de droit de visite, nous faisons référence à la « personne qui a emmené ou retenu l'enfant » dans le cadre de demandes de retour et au « défendeur » pour parler de la personne à qui s'adresse les demandes de droit de visite.

Les données qui figurent dans ce rapport ont été communiquées par les Autorités centrales et elles sont issues de leurs propres bases de données. Nous avons reçu ces données entre les mois d'août 2004 et avril 2006. Bien que nous ayons des informations sur les demandes « reçues » (*incoming*) et « envoyées » (*outgoing*), nous n'avons pas vérifié si les données communiquées par les différentes Autorités centrales se recoupaient entre elles. Ayant reçu des données sur plusieurs mois, des problèmes se sont inévitablement posés pour l'analyse des demandes en cours, certaines demandes ayant été résolues entre-temps. Par conséquent, dans l'étude de suivi menée entre juillet 2005 et avril 2006, nous avons cherché à recueillir des informations sur toutes les demandes en cours jusqu'au 30 juin 2005. Cette date a été choisie car elle correspondait à 18 mois après la dernière possibilité de dépôt d'une demande en 2003, et fixer une date précise pour l'analyse des demandes en cours permettait de comparer les données. La plupart des Etats contactés au cours de cette période ont répondu, et donc la plupart des demandes déclarées comme étant en cours l'étaient au 30 juin 2005.

INTRODUCCIÓN

Antecedentes y fundamento del proyecto

El estudio estadístico anterior sobre el funcionamiento del *Convenio de La Haya sobre los Aspectos Civiles de la Sustracción Internacional de Menores de 1980* se llevó a cabo durante los años 2000-2001. Este estudio consistió en un análisis estadístico detallado de todas las solicitudes recibidas por los Estados Contratantes en el año 1999. La intención del estudio fue permitir que la Cuarta Reunión de la Comisión Especial para Revisar el Funcionamiento del Convenio de 1980 se formara una visión global del funcionamiento en ese momento del Convenio de 1980. Professor Nigel Lowe, del Centro de Estudios de Derecho Internacional de Familia de la Universidad de Derecho de Cardiff, llevó a cabo el estudio consultando con la Oficina Permanente. La Fundación Nuffield financió generosamente el estudio. Se repartió un cuestionario entre todos los Estados Contratantes, en el que se pedían detalles sobre todas las solicitudes registradas a lo largo de 1999. Se analizaron las respuestas dadas por 34 Estados Contratantes para el estudio y en marzo de 2001 se presentó un informe 'Análisis estadístico de las solicitudes presentadas en 1999 en aplicación del Convenio de *La Haya de 25 de octubre de 1980 sobre los aspectos civiles de la sustracción internacional de menores*' ante la 4ª Comisión Especial (Documento Preliminar 3). La versión final revisada del Informe se publicó en noviembre de 2001 y se puso a disposición en la dirección http://hcch.e-vision.nl/index_en.php?act=publications.details&pid=2268&dtid=32.

Desde 1999, una serie de Estados Contratantes nuevos se han vuelto parte al Convenio de 1980. Con miras a facilitar información actualizada concerniente al funcionamiento del Convenio de 1980, se consideró importante llevar a cabo un estudio estadístico posterior. Este estudio se llevó a cabo en función de las solicitudes registradas a lo largo de 2003 y los resultados se presentarán ante la 5ª Comisión Especial concerniente al funcionamiento de la Convención de 1980. Professor Nigel Lowe, del Centro de Estudios de Derecho Internacional de Familia de la Universidad de Derecho de Cardiff, volvió a llevar a cabo este proyecto consultando con la Oficina Permanente. Se aspiró a la precisión dirigiéndose a cada Estado Contratante para pedirles sus propios datos, y se garantizó la objetividad puesto que el estudio se llevó a cabo conjuntamente con la Oficina Permanente. Una vez más, la Fundación Nuffield estuvo dispuesta a financiar el proyecto y le estamos agradecidos por su generosa contribución.

Metodología

El informe de 2003 es similar al estudio de 1999. Sin embargo, este proyecto se basa en el estudio de 1999 y facilita información comparativa útil, como por ejemplo un análisis de las tendencias estadísticas. Se repartió un cuestionario entre todos los Estados Contratantes en el que se pidieron detalles sobre todas las solicitudes registradas a lo largo de 2003 sin tener en cuenta cuándo, ni tan siquiera si se consiguió un resultado. Se eligió el año 2003 para dar una visión lo más actualizada posible. En el cuestionario se pedía información similar a la información solicitada en el cuestionario utilizado en 1999. De esta manera, se garantizó que los datos fueran comparables a los facilitados en el caso de las solicitudes de 1999.

En total, recibimos información de 58 de los 74 Estados Contratantes. Pudimos contar con la generosa cooperación de muchas Autoridades Centrales que dedicaron tiempo a rellenar los cuestionarios y a responder a las preguntas subsiguientes, y que nos permitieron acceder a la información solicitada para conseguir los datos necesarios. Por lo tanto, agradecemos a las Autoridades Centrales su intenso trabajo y cooperación en la elaboración de este informe.

Informe

Este informe es una compilación de los informes nacionales individuales. También se ha elaborado un informe global aparte. Estos informes se presentarán ante la 5ª Comisión Especial y se basan en las respuestas recibidas a finales de abril de 2006. Con el fin de ser imparciales y objetivos, hemos sido prudentes en la elección de la terminología utilizada. Por ejemplo, en vez de referirnos al 'sustructor' que puede ser en todo caso inadecuado en el marco de las solicitudes de derecho de visita, nos hemos referido a la persona que sustrae al menor en el contexto de las solicitudes de restitución como a la persona que se lleva o retiene al menor y, a la persona encargada del cuidado del menor en el contexto de las solicitudes de derecho de visita como el 'demandado'.

Los datos que figuran en el informe fueron facilitados por las Autoridades Centrales de sus propios registros. Recibimos los datos entre agosto de 2004 y abril de 2006. Aunque disponemos de información sobre las solicitudes recibidas y enviadas, no comparamos los datos aportados por una Autoridad Central con los datos aportados por otra. Puesto que inicialmente recibimos los datos a lo largo de varios meses, inevitablemente hubo problemas a la hora de evaluar las solicitudes pendientes, algunas de las cuales se han resuelto entretanto. Por consiguiente, en el estudio de seguimiento llevado a cabo entre julio de 2005 y abril de 2006, intentamos recopilar los datos sobre todos los casos pendientes hasta el 30 de junio de 2005. Se eligió esta última fecha por haber transcurrido 18 meses desde la última solicitud posible que se pudo haber hecho en 2003, y porque al disponer de una sola fecha para evaluar los casos pendientes se pueden comparar los datos. La mayoría de los países con los que nos pusimos en contacto durante ese periodo respondieron y por lo tanto la mayoría de los casos consignados como pendientes fueron casos pendientes hasta el 30 de junio de 2005.

ARGENTINA

The applications

1. The number of applications

Incoming Return Applications	13
Incoming Access Applications	6
Outgoing Return Applications	43
Outgoing Access Applications	13

According to the Central Authority for Argentina, they received 13 incoming return and 6 incoming access applications in 2003, making a total of 19 incoming applications. This compares with 18 incoming applications (12 of which were return applications and 6 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 68% to 32%, can be compared with the 2003 global average of 84% to 16%.

Additionally, the Central Authority made 43 outgoing return applications and 13 outgoing access applications in 2003.¹ This can be compared with 20 return applications and 6 access applications made in 1999.

Altogether, the Central Authority handled 75 new applications in 2003, compared with 44 new applications in 1999.

The overall ratio of incoming to outgoing applications was 25% to 75%.

Beyond giving the number of applications Argentina did not participate in the 1999 survey so comparisons cannot further be made.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Spain	3	23%
USA	3	23%
France	2	15%
Brazil	1	8%
Chile	1	8%
Colombia	1	8%
Germany	1	8%
Italy	1	8%
Total	13	~100%

Argentina received applications for return from 8 Contracting States. Nearly half (46%) of return applications were received from Spain and the USA. Relatively few, 3 (23%) applications, were received from other South American states. This is interesting given the number of applications made by Argentina to Chile and Mexico (3 and 2 respectively).

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

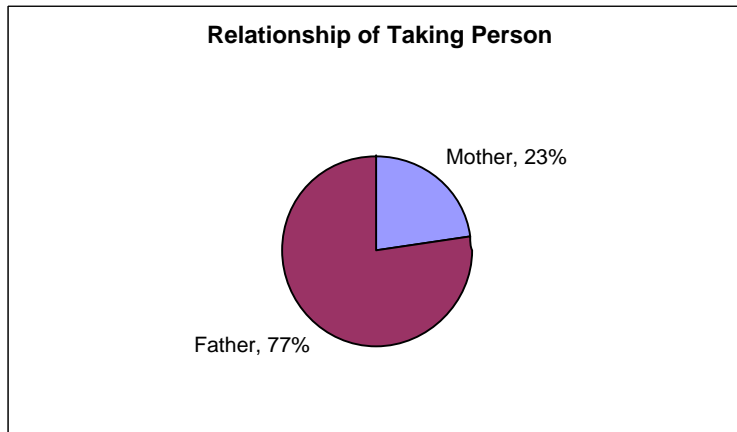
(b) Incoming access applications**Requesting State 2003**

	Number	Percent
Chile	1	17%
Colombia	1	17%
France	1	17%
Israel	1	17%
Italy	1	17%
UK - England & Wales	1	17%
Total	6	~100%

Argentina received access applications, from 6 different Contracting States, 4 of which were from Contracting States that also made return applications in that year. Interestingly none were made by Spain and the USA which had made the most return applications.

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications****Relationship of Taking Person**

	Number	Percent
Mother	3	23%
Father	10	77%
Total	13	100%



The 2003 survey obtained details of the relationship of the taking person to the child. In Argentina only 3 taking persons (23%) were mothers. This is strikingly different to the global position with the majority of taking persons (68%) being mothers. It is also in contrast to the proportion of respondent mothers to access applications (see below).

(b) Incoming access application**Relationship of the Respondent**

	Number	Percent
Mother	6	100%
Total	6	100%

In all 6 access applications the respondent was the mother compared with the global average of 79%.

4. The status of the taking person as carer in relation to the child

Argentina did not provide information regarding the carer of children.

5. The nationality of the taking person / respondent**(a) Incoming return applications****Taking Person Nationality as Requested State**

	Number	Percent
Same Nationality	10	77%
Different Nationality	3	23%
Total	13	100%

The above table shows that in 10 of the 13 (77%) applications, the taking person was Argentinean (including 2 cases of dual nationality). 23% of taking persons had a different nationality. This compares with the global average of 55% of taking persons having the same nationality as the requested State and 45% who had a different nationality.

(b) Incoming access applications**Respondent Same Nationality as Requested State**

	Number	Percent
Same Nationality	4	67%
Different Nationality	2	33%
Total	6	100%

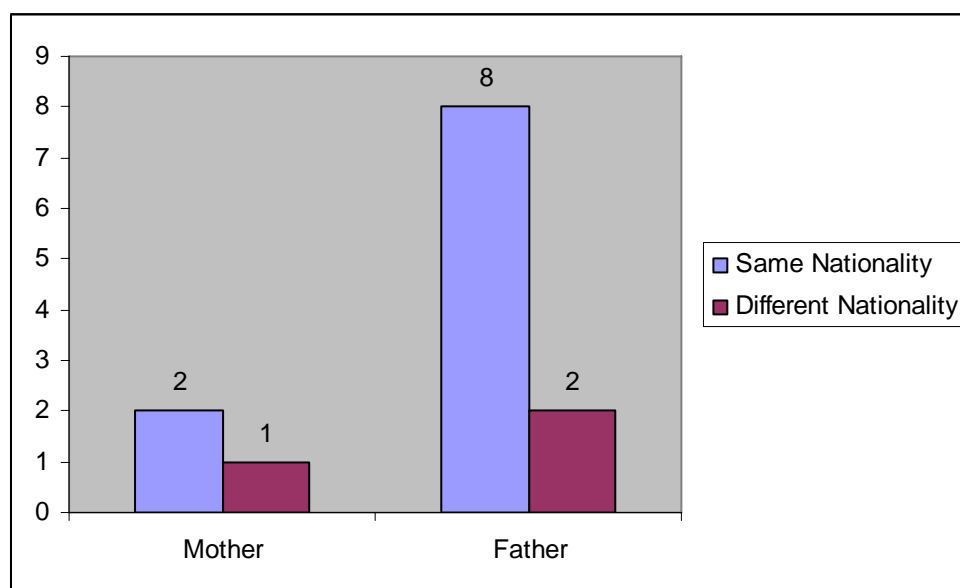
In 4 of the 6 (67%) access applications, the respondents were Argentinean (this includes one case of dual nationality). This can be compared with the global average of 53% of respondents recorded as having the same nationality as the requested State.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	2	8	10
Different Nationality	1	2	3
Total	3	10	13



As can be seen, in relation to both mothers and fathers the taking person was more often recorded as being Argentinean. 2 out of 3 (66%) of mothers and 8 out of 10 (80%) fathers were Argentinean. This may indicate that they were attempting to take the child 'home' when they took the child from the country of habitual residence. The high proportion of fathers apparently going home is particularly to be noted. These figures can be compared with global finding that 54% of mothers and 55% of fathers were nationals of the requested State.

(b) Incoming access applications

See 3(b) and 5(b) above. Globally, 49% of respondent mothers had the same nationality as the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 16 children involved in the 13 incoming return applications in 2003. In 2003, on average 1.23 children were involved in return applications. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 8 children involved in the 6 incoming access applications in 2003. In 2003, on average 1.33 children were involved in access applications. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	11	85%
Sibling Group	2	15%
Total	13	100%

Number of Children

	Number	Percent
1 Child	11	85%
2 Children	1	8%
3 Children	1	8%
Total	13	~100%

The above table and chart show that 85% of return applications involved a single child. This can be compared with the global average of 67%. In Argentina the overall number of cases involving one or 2 children was 92% which is similar to the global average of 93%.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	5	83%
Sibling Group	1	17%
Total	6	100%

Number of Children

	Number	Percent
1 Child	5	83%
3 Children	1	17%
Total	6	100%

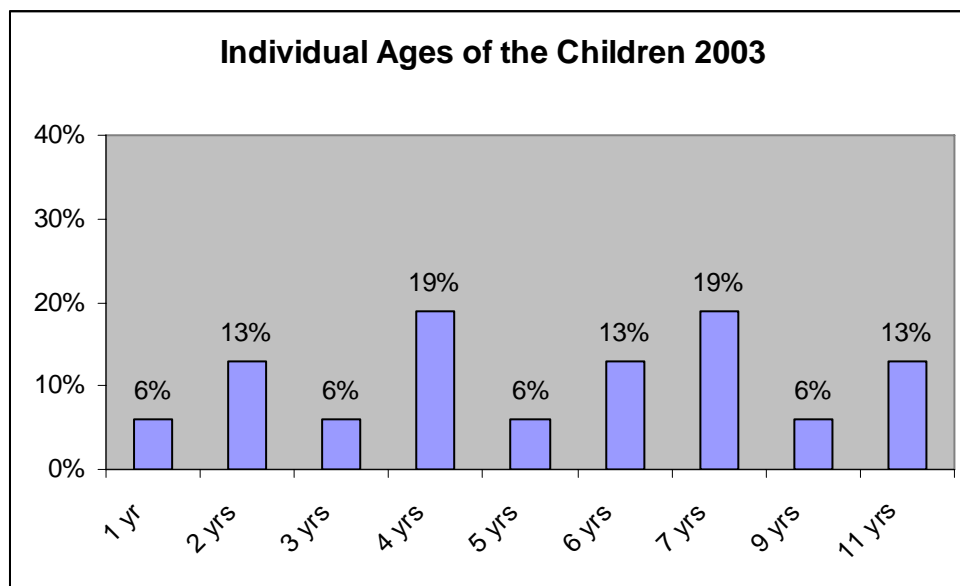
The proportion of single children involved in access applications, 83%, was higher than the 2003 global average of 71%. One application (17%) involved a sibling group of 3 children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	1	6%
2 yrs	2	13%
3 yrs	1	6%
4 yrs	3	19%
5 yrs	1	6%
6 yrs	2	13%
7 yrs	3	19%
9 yrs	1	6%
11 yrs	2	13%
Total	16	~100%

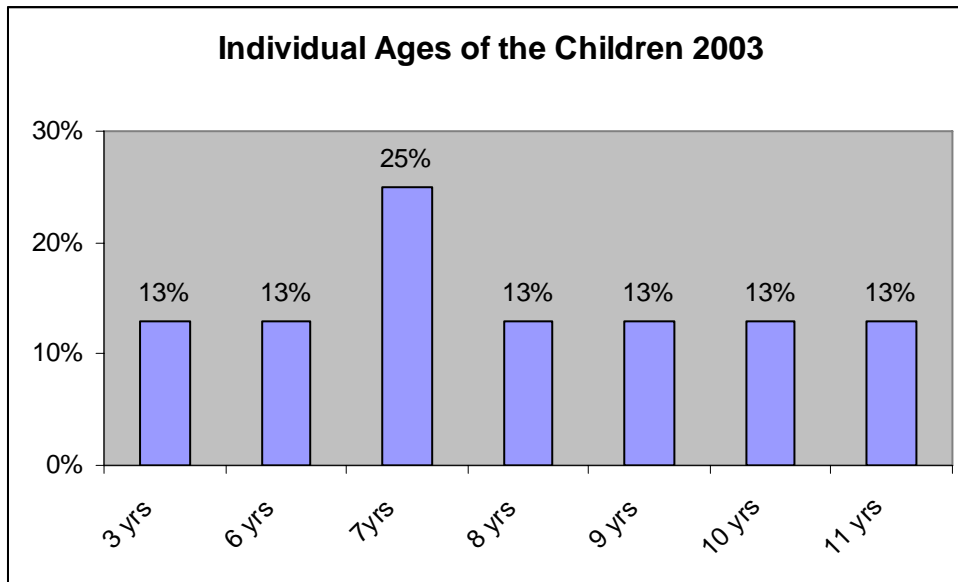


The above table and chart show the ages of the individual children involved. 63% of the children were between ages 1 and 6, compared with the global average of 55%. No child older than 11 years was involved.

(b) Incoming access applications

Individual Ages 2003

	Number	Percent
3 yrs	1	13%
6 yrs	1	13%
7 yrs	2	25%
8 yrs	1	13%
9 yrs	1	13%
10 yrs	1	13%
11 yrs	1	13%
Total	8	~100%



The above chart and table show ages of the individual children involved. 26% of access applications involved 1 – 6 years olds, compared with 35% globally. As with return applications, no child was aged above 11.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	7	44%
Male	9	56%
Total	16	100%

The proportion of female (44%) and male (56%) children compares with global averages of 51% and 49% respectively.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	3	38%
Male	5	63%
Total	8	100%

As can be seen, 3 out of the 8 children (38%) were female and 5 were male (63%). This compares with the global averages of 45% and 55% respectively.

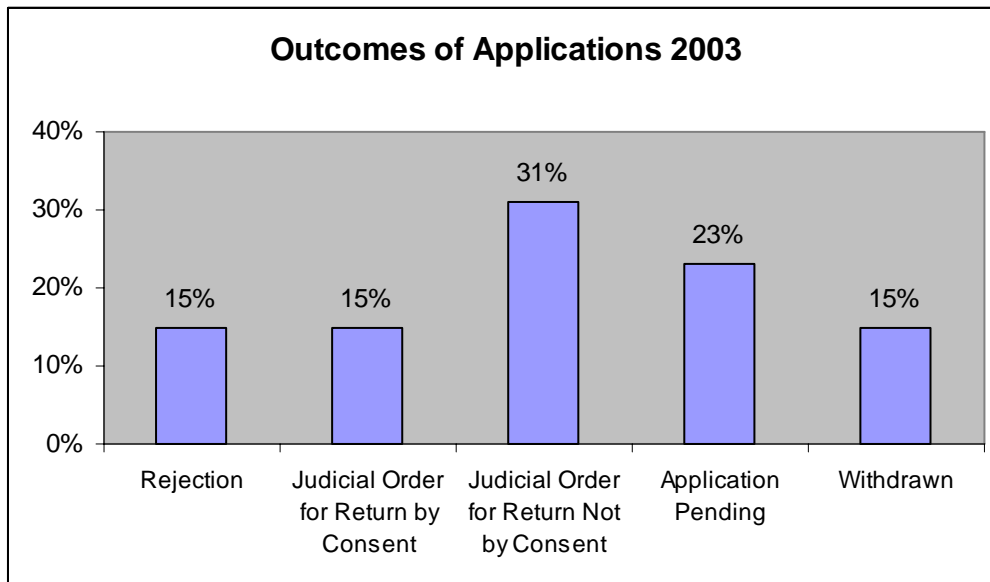
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of the Application

	Number	Percent
Rejection	2	15%
Judicial Order for Return by Consent	2	15%
Judicial Order for Return Not by Consent	4	31%
Application Pending	3	23%
Withdrawn	2	15%
Total	13	~100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Argentina, in 2003, 2 (15%) judicial return orders were made with consent and 4 (31%) without consent.

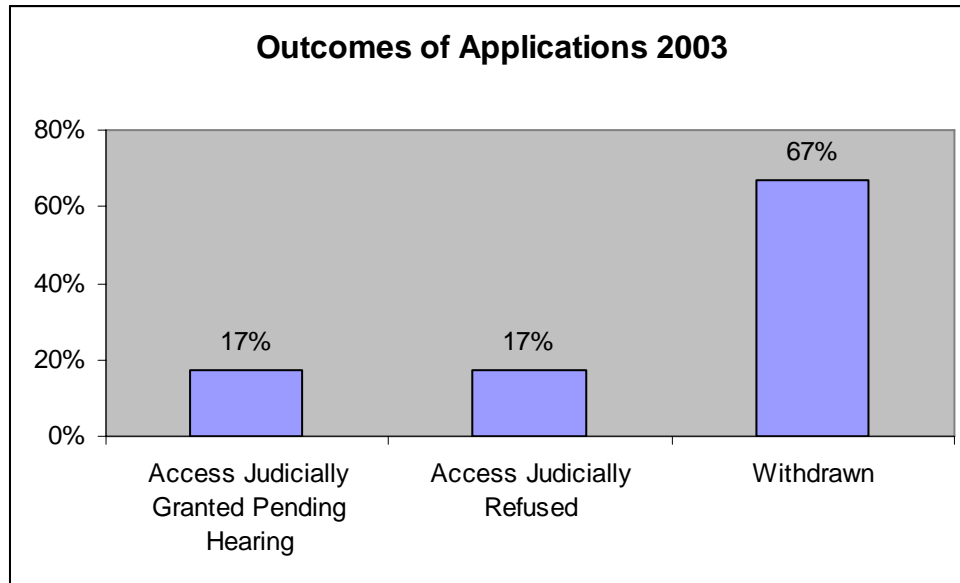
Proportionally, the figures show that a judicial order for return (including by consent) was the most common outcome for an application, with a combined total of 6 cases (46%). This is higher than the global average of 29% but, as there were, strikingly, no voluntary returns, the overall return rate is just below the global average of 51%.

All of the 6 cases going to court ended in a judicial return compared with the global proportion of 66%.² The withdrawal rate (15%) was identical to the 2003 global average. The proportion of pending cases (23%) was above the global average of 9%. Argentina rejected 2 cases (15%), compared with the global average of 6%.

² Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

(b) Incoming access applications**Outcome of the Application**

	Number	Percent
Access Judicially Granted Pending Hearing	1	17%
Access Judicially Refused	1	17%
Withdrawn	4	67%
Total	6	~100%



4 of the 6 access applications (67%) were withdrawn compared with the global average of 22%. In one access application access was granted pending a hearing. In the final application access was judicially refused as a Hague application. No application ended in a full access order being made.

12. The reasons for rejection**(a) Incoming return applications**

One application was rejected as the child was located in another country. The second rejected application was for some 'other' reason.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal**(a) Incoming return applications**

Not applicable.

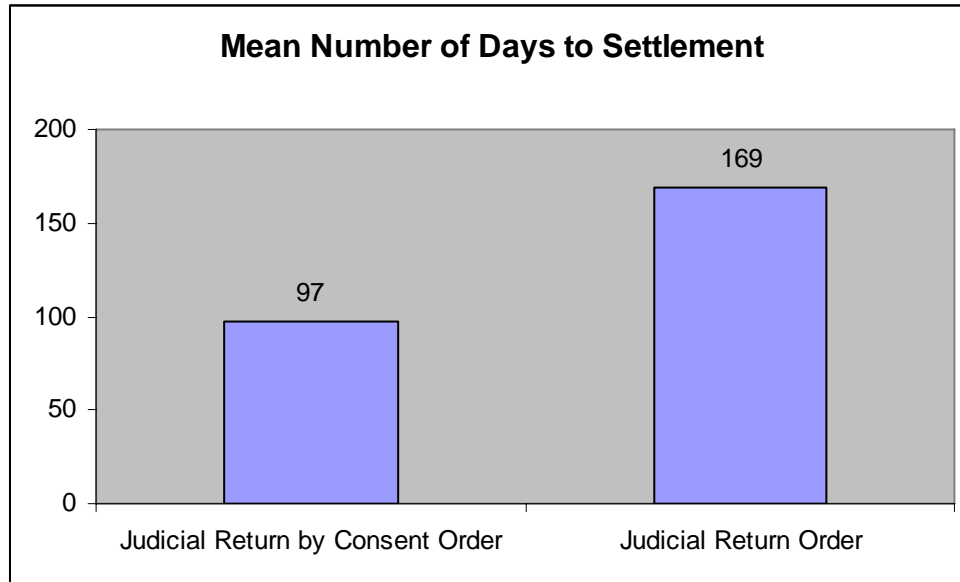
14. The reasons for judicial refusals and the relationship of the taking person**(a) Incoming return applications**

Not applicable.

Speed

15. The time between application and outcome

(a) Incoming return applications



Predictably, return orders by consent were resolved quicker than return orders without consent, in 97 days compared with 169 days. This can be compared with the global averages of 85 days and 143 days respectively.

Judicial returns were handled in a combined average of 145 days which compares with the 2003 global average of 125 days.

Number of Days Taken to Reach Final Outcome: 2003 (including appealed cases)

	Judicial Return by Consent Order	Judicial Return Order
Mean	97	169
Median	97	142
Minimum	69	32
Maximum	125	360
Number of cases	2	4

The table above gives a more informative picture of the system in Argentina. The longest judicial decision took just under a year (360 days). It must be noted, however, that 3 applications were still pending as at 30th June 2005.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order
Mean	93
Median	93
Minimum	32
Maximum	154
Number of cases	2

As can be seen, there is a difference of 76 days in the mean average before and after the exclusion of appealed cases.

(b) Incoming access applications

The one access application which reached final conclusion was resolved in just under a year (362 days) when the application was refused. This can be compared with the 2003 global average of 240 days.

16. Appeals

(a) Incoming return applications

Of the 6 applications which went to court, 2 (33%) were appealed. Globally, 22% of all cases which went to court were appealed. In both cases the first instance decision to order the child's return was upheld on appeal. These applications took 130 and 360 days to reach that` final outcome.

(b) Incoming access applications

The one final judicial decision was not appealed.

ARGENTINA

Las solicitudes

1. El número de solicitudes

Solicitudes de restitución recibidas	13
Solicitudes de derecho de visita recibidas	6
Solicitudes de restitución efectuadas	43
Solicitudes de derecho de visita efectuadas	13

De acuerdo a la Autoridad Central de Argentina, ésta recibió 13 solicitudes de restitución y 6 solicitudes de derecho de visita en el 2003, siendo 19 el total solicitudes recibidas. Esto se compara con las 18 solicitudes recibidas (12 de las cuales fueron solicitudes de restitución y 6 de derecho de visita) recibidas en 1999. El ratio de solicitudes de restitución recibidas frente a las solicitudes de derecho de visita que fue de 68% a 32%, puede compararse con el promedio global de 2003 que fue de 84% a 16%.

Asimismo, la Autoridad Central efectuó 43 solicitudes de restitución y 13 solicitudes de derecho de visita en el 2003.¹ Esto puede compararse con las 20 solicitudes de restitución y 6 solicitudes de derecho de visita efectuadas en 1999.

En conjunto, la Autoridad Central tramitó 75 solicitudes nuevas en el 2003, frente a las 44 solicitudes nuevas de 1999.

El ratio general de solicitudes recibidas y efectuadas fue de 25% a 75%.

Argentina no participó completamente en el estudio estadístico de 1999, por lo tanto no podemos comparar el número de solicitudes recibidas en dicho año.

2. Los Estados contratantes que efectuaron la solicitud

(a) Solicitudes de restitución recibidas

Estados requirentes 2003

	Número	Porcentaje
España	3	23%
EE.UU.	3	23%
Francia	2	15%
Brasil	1	8%
Chile	1	8%
Colombia	1	8%
Alemania	1	8%
Italia	1	8%
Total	13	~100%

Argentina recibió solicitudes de restitución de 8 Estados contratantes. Casi la mitad (46%) de las solicitudes de restitución fueron recibidas de España y EE.UU. Relativamente pocas solicitudes, 3 (23%), fueron recibidas de otros Estados de Sudamérica. Esto es lo más destacable dado el alto número de solicitudes efectuadas por Argentina a Chile y México (3 y 2, respectivamente).

¹ Este es el número total de solicitudes basándonos en lo informado por la Autoridad Central, i.e.; el número de solicitudes que ésta efectuó. Estos casos pueden no haber sido remitidos a otras Autoridades Centrales extranjeras en el 2003, i.e.; algunos casos pueden haber sido retirados antes de la remisión o no remitidos a (o recibidos por) la Autoridad Central extranjera al 31 de diciembre de 2003.

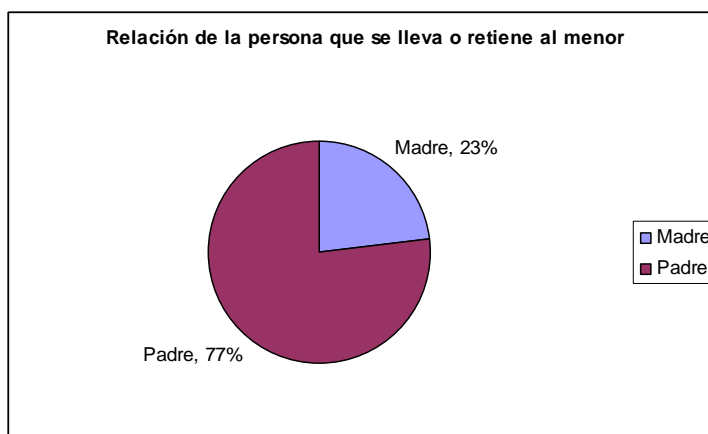
(b) Solicitudes de derecho de visita recibidas**Estado requirente 2003**

	Número	Porcentaje
Chile	1	17%
Colombia	1	17%
Francia	1	17%
Israel	1	17%
Italia	1	17%
Reino Unido - Inglaterra y Gales	1	17%
Total	6	~100%

Argentina recibió solicitudes de derecho de visita de 6 diferentes Estados contratantes, 4 de las cuales provenían de Estados contratantes que también efectuaron solicitudes de restitución en ese año. De manera interesante, ninguna solicitud fue efectuada por EE.UU. y España, quienes efectuaron el mayor número de solicitudes de restitución.

La persona que se lleva o retiene al menor / demandado**3. La relación entre el menor y la persona que lo se lo lleva o retiene / demandado****(a) Solicitudes de restitución recibidas****Relación de la persona que se lleva o retiene al menor**

	Número	Porcentaje
Madre	3	23%
Padre	10	77%
Total	13	100%



El estudio de 2003 obtuvo datos con respecto a la relación entre el menor y la persona que se lo llevó o lo retuvo. En Argentina solamente 3 personas que se llevaron o retuvieron menores (23%) eran madres. Esto es marcadamente diferente a la posición global en la que la mayoría de las personas que se llevan o retienen menores (68%) eran madres.

(b) Solicitudes de derecho de visita recibidas**Relación del demandado**

	Número	Porcentaje
Madre	6	100%
Total	6	100%

En las 6 solicitudes de derecho de visita el demandado era la madre, en comparación con el promedio global de 79%.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

Argentina no proporcionó información con respecto al ejercicio del cuidado del menor.

5. La nacionalidad de la persona que se lleva o retiene al menor / demandado**(a) Solicitudes de restitución recibidas****Nacionalidad de la persona que se lleva o retiene al menor y el Estado requerido**

	Número	Porcentaje
Misma nacionalidad	10	77%
Diferente nacionalidad	3	23%
Total	13	100%

La tabla anterior muestra que en 10 de las 13 (77%) solicitudes, la persona que se lo llevó o lo retuvo al menor era argentina (incluyendo 2 casos de doble nacionalidad). El 23% de las personas que se llevaron o retuvieron menores tenían una nacionalidad diferente. Esto se compara con el promedio global de 55% de personas que se llevaron o retuvieron menores que tenían la misma nacionalidad del Estado requerido y 45% que tenían diferente nacionalidad.

(b) Solicitudes de derecho de visita recibidas**Demandado misma nacionalidad que el Estado requerido**

	Número	Porcentaje
Misma nacionalidad	4	67%
Diferente nacionalidad	2	33%
Total	6	100%

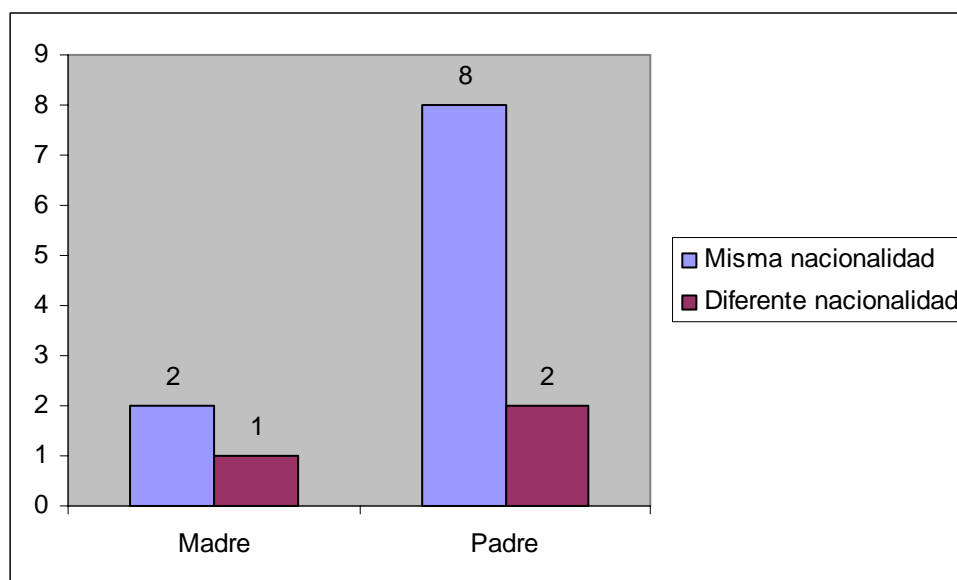
En 4 de las 6 (67%) solicitudes de derecho de visita, el demandado era argentino (esto incluye un caso de doble nacionalidad). Esto puede compararse con el promedio global de 53% demandados con la misma nacionalidad del Estado requerido.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor /demandado combinadas

(a) Solicitudes de restitución

Nacionalidad y relación entre el menor y la persona que lo se lleva o lo retiene

	Relación entre el menor y la persona que lo se lleva o lo retiene		Total
	Madre	Padre	
Misma nacionalidad	2	8	10
Diferente nacionalidad	1	2	3
Total	3	10	13



Como puede apreciarse, con respecto a madres y padres, la persona que se llevo o retuvo al menor ha sido registrada con frecuencia como argentina. Dos de 3 (66%) madres y 8 de 10 (80%) padres eran argentinos. Esto puede indicar que aquellos pretendían llevar al menor al 'hogar' cuando lo trasladaron del país de residencia habitual. De manera particular debe resaltarse el alto porcentaje de padres que aparentemente iban al hogar. Estas cifras pueden compararse con el hallazgo global en el que el 54% de madres y el 55% de padres eran nacionales del Estado requerido.

(b) Solicitudes de derecho de visita recibidas

Véase 3(b) y 5(b) arriba. De manera global, 49% de las madres demandadas tenían la misma nacionalidad del Estado requerido.

Los menores

17.El número total de menores

(a) Solicitudes de restitución recibidas

Hubo 16 menores comprendidos en 13 solicitudes de restitución recibidas en el 2003. En el 2003, en promedio 1.23 menores fueron comprendidos en solicitudes de restitución. A nivel global, un promedio de 1.4 menores fueron comprendidos en solicitudes de restitución en el 2003.

(b) Solicitudes de derecho de visita recibidas

Hubo 8 menores comprendidos en 6 solicitudes de derecho de visita recibidas en el 2003. En el 2003, en promedio 1.33 menores fueron comprendidos en solicitudes de derecho de visita. A nivel global, un promedio de 1.3 menores fueron comprendidos en solicitudes de derecho de visita en el 2003.

8. Un menor o grupos de hermanos

(a) Solicitudes de restitución recibidas

Un menor o grupo de hermanos

	Número	Porcentaje
Un menor	11	85%
Grupo de hermanos	2	15%
Total	13	100%

Número de menores

	Número	Porcentaje
1 menor	11	85%
2 menores	1	8%
3 menores	1	8%
Total	13	~100%

La tabla y el cuadro anteriores muestran que el 85% de solicitudes de restitución comprendieron a un menor. Esto puede compararse con el promedio global de 67%. En Argentina el porcentaje total de casos que comprendían a uno o 2 menores fue de 92%, similar al promedio global de 93%.

(b) Solicitudes de derecho de visita recibidas

Un menor o grupo de hermanos

	Número	Porcentaje
Un menor	5	83%
Grupo de hermanos	1	17%
Total	6	100%

Número de menores

	Número	Porcentaje
1 menor	5	83%
3 menores	1	17%
Total	6	100%

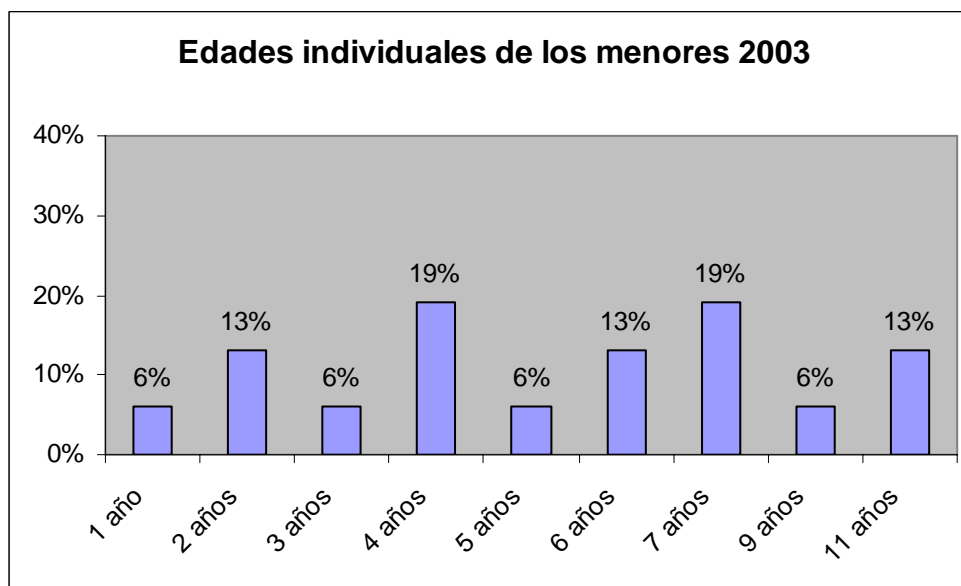
El porcentaje de un solo menor comprendido en las solicitudes de derecho de visita, 83%, fue más alto que el promedio global de 71% de 2003. Una solicitud (17%) comprendió a un grupo de hermanos compuesto por 3 menores.

9. La edad de los menores

(a) Solicitudes de restitución recibidas

Edades individuales 2003

	Número	Porcentaje
1 año	1	6%
2 años	2	13%
3 años	1	6%
4 años	3	19%
5 años	1	6%
6 años	2	13%
7 años	3	19%
9 años	1	6%
11 años	2	13%
Total	16	~100%

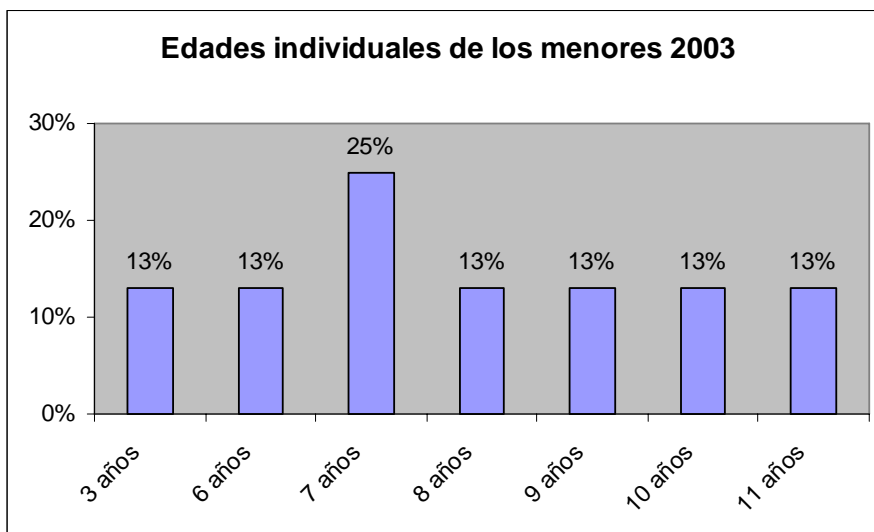


La tabla y el cuadro de arriba muestran las edades de los menores comprendidos en las solicitudes. El 63% de menores tenían entre 1 y 6 años, frente al promedio global de 55%. Ningún menor con más de 11 años fue comprendido en solicitudes.

(b) Solicitudes de derecho de visita recibidas

Edades individuales 2003

	Número	Porcentaje
3 años	1	13%
6 años	1	13%
7 años	2	25%
8 años	1	13%
9 años	1	13%
10 años	1	13%
11 años	1	13%
Total	8	~100%



El gráfico y tabla de arriba muestran las edades de los menores comprendidos en las solicitudes. El 26% de las solicitudes de derecho de visita comprendieron menores entre 1 y 6 años, frente al 35% global. Al igual que en las solicitudes de restitución, ningún menor tenía más de 11 años.

10. El sexo de los menores

(a) Solicitudes de restitución recibidas

Sexo de los menores

	Número	Porcentaje
Femenino	7	44%
Masculino	9	56%
Total	16	100%

El porcentaje de mujeres (44%) y de varones (56%) puede compararse con los promedios globales de 51% y 49%, respectivamente.

(b) Solicitudes de derecho de visita recibidas

Sexo de los menores

	Número	Porcentaje
Femenino	3	38%
Masculino	5	63%
Total	8	100%

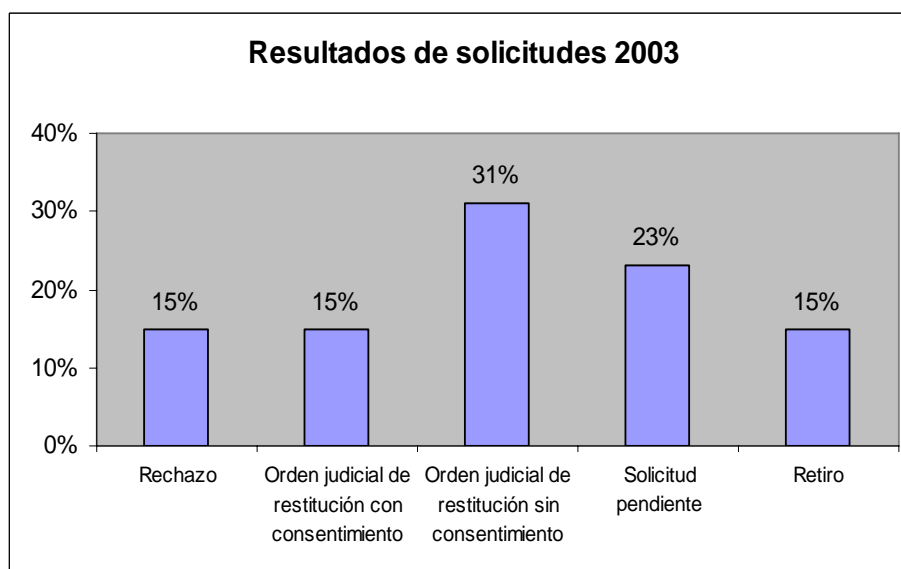
Como puede apreciarse, 3 de los 8 menores (38%) eran mujeres y 5 eran varones (63%). Esto puede compararse con los promedios globales de 45% y 55% respectivamente.

Los resultados

11. Los resultados totales

(a) Solicitudes de restitución recibidas

Resultado de la solicitud		
	Número	Porcentaje
Rechazo	2	15%
Orden judicial de restitución con consentimiento	2	15%
Orden judicial de restitución sin consentimiento	4	31%
Solicitud pendiente	3	23%
Retiro	2	15%
Total	13	~100%



La tabla y el gráfico anteriores muestran los resultados de todas las solicitudes de 2003.

A diferencia del estudio de 1999, el estudio de 2003 muestra la distinción entre órdenes judiciales de restitución efectuadas con y sin consentimiento. En Argentina, en el 2003, 2 (15%) órdenes judiciales de restitución fueron efectuadas con consentimiento y 4 (31%) sin consentimiento.

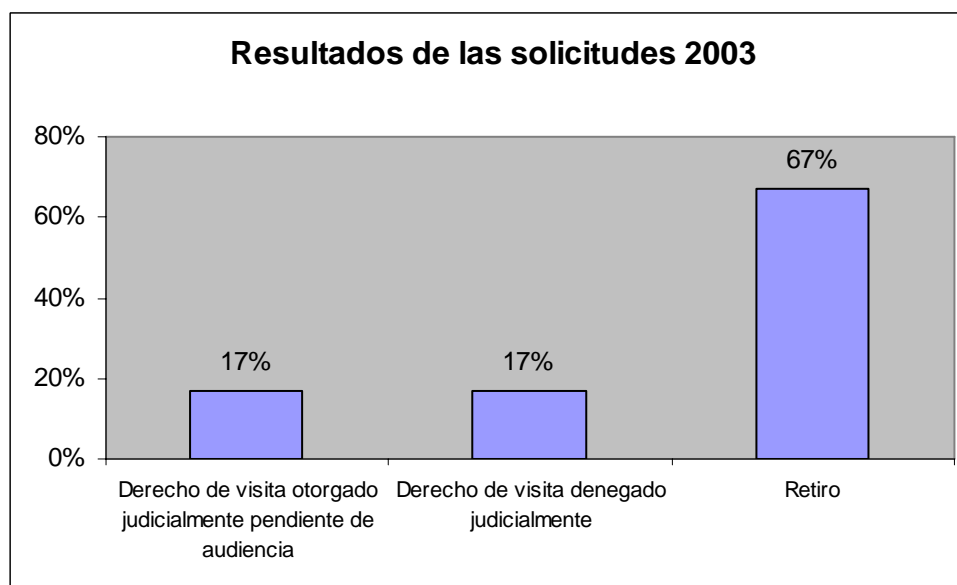
En términos porcentuales, las cifras muestran que una orden judicial de restitución (incluidas aquellas con consentimiento) fue el resultado más común de una solicitud, con un total combinado de 6 casos (46%). Esto es más alto que el promedio global de 29%, sin embargo, dado que remarcablemente no existieron restituciones voluntarias, el índice total de restitución se encuentra justo por debajo del promedio global de 51%.

Los 6 casos ventilados judicialmente concluyeron con una restitución judicial en comparación con el porcentaje global de 66%.¹ El índice de retiro (15%) fue idéntico al promedio global de 2003. El porcentaje de casos pendientes (23%) estuvo por encima del promedio global de 9%. Argentina rechazó 2 casos (15%), en comparación con el promedio global de 6%.

¹ A nivel global, el 66% terminó con una restitución, el 5% con un derecho de visita y, el 29% con una denegatoria judicial. Véase la Parte I del Informe de 2003, p. 24.

(b) Solicitudes de derecho de visita recibidas**Resultado de la solicitud**

	Número	Porcentaje
Derecho de visita otorgado judicialmente	1	17%
Derecho de visita denegado judicialmente	1	17%
Retiro	4	67%
Total	6	~100%



Cuatro de las 6 solicitudes de derecho de visita (67%) fueron retiradas en comparación con el promedio global de 22%. En una solicitud el derecho de visita fue otorgado pendiente de audiencia. En la última solicitud el derecho de visita fue denegado judicialmente como solicitud conforme al Convenio de La Haya. Ninguna solicitud terminó con una orden de derecho de visita completa.

12. Las razones de rechazo**(a) Solicitudes de restitución recibidas**

Una solicitud fue rechazada ya que el menor fue localizado en otro país. La segunda solicitud rechazada lo fue por 'otra' razón.

(b) Solicitudes de derecho de visita recibidas

No aplicable.

13. Las razones de denegatoria judicial**(a) Solicitudes de restitución recibidas**

No aplicable.

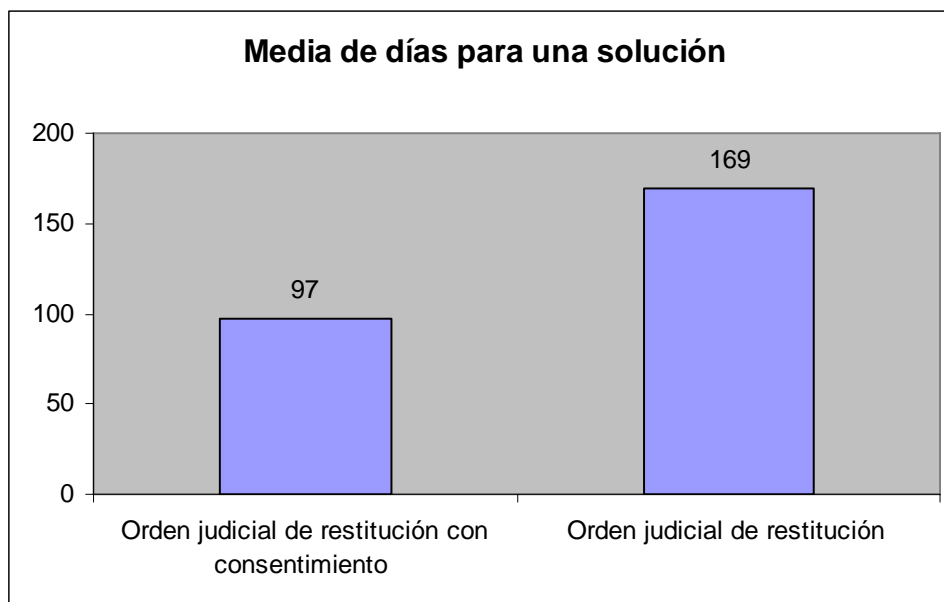
14. Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene**(a) Solicitudes de restitución recibidas**

No aplicable.

Celeridad

15. El tiempo entre la solicitud y el resultado

(a) Solicitudes de restitución recibidas



De manera predecible, las órdenes de restitución con consentimiento fueron resueltas más rápido que las órdenes de restitución sin consentimiento, en 97 días frente a 169 días. Esto puede compararse con los promedios globales de 85 y 143 días, respectivamente.

En consecuencia, las restituciones judiciales fueron tramitadas en un promedio combinado de 145 días. Esto puede compararse con el promedio global de 125 días de 2003.

Número de días para alcanzar un resultado final: 2003 (incluye casos en apelación)

	Orden judicial de restitución con consentimiento	Orden judicial de restitución
Media	97	169
Mediana	97	142
Mínimo	69	32
Máximo	125	360
Número de casos	2	4

La tabla anterior proporciona un cuadro más informativo del sistema en Argentina. La decisión judicial que tomó más tiempo tomó casi menos de un año. Debe notarse, sin embargo que 3 solicitudes se encontraban pendientes al 30 de junio de 2005.

**Número de días para alcanzar un resultado final: 2003
(excluye casos en apelación)**

	Orden judicial de restitución
Media	93
Mediana	93
Mínimo	32
Máximo	154
Número de casos	2

Como puede observarse, existe una diferencia de 76 días en la media antes y después de la exclusión de los casos apelados.

(b) Solicitudes de derecho de visita recibidas

La única solicitud de derecho de visita que alcanzó una solución final fue resuelta con la denegatoria en casi menos de un año (362 días). Esto puede compararse con el promedio global de 240 días de 2003.

16. Apelaciones

(a) Solicitudes de restitución recibidas

De las 6 solicitudes que se ventilaron judicialmente, 2 (33%) fueron apeladas. A nivel global, el 22% de todos los casos que se ventilaron judicialmente fueron apelados. En los dos casos, la decisión de primera instancia que ordenaba la restitución del menor fue confirmada en apelación. Estas solicitudes tomaron 130 y 360 días en alcanzar un resultado final.

(b) Solicitudes de derecho de visita recibidas

La única decisión judicial final no fue apelada.

AUSTRALIA

Incoming Return Applications	43
Incoming Access Applications	19
Outgoing Return Applications	91
Outgoing Access Applications	14

1. The number of applications

Australia has designated Central Authorities in each of its States and mainland Territories. There is also a Commonwealth Central Authority and all applications initially go through this body. According to the Commonwealth Central Authority for Australia, they received 43 incoming return and 19 incoming access applications in 2003, making a total of 62 incoming applications. This is a decrease on the 78 incoming applications (of which 64 were for return and 14 for access) made in 1999. The ratio of incoming return applications to access applications, 69% to 31% differs from the global average of 84% to 16%.

Additionally, the Commonwealth Central Authority made 91 outgoing return applications¹ and 14 outgoing access applications in 2003. This is an increase on the 94 outgoing applications (comprising 81 return applications and 13 access applications) made in 1999.

Altogether, the Commonwealth Central Authority for Australia handled 167 new applications in 2003 compared with 172 in 1999.

The overall ratio of incoming to outgoing applications was 37% to 63%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
New Zealand	15	35%
USA	15	35%
UK - England & Wales	3	7%
Belgium	1	2%
Canada	1	2%
China - Hong Kong	1	2%
Finland	1	2%
Germany	1	2%
Greece	1	2%
Italy	1	2%
Netherlands	1	2%
Romania	1	2%
South Africa	1	2%
Total	43	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been rejected before transmission (at least 3 cases), withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
New Zealand	15 (35%)	22 (34%)
USA	15 (35%)	11 (17%)
UK - England & Wales	3 (7%)	14 (22%)
Belgium	1 (2%)	0 (0%)
Canada	1 (2%)	2 (3%)
China - Hong Kong	1 (2%)	0 (0%)
Finland	1 (2%)	0 (0%)
Germany	1 (2%)	1 (2%)
Greece	1 (2%)	4 (6%)
Italy	1 (2%)	2 (3%)
Netherlands	1 (2%)	0 (0%)
Romania	1 (2%)	0 (0%)
South Africa	1 (2%)	1 (2%)
Macedonia	0 (0%)	1 (2%)
Ireland	0 (0%)	1 (2%)
Sweden	0 (0%)	1 (2%)
UK - Scotland	0 (0%)	1 (2%)
Mexico	0 (0%)	1 (2%)
Israel	0 (0%)	2 (3%)
Total	43 (~ 100%)	64 (~ 100%)

Australia received applications from 13 Contracting States compared with 14 in 1999.

As in 1999, a substantial proportion of applications came from Australia's geographical neighbour - New Zealand. Indeed, 15 out of 43 (35%) applications were made by New Zealand, which compares with the 34% in 1999. The same proportion of applications (35%) came from the USA. However, in 1999, the USA made only 11 (17%) applications to Australia. On the other hand, in 2003, only 3 (7%) applications came from England & Wales, as opposed to 14 (22%) applications in 1999.

No other Contracting State made more than one application to Australia in 2003.

(b) Incoming access applications

Requesting States 2003

	Number	Percent
New Zealand	8	42%
UK - England & Wales	4	21%
Spain	2	11%
France	1	5%
Greece	1	5%
South Africa	1	5%
Switzerland	1	5%
USA	1	5%
Total	19	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
New Zealand	8 (42%)	3 (21%)
UK - England & Wales	4 (21%)	1 (7%)
Spain	2 (11%)	0 (0%)
France	1 (5%)	1 (7%)
Greece	1 (5%)	0 (0%)
South Africa	1 (5%)	0 (0%)
Switzerland	1 (5%)	0 (0%)
USA	1 (5%)	4 (29%)
Argentina	0 (0%)	1 (7%)
Finland	0 (0%)	1 (7%)
Macedonia	0 (0%)	1 (7%)
Italy	0 (0%)	1 (7%)
Netherlands	0 (0%)	1 (7%)
Total	19 (~100%)	14 (~100%)

Unlike in 1999, the highest number of access applications was made by New Zealand, 8 (42%). Indeed, this is double the proportion in 1999 (3, 21%). Interestingly, applications from England and Wales amounted to 21% of the total number received, compared with only 7% in 1999. Conversely, applications from the USA accounted for only 5% of all access applications received by Australia in 2003, compared with 29% in 1999.

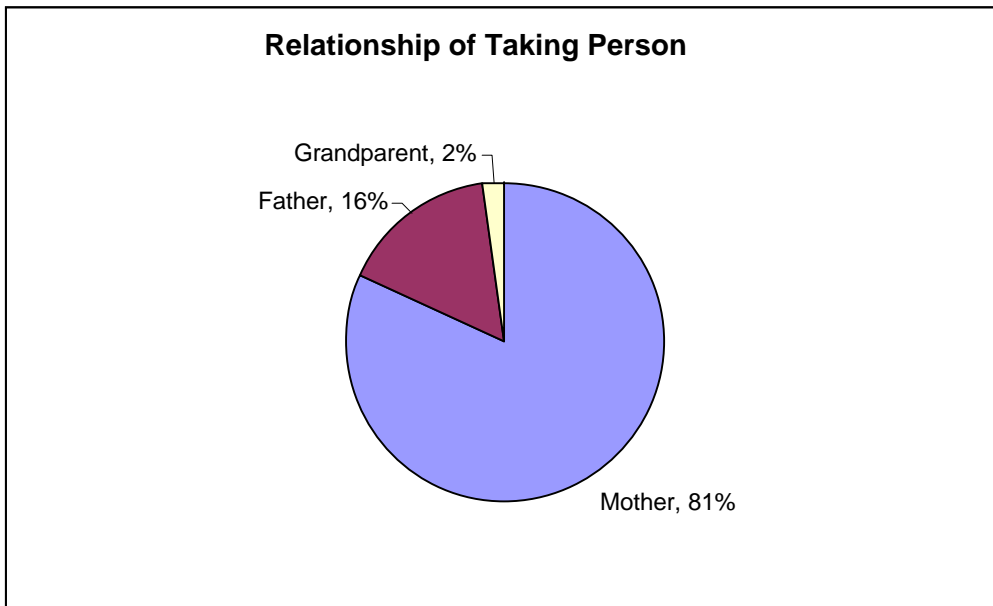
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	35	81%
Father	7	16%
Grandparent	1	2%
Total	43	~100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey.

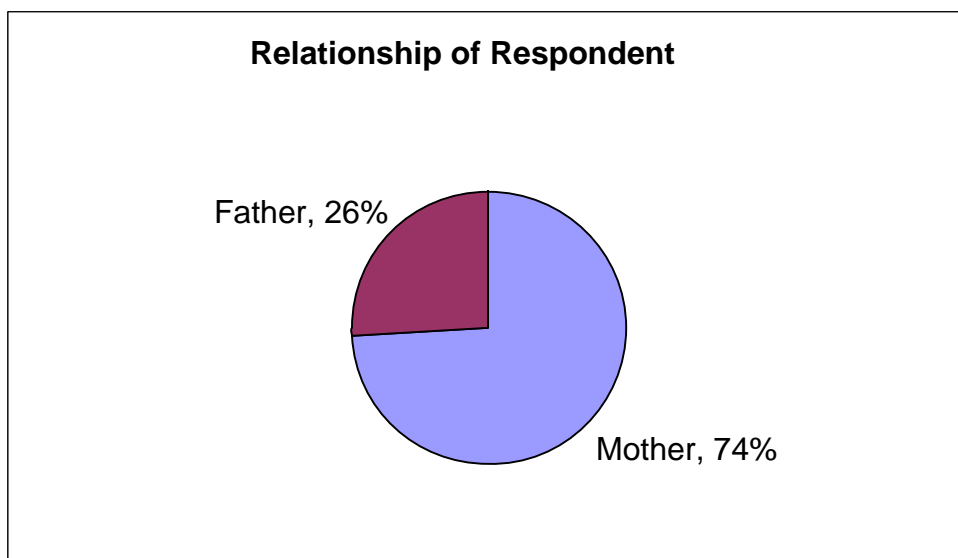
At 81%, the proportion of taking persons recorded as the mother of the child was above the 2003 global average of 68%. In 1999, 70% of taking persons involved in incoming return applications to Australia were female.

In one (2%) application the taking person was the grandparent of the child.

(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	14	74%
Father	5	26%
Total	19	100%



In 14 (74%) access applications the respondent was the mother. This is similar to the 2003 global average of 79%. In 1999, 79% of respondents were recorded as female.

4. The status of the taking person as carer in relation to the child

Australia did not provide information on the status of the taking person as carer.

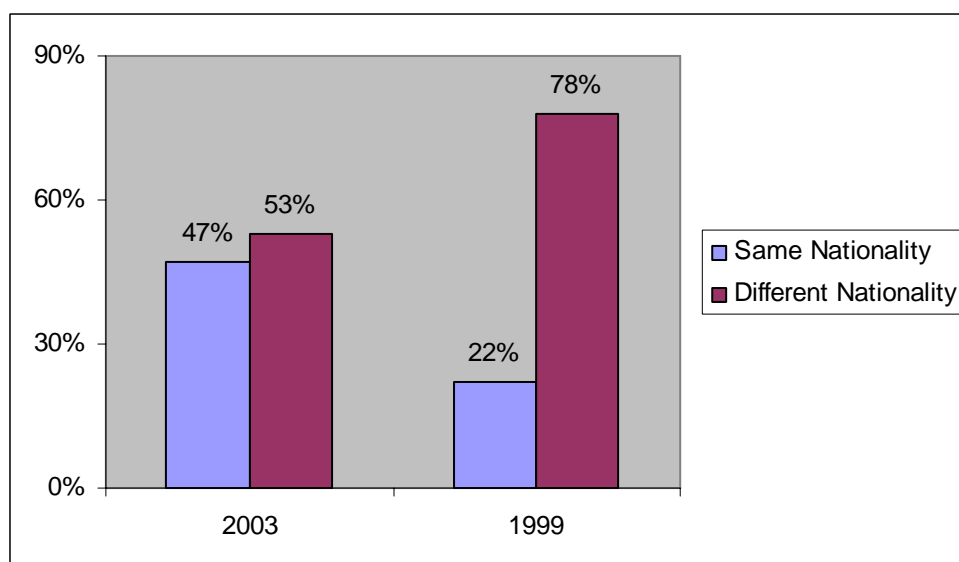
5. The nationality of the taking person / respondent

(a) Incoming return applications²

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	18	47%
Different Nationality	20	53%
Total	38	100%

At 47%, the proportion of taking persons being Australian citizens (including 8 persons with dual nationality) was below the 2003 global average of 55%.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Australian citizens taking children to Australia rose from 22% in 1999 to 47% in 2003. This is closer to, though still below the 2003 global average of 55%.

(b) Incoming access applications³

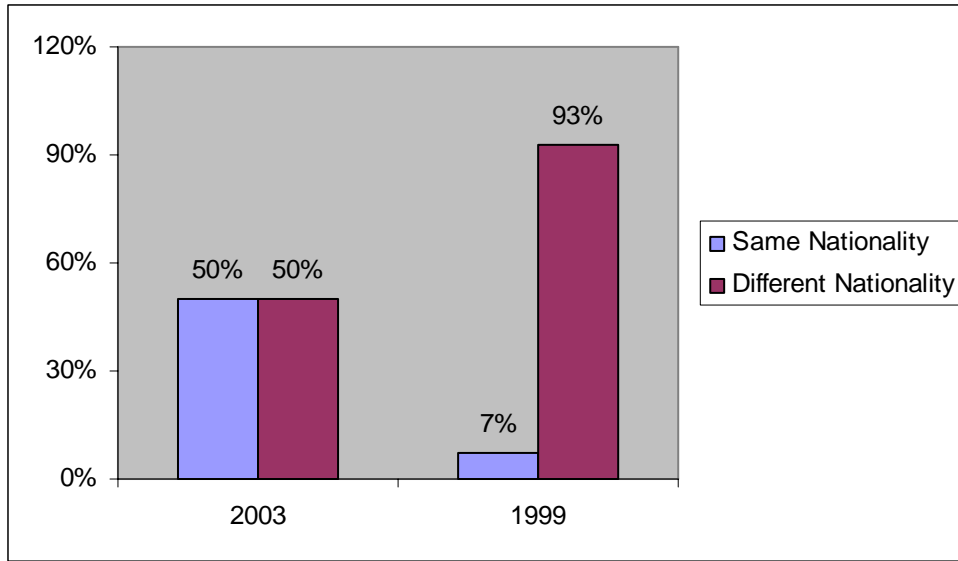
Respondent Same Nationality as the Requested State

	Number	Percent
Same Nationality	9	50%
Different Nationality	9	50%
Total	18	100%

² This information was not available in relation to 5 applications.

³ This information was not available in relation to one application.

At 50%, the proportion of respondents having Australian nationality (including 2 respondents with dual nationality) was slightly below the 2003 global average of 53% of respondents having the nationality of the requested State.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having the nationality of the requested State has markedly risen from 7% in 1999 to 50% in 2003, which is much more in line with the global average of 53%.⁴

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications⁵

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	17	1	18
Different Nationality	16	4	20
Total	33	5	38

As can be seen, in relation to mothers, the taking person was more often recorded as being Australian national. Indeed, 17 out of 33 (52%) mothers were Australian, which compares with global average of 54% of mothers having the nationality of the requested State. On the other hand, only one of the 5 (20%) fathers was Australian, as opposed to 55% of fathers having the nationality of the requested State globally.

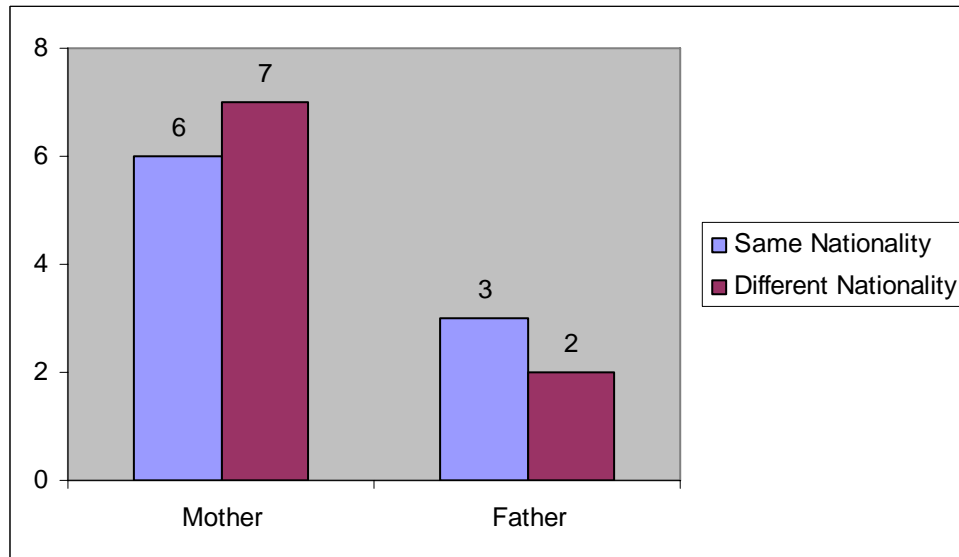
In 1999, it was found that 9 out of 45 (20%) female taking persons and 5 out of 18 (28%) male taking persons were Australian nationals.

⁴ In 1999, the 7% of Australian nationals being respondents to access applications compared with the global average of 40% of respondents having the same nationality as the requested State.

⁵ This information was not available in relation to 5 applications.

(b) Incoming access applications**Nationality and Relationship of Respondent to Child**

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	6	3	9
Different Nationality	7	2	9
Total	13	5	18



Of the access applications received by Australia, 6 out of 13 (46%) respondent mothers and 3 out of 5 (60%) respondent fathers were Australian. This compares with the 2003 global averages of 49% and 68% respectively. In 1999, only one respondent (female) to an application made to Australia was an Australian national.

The children**7. The total number of children****(a) Incoming return applications**

There were 50 children involved in the 43 incoming return applications in 2003. This can be compared with the total of 98 children being involved in the 64 return applications in 1999.

In 2003, on average 1.16 children were involved in return applications. Proportionally, this represents a decrease in the number of children per return application, compared with 1.5 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 24 children involved in the 19 incoming access applications in 2003. This can be compared with the total of 18 children being involved in the 14 access applications in 1999.

In 2003, on average 1.26 children were involved in access applications. Proportionally, this represents a slight decrease in the number of children per access application, compared with 1.29 in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications⁶

Single Child or Sibling Group

	Number	Percent
Single Child	32	76%
Sibling Group	10	24%
Total	42	100%

Number of Children

	Number	Percent
1 Child	32	76%
2 Children	8	19%
3 Children	2	5%
Total	42	100%

The above table shows that 32 out of 42 (76%) applications involved a single child, which is higher than the 2003 global average of 67%. Nevertheless, in line with the global average, over 93% of applications involved no more than one or 2 children. In 1999, only 53% of return applications to Australia involved a single child and 94% of applications involved no more than 2 children.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	15	79%
Sibling Group	4	21%
Total	19	100%

Number of Children

	Number	Percent
1 Child	15	79%
2 Children	3	16%
3 Children	1	5%
Total	19	100%

For access applications the proportion of single children, 79%, was higher than the 2003 global average of 71%. On the other hand, the 2003 findings were identical with the 1999 survey, where 79% of applications also concerned a single child.

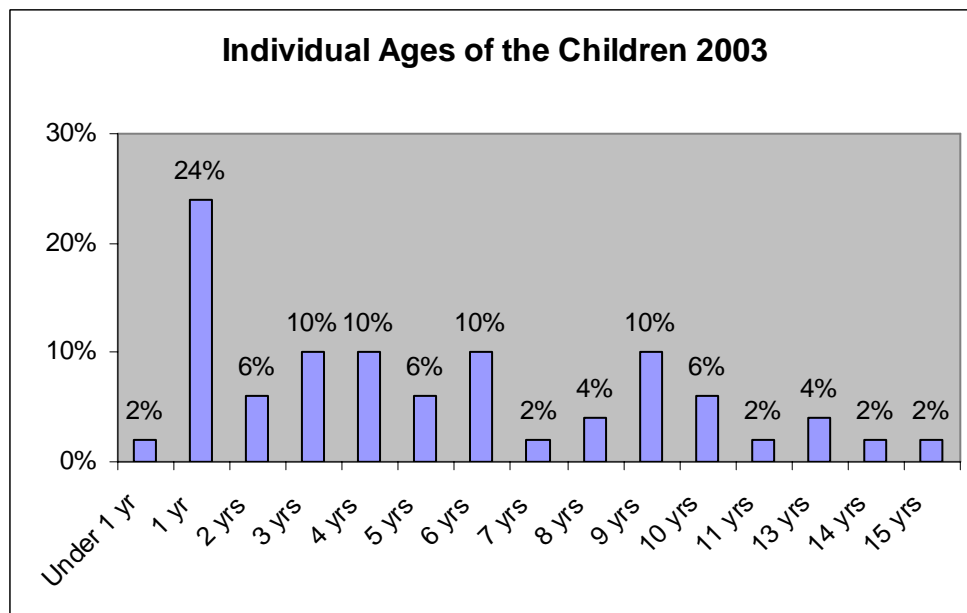
⁶ This information was not available in relation to one application.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
Under 1	1	2%
1 yr	12	24%
2 yrs	3	6%
3 yrs	5	10%
4 yrs	5	10%
5 yrs	3	6%
6 yrs	5	10%
7 yrs	1	2%
8 yrs	2	4%
9 yrs	5	10%
10 yrs	3	6%
11 yrs	1	2%
13 yrs	2	4%
14 yrs	1	2%
15 yrs	1	2%
Total	50	100%

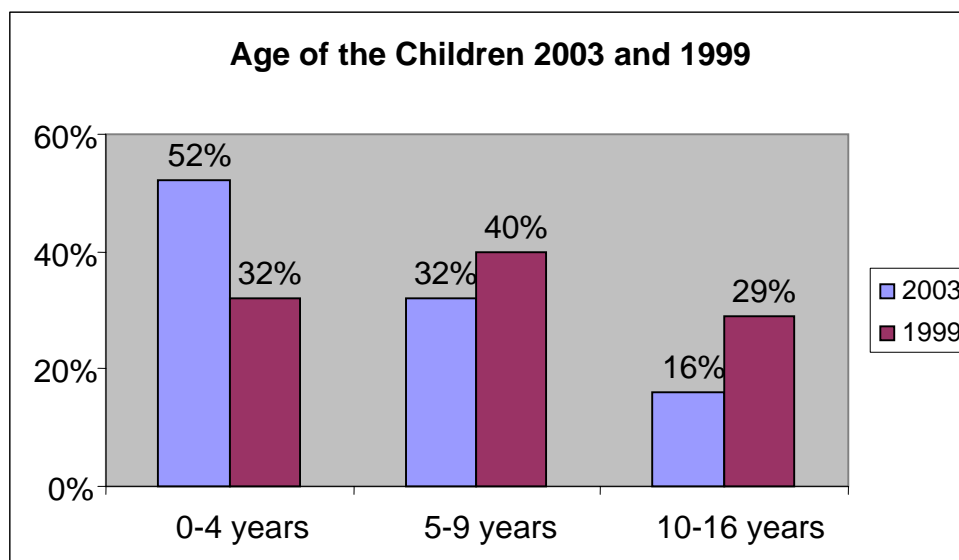


The above table and chart show the ages of the individual children involved. Interestingly, 12 children (24%) were one year old. 66% of children were aged between ages 1 and 6, compared with 55% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	26	52%
5-9 years	16	32%
10-16 years	8	16%
Total	50	100%



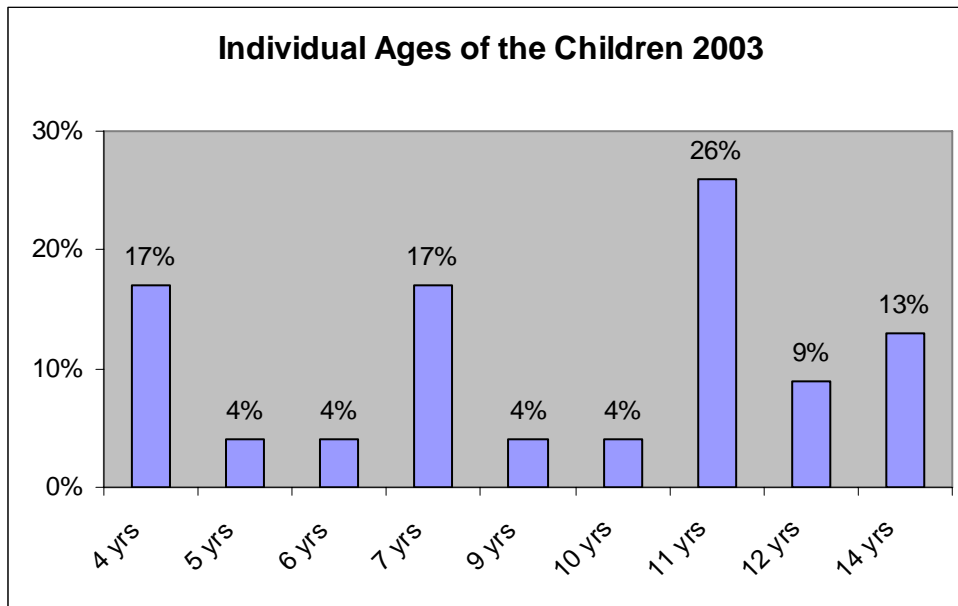
Unlike in 1999, the largest proportion of children were aged between 0-4 years. Indeed, 26 of the 50 (52%) children involved belonged to this age category, compared with 32% in 1999. The proportion of children aged between 5-9 years decreased from 40% in 1999 to 32% in 2003. Similarly, the proportion of older children, aged between 10 and 16 years, decreased from 29% in 1999 to 16% in 2003.

This can be compared with the 2003 global averages of 36%, 42% and 22% respectively.

(b) Incoming access applications ⁷**Individual Ages 2003**

	Number	Percent
4 yrs	4	17%
5 yrs	1	4%
6 yrs	1	4%
7 yrs	4	17%
9 yrs	1	4%
10 yrs	1	4%
11 yrs	6	26%
12 yrs	2	9%
14 yrs	3	13%
Total	23	100%

⁷ This information was not available in relation to one child.

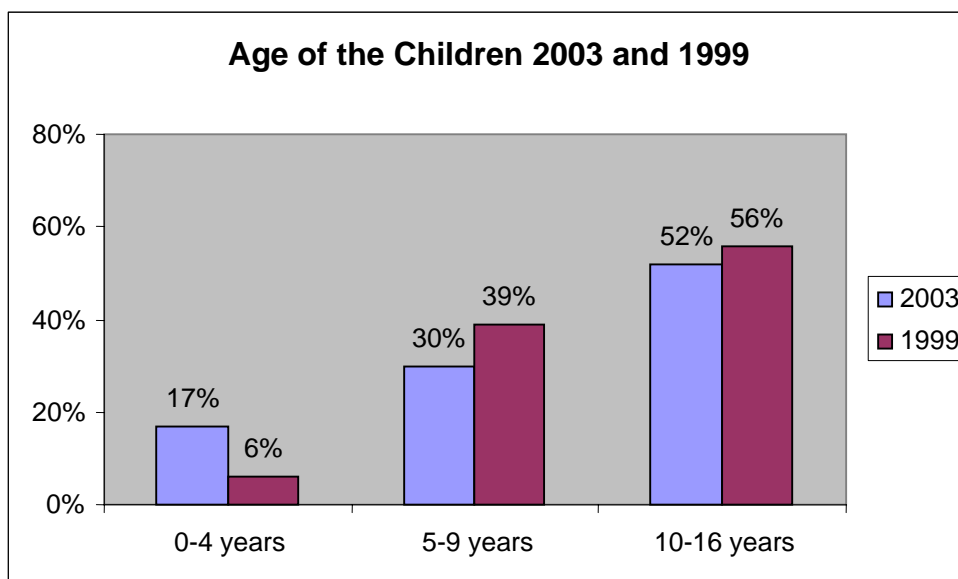


The above table and chart show ages of the individual children involved. 25% of access applications involved 1 – 6 years old which is below the 35% globally. Interestingly, there were no children younger than 4 years old.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band 2003

	Number	Percent
0-4 years	4	17%
5-9 years	7	30%
10-16 years	12	52%
Total	23	~100%



The table and chart above show comparable information regarding the age bands of the children in 2003 and 1999. As in 1999, the children involved in the access applications tended to be older than the global averages. Globally, 34% of children were aged between 10 and 16 years, while in applications to Australia the proportion was 52%, compared with 56% in 1999. The percentage of children aged between 5-9 years decreased from 39% in 1999 to 30% in 2003. This is below the 2003 global average of 46%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	20	40%
Male	30	60%
Total	50	100%

As the above table shows a minority (40%) of children were female. Globally, 51% of children were female.

In contrast, in 1999 female children were in majority, accounting for 51% of children involved in the return applications to Australia.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	7	29%
Male	17	71%
Total	24	100%

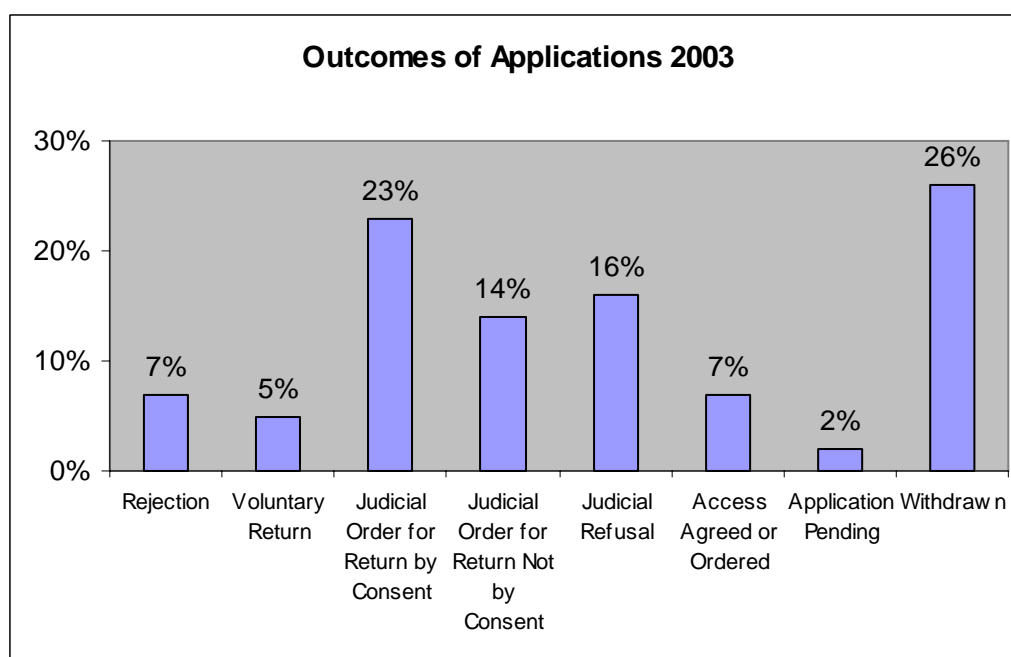
The majority (71%) of children involved in access applications to Australia were male. The opposite is true globally where 45% of the children involved were female. In 1999, 44% children involved in access applications to Australia were male and 56% were female.

The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application		
	Number	Percent
Rejection	3	7%
Voluntary Return No Court Orders	2	5%
Judicial Order for Return by Consent	10	23%
Judicial Order for Return Not by Consent	6	14%
Judicial Refusal	7	16%
Access Agreed or Ordered	3	7%
Application Pending	1	2%
Withdrawn	11	26%
Other	0	0%
Total	43	~100%



The above table and chart show the outcome of all applications in 2003.

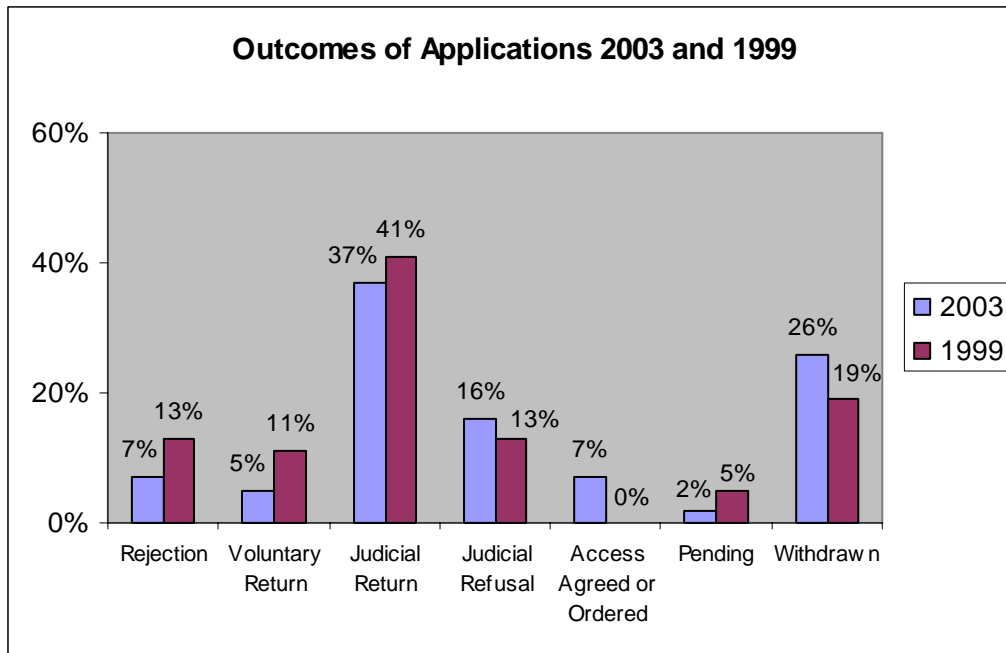
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Australia, in 2003, 10 (23%) judicial return orders were made with consent and 6 (14%) without consent.

Overall, 42% of applications made to Australia ended in the child being returned either by a court order or voluntarily, which is below the global rate of 51%. Similarly, the proportion of voluntary returns (5%) was below the global average of 22%. Nevertheless, at 23%, the proportion of judicial returns by consent was significantly above the global average of 9%. 7 out of 43 (16%) applications were judicially refused, as opposed to 13% globally.

25 applications (57%) went to court. Of these cases, 64% ended in a judicial return and a further 8% ended in access being ordered. The remaining 28% were judicially refused, which is similar to the 2003 global average.⁸

It is immediately noticeable that a high number of applications (11, 26%) were withdrawn. This is above the global average of 15%. As of 30th June 2005, one (2%) application was still pending, compared with 9% globally.

In one application (2%) access was agreed rather than the return of the child.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

As in 1999, judicial return was the most common outcome for an application, 37% in 2003 and 41% in 1999. The proportion of judicial refusals slightly increased, from 13% in 1999 to 16% in 2003. On the other hand, the proportion of voluntary returns decreased from 11% in 1999 to 5% in 2003. Consequently, the overall return rate decreased, from 52% in 1999 to 42% in 2003.

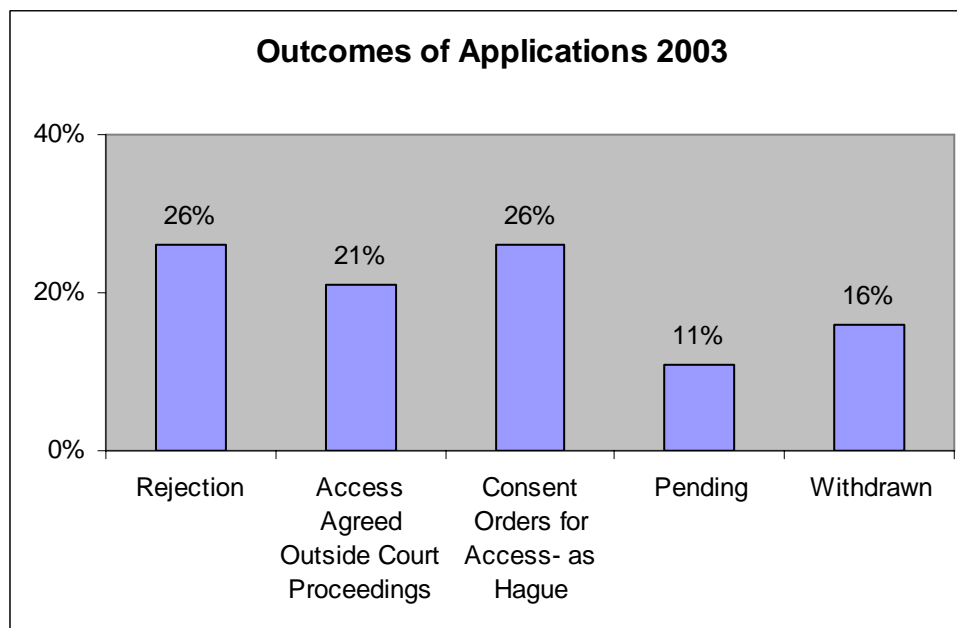
It is worth noting that as in 1999, a high proportion of applications ended in withdrawal, 26% compared with 19% in 1999. 2% of applications were still pending as of cut-off period for the survey, as opposed to 5% in 1999.

(b) Incoming access applications

⁸ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

Outcome of Application

	Number	Percent
Rejection	5	26%
Access Agreed Outside Court Proceedings	4	21%
Consent Orders for Access - as Hague	5	26%
Application Pending	2	11%
Withdrawn	3	16%
Total	19	100%



There was a high proportion of consent orders and voluntary settlements, 26% and 21% compared with the 2003 global averages of 4% and 13% respectively. Consequently, the overall proportion of applications resulting in access being granted or agreed was 47%, which compares favourably with the 2003 average of 33%. The 2003 findings were similar to those of the 1999 survey, which recorded a relatively high proportion (50%) of cases where access was either granted or agreed. Relatively high number of applications (5 out of 19, 26%) were rejected, which was double the global average of 13%. On the other hand, only 2 (11%) applications were pending, which is markedly below the global average of 22%. Interestingly, no application was judicially refused, compared with 4 (29%) in 1999.

12. The reasons for rejection

(a) Incoming return applications

Australia rejected 3 (7%) applications as against the global average of 6%. In 1999, 8 (13%) of applications were rejected by Australia. One application was rejected because the child was located in another country and one because the applicant had no rights of custody. Globally, 24% of rejections were based on the former and 19% on the latter reason. Both reasons were relied upon also in 1999. The remaining rejection was based on Article 27.

(b) Incoming access applications**Reason for Rejection by the Central Authority**

	Number	Percent
Applicant Had No Rights of Custody	4	80%
Other	1	20%
Total	5	100%

5 applications were rejected. The most commonly relied upon reason for rejection was that applicant had no rights of custody (4, 80%). Globally, 33% of rejections were based on this reason. Additionally, one application was rejected because the applicant had no rights of access.⁹

In 1999, no access application was rejected.

13. The reasons for judicial refusal**(a) Incoming return applications****Overall Reason for Judicial Refusal per Application**

	Number	Percent
Child Not Habitually Resident in Requesting State	1	14%
Art 12	1	14%
Art 13a Acquiescence	3	43%
Art 13b	2	29%
Total	7	100%

As in 1999, the most commonly recorded reasons for refusing applications were Article 13 *a*) – acquiescence and Article 13 *b*). Indeed, 3 of the 7 (43%) refusals were based on the former and 2 (29%) refusals on the latter ground. This compares with the 2003 global averages of 4% and 17% respectively.

One application was refused because the child was not habitually resident in the requested State and the remaining refusal was grounded on Article 12.

⁹ Recorded as 'other'.

14. The reasons for judicial refusal and the relationship of the taking person

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Refus

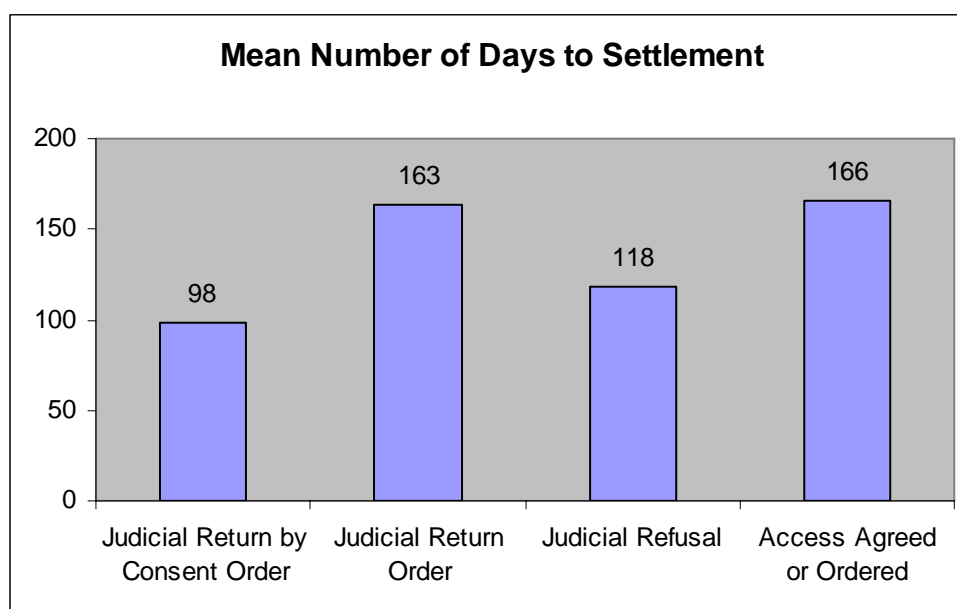
	Relationship of Taking Person to Child	Total
	Mother	
Child Not Habitually Resident in Requesting State	1	1
Art 12	1	1
Art 13a Acquiescence	3	3
Art 13b	2	2
Total	7	7

As can be seen, all 7 refusals involved mothers. Globally, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall.

Speed

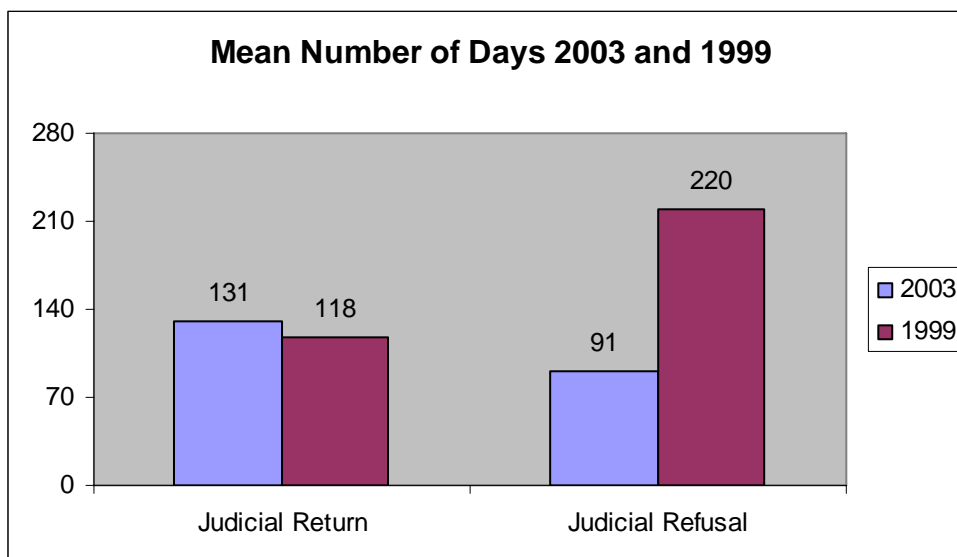
15. The time between application and outcome

(a) Incoming return applications¹⁰



Predictably, return orders by consent were resolved quicker than return orders without consent, in 98 days compared with 163 days. This can be compared with the global averages of 85 days and 143 days respectively. The speed of judicial refusals, averaging 118 days, was considerably quicker than the global average of 233 days.

¹⁰ This information was not available in relation to both voluntary returns, one judicial return by consent order and 2 judicial return orders.

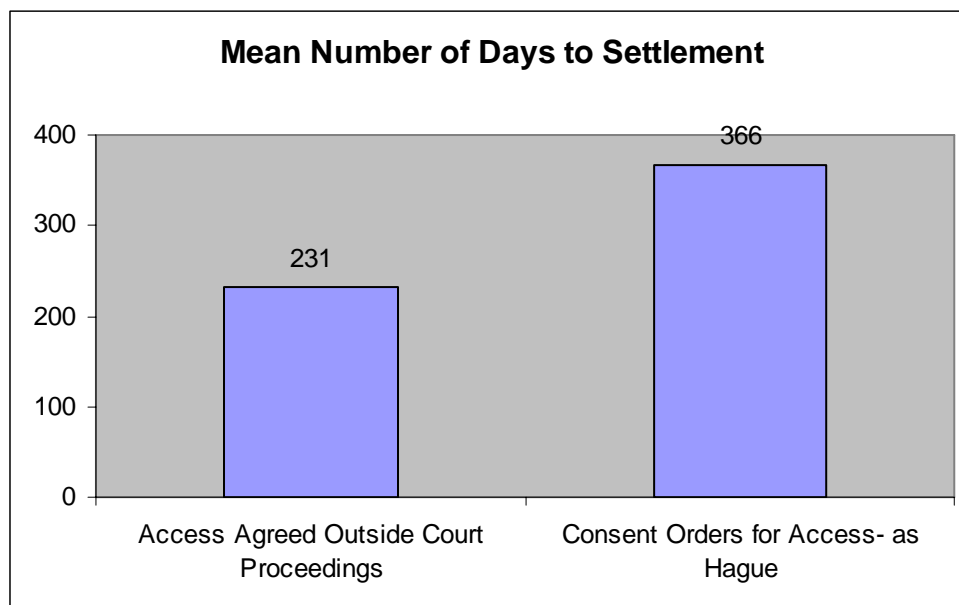


The chart above shows that judicial returns were resolved in a combined average of 131 days compared with 118 days in 1999. It took a mean average of 91 days as against 220 days in 1999 to make a judicial refusal.

Number of Days Taken to Reach Final Outcome: 2003

	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal	Access Agreed or Ordered
Mean	98	163	118	166
Median	86	106	111	166
Minimum	28	98	21	152
Maximum	231	341	253	179
Number of cases	9	4	7	3

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Australia. Interestingly, the fastest judicial decision was a judicial refusal, made in 21 days. The slowest judicial decision was a judicial return without consent, which took 341 days to reach the outcome.

(b) Incoming access applications

The above chart shows the time taken to reach voluntary settlements and judicial decisions in access applications. As can be seen, voluntary settlements took on average 231 days, as opposed to the consent orders averaging 366 days. Globally, voluntary settlements were concluded on average in 245 days whereas consent orders for access took a mean of 266 days to be made. In 1999, 25% of voluntary settlements and 57% of judicial decisions took over 6 months.

Number of Days Taken to Reach Final Outcome: 2003

	Access Agreed Outside Court Proceedings	Consent Orders for Access - as Hague
Mean	231	366
Median	185	417
Minimum	42	102
Maximum	511	671
Number of Cases	4	5

The above chart gives more informative picture of the system in Australia. As the chart shows, timing varied considerably, with some of the outcomes reached reasonably quickly whereas others very slowly. The fastest voluntary settlement of access was reached in 12 days, whereas the slowest took 511 days. The slowest consent order was made in 671 days. The quickest took 102 days to resolve.

16. Appeals**(a) Incoming return applications**

No judicial decisions were appealed.

(b) Incoming access applications

Not applicable.

AUSTRIA

1. The number of applications

Incoming Return Applications	12
Incoming Access Applications	11
Outgoing Return Applications	12
Outgoing Access Applications	0

According to the Central Authority for Austria, they received 12 incoming return applications and 11 incoming access applications in 2003, making a total of 23 incoming applications. This is an increase on the 17 incoming applications (of which 9 were for return and 8 for access) made in 1999. Interestingly, almost as many applications were for access as for return. Indeed, the ratio of incoming return applications to access applications was 52% to 48%, as opposed to the global average of 84% to 16%.

Additionally, the Central Authority made 12 outgoing return applications¹ but no outgoing access applications in 2003. This is an increase on 9 outgoing applications (comprising 8 return and one access application) made in 1999.

Altogether, the Central Authority handled 35 new applications in 2003, compared with 26 new applications in 1999.

The overall ratio of incoming to outgoing applications was 66% to 34%.

2. Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Germany	3	25%
Hungary	2	17%
Canada	1	8%
Croatia	1	8%
Poland	1	8%
Spain	1	8%
Turkey	1	8%
UK - England & Wales	1	8%
USA	1	8%
Total	12	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Germany	3 (25%)	0 (0%)
Hungary	2 (17%)	1 (11%)
Canada	1 (8%)	1 (11%)
Croatia	1 (8%)	0 (0%)
Poland	1 (8%)	0 (0%)
Spain	1 (8%)	0 (0%)
Turkey	1 (8%)	0 (0%)
UK - England & Wales	1 (8%)	2 (22%)
USA	1 (8%)	1 (11%)
Italy	0 (0%)	4 (44%)
Total	12 (~100%)	9 (~100%)

Austria received applications from 9 Contracting States, compared with only 5 in 1999. Considering the relatively small number of applications, Contracting States making them were diverse.

Unlike in 1999, the largest proportion of applications was received from Austria's largest neighbour, Germany. Indeed, 3 out of 12 (25%) applications were made by this Contracting State, as opposed to none in 1999. Interestingly, no application came from Italy, whereas in 1999, applications from this neighbouring State accounted for 44% of all applications. In the light of the historical relationship between the 2 States, it is also worth noting that there were 2 applications from Hungary, compared with one in 1999.

Requesting States within the EU 2003

	Number	Percent
Germany	3	38%
Hungary	2	25%
Poland	1	13%
Spain	1	13%
UK - England & Wales	1	13%
Total	8	100%

The above chart shows the number of applications received from countries that are now part of the EU. It is notable that these countries accounted for 8 of the 12 applications received by Austria, a total of 67% of all applications. In the 1999 survey 77% (7 of the 9 applications) came from what are now EU Member States.²

² Both figures are based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

(b) Incoming access applications

Requesting State		
	Number	Percent
Germany	6	55%
Slovakia	2	18%
Finland	1	9%
Hungary	1	9%
Italy	1	9%
Total	11	100%

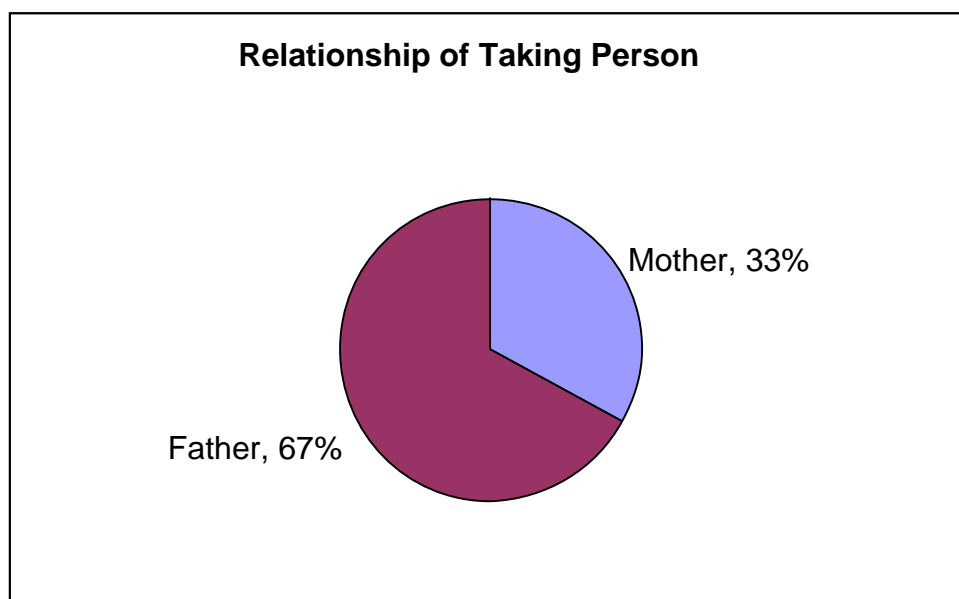
Perhaps not surprisingly, 10 out of 11 access applications came from Austria's neighbours, Germany, Slovakia, Hungary and Italy. Indeed, Germany made 6 (55%) applications, Slovakia 2 (18%) applications and both Hungary and Italy one (9% each) application.

Nevertheless, in the light of the fact that in 1999 there was only one application from Germany, one from Italy and none from Slovakia or Hungary, this finding is interesting.

Conversely, in 2003, no applications were received from England and Wales or the USA, as opposed to 2, 25% from each in 1999.

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications**

Relationship of Taking Person		
	Number	Percent
Mother	4	33%
Father	8	67%
Total	12	100%



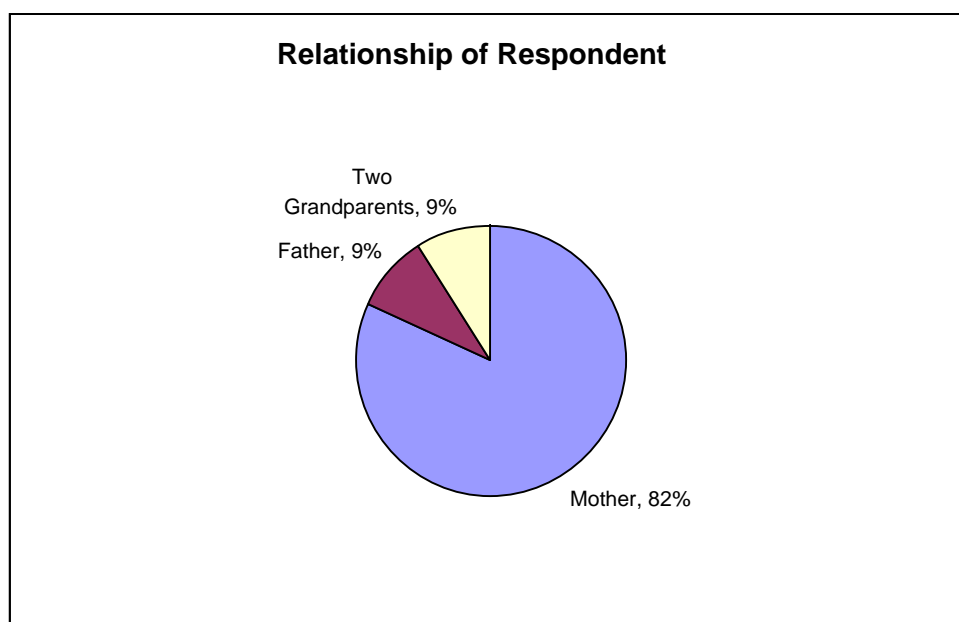
The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Proportionally, considerably fewer mothers were taking

persons than the global average, 33% as opposed to 68%. This differs significantly from the 1999 findings, where 89% of taking persons were recorded as female.

(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	9	82%
Father	1	9%
Two Grandparents	1	9%
Total	11	100%



In 9 out of 11 (82%) access applications the respondent was the mother, which compares with the 2003 global average of 79%. In 1999, all respondents involved in incoming access applications were females.

4. The status of the taking person as carer in relation to the child

Austria did not provide information on the status of the taking person as carer.

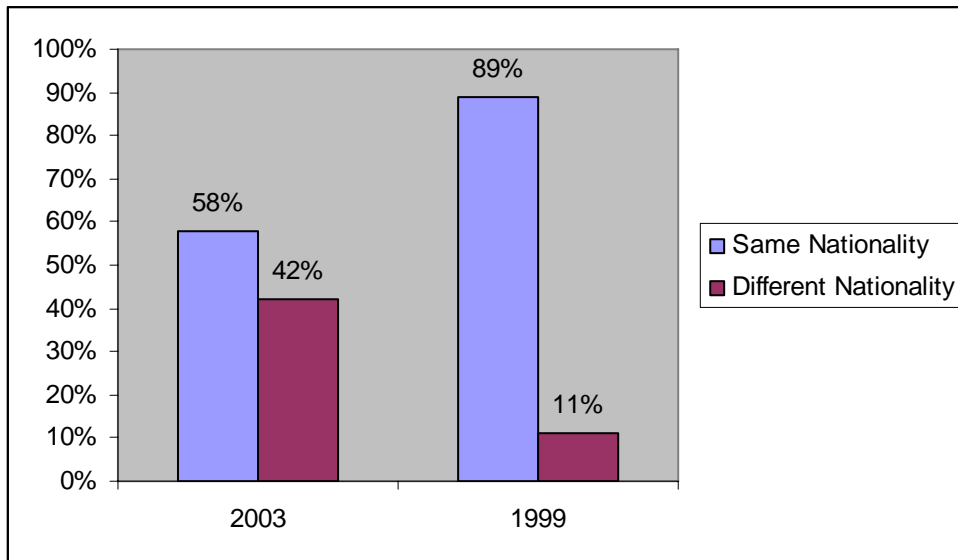
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as the Requested State

	Number	Percent
Same Nationality	7	58%
Different Nationality	5	42%
Total	12	100%

At 58%, the proportion of taking persons being Austrian citizens (including one taking person with dual nationality) compares with the 2003 global average of 55%.



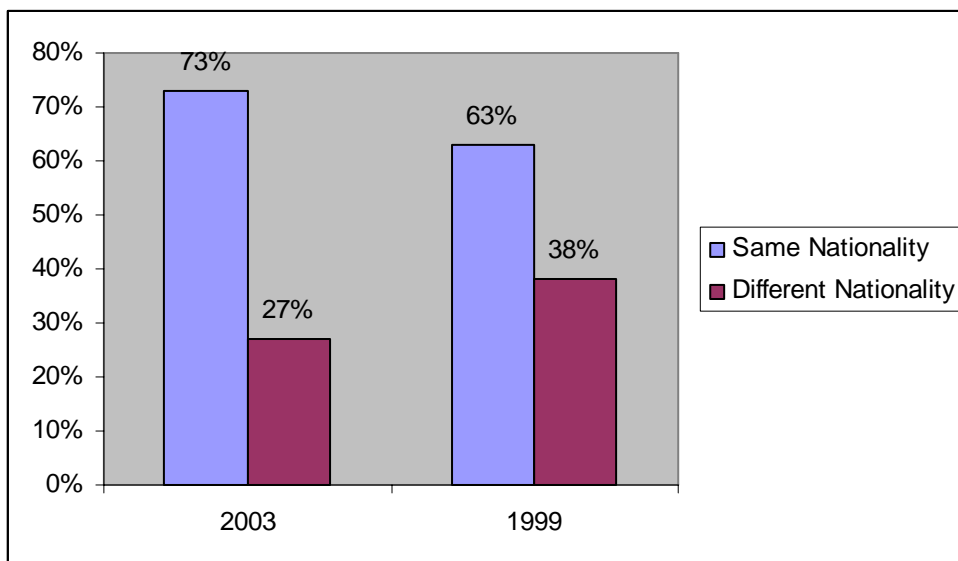
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Austrian persons taking children to Austria dropped from 89% in 1999 to 58% in 2003. This is similar to the 2003 global average of 55%.

(b) Incoming access applications

Respondent Same Nationality as the Requested State

	Number	Percent
Same Nationality	8	73%
Different Nationality	3	27%
Total	11	100%

The table above shows that 73% of respondents were Austrian. Globally, 53% of respondents were nationals of the requested State.



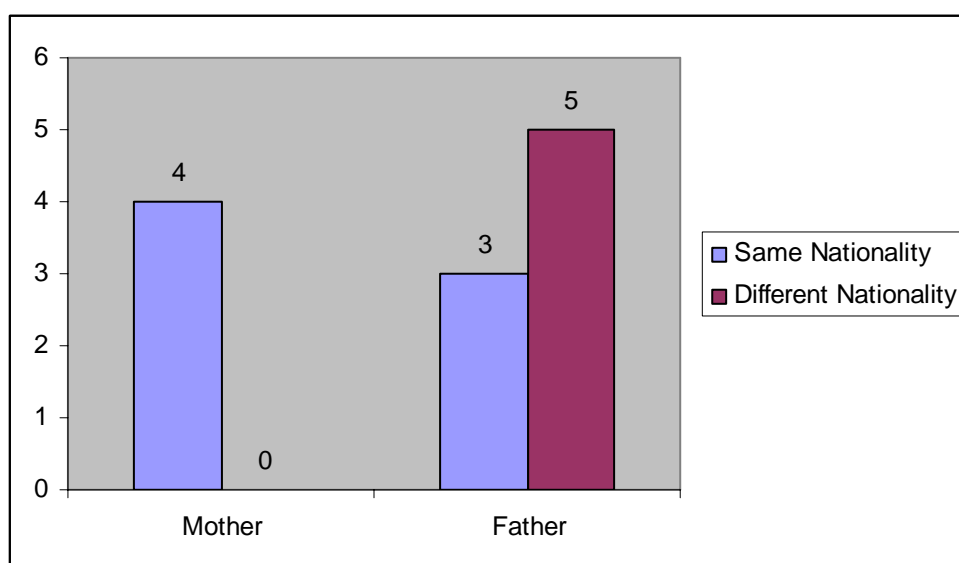
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having Austrian nationality increased from 63% in 1999 to 73% in 2003.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	4	3	7
Different Nationality	0	5	5
Total	4	8	12

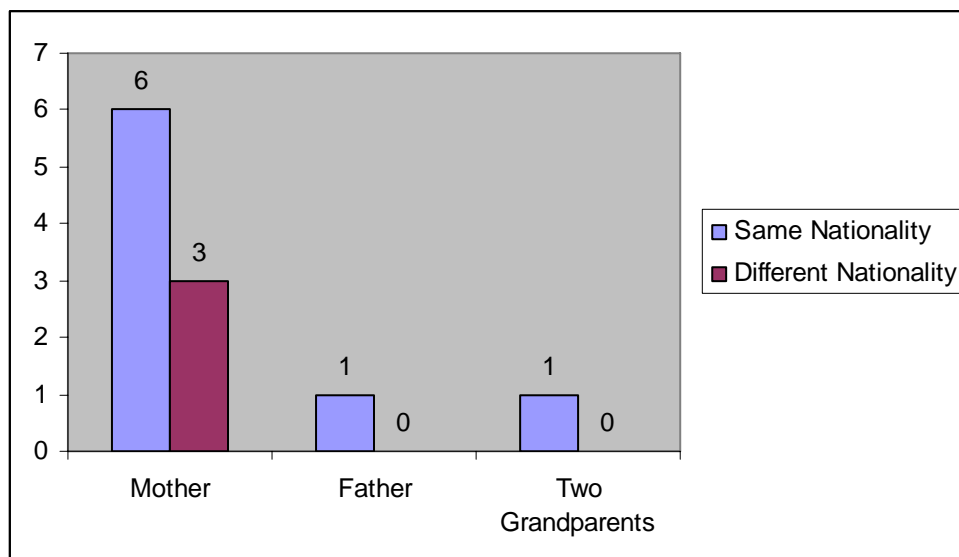


In relation to mothers, the taking person was always recorded as being an Austrian national, whereas in relation to fathers, only 3 out of 8 (38%) were Austrians. This pattern differs from the 2003 averages of 54% of mothers and 55% of fathers having the nationality of the requested State. On the other hand, the 2003 findings are similar to the 1999 survey, which recorded that all but one (78%) female taking persons were Austrian nationals.

(b) Incoming access applications

Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child			Total
	Mother	Father	Both Grandparents	
Same Nationality	6	1	1	8
Different Nationality	3	0	0	3
Total	9	1	1	11



In the access applications received by Austria, 6 out of 9 (67%) respondent mothers and the one (100%) respondent father had Austrian nationality. This can be compared with the 2003 global averages of 49% of mothers and 68% of fathers respectively. The 1999 survey recorded that 5 out of 8 female respondents (63%) were Austrians.

The children

7. The total number of children

(a) Incoming return applications

There were 14 children involved in the 12 incoming return applications in 2003. This compares with a total of 13 children being involved in the 9 return applications in 1999. In 2003, on average 1.17 children were involved in return applications. Proportionally, this is a decrease in the number of children per return application, compared with 1.44 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 17 children involved in the 11 incoming access applications in 2003. This can be compared with a total of 13 children being involved in the 8 access applications in 1999.

In 2003, on average 1.55 children were involved in access applications. Proportionally, this is a decrease in the number of children per access application, compared with 1.63 in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	10	83%
Sibling Group	2	17%
Total	12	100%

Number of Children

	Number	Percent
1 Child	10	83%
2 Children	2	17%
Total	12	100%

At 83%, the proportion of single children involved in applications for return was higher than the 2003 global average of 67%. In 1999, 67% of applications to Austria involved single children.

None of the applications concerned more than 2 children, which is in line with the 2003 global average of 93% of applications involving one or 2 children.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	7	64%
Sibling Group	4	36%
Total	11	100%

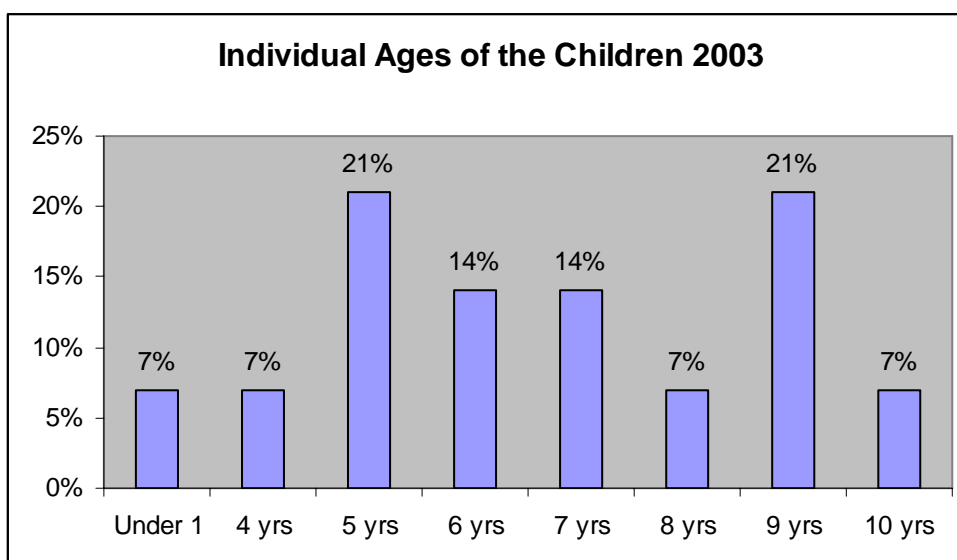
Number of Children

	Number	Percent
1 Child	7	64%
2 Children	2	18%
3 Children	2	18%
Total	11	100%

Globally in 2003, 71% of access applications involved single children. In applications to Austria this proportion was lower at 64%. On the other hand, this represents an increase on the proportion of 50% recorded in 1999.

9. The age of the children**(a) Incoming return applications****Individual Ages 2003**

	Number	Percent
Under 1	1	7%
4 yrs	1	7%
5 yrs	3	21%
6 yrs	2	14%
7 yrs	2	14%
8 yrs	1	7%
9 yrs	3	21%
10 yrs	1	7%
Total	14	100%

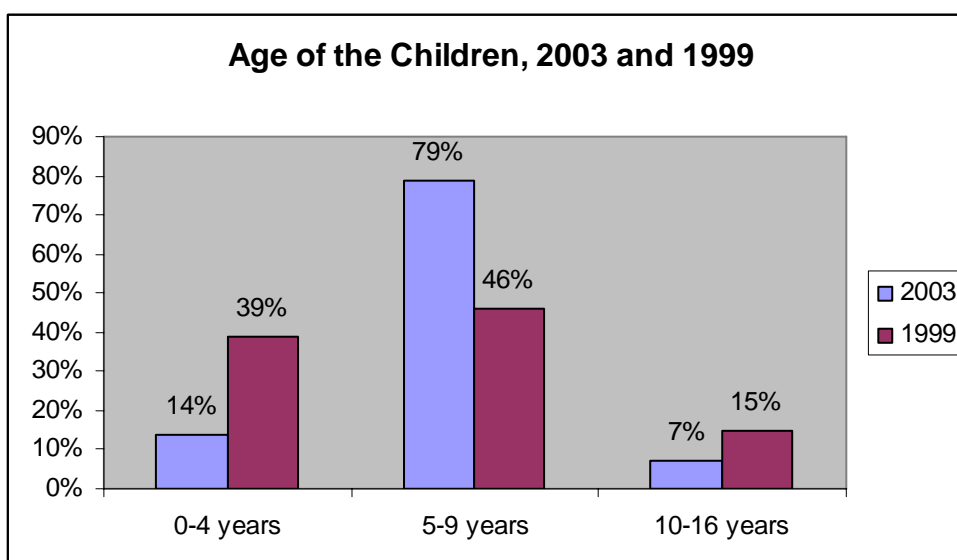


The above table and chart show the ages of the individual children involved. 42% of children were aged between ages 1 and 6, compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	2	14%
5-9 years	11	79%
10-16 years	1	7%
Total	14	100%



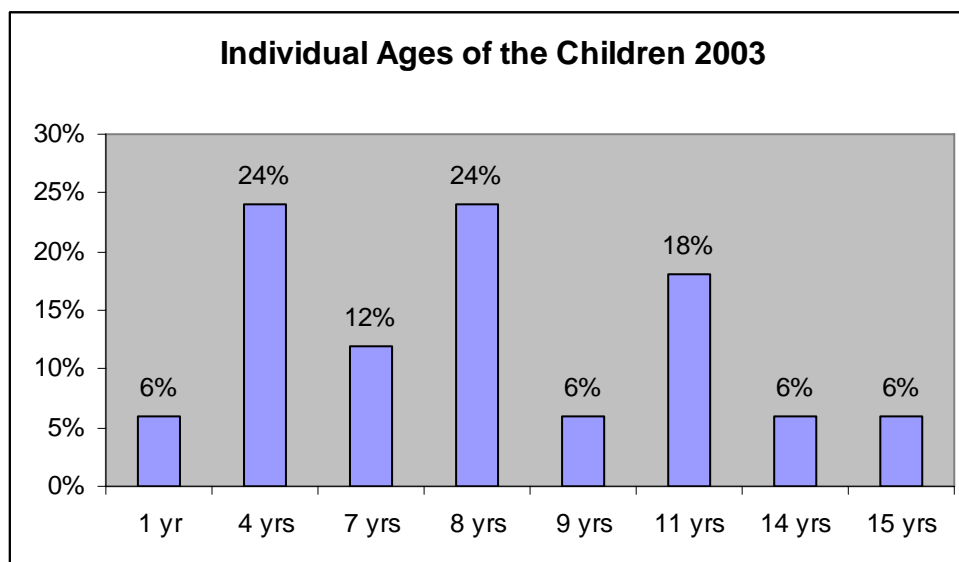
The proportion of children aged between 0-4 years decreased from 39% in 1999 to 14% in 2003. As in 1999, the largest percentage of children were aged between 5-9 years old. Indeed, in 2003 of the 14 children included, 11 (79%) were aged between 5-9 years compared with 46% of children in 1999. On the other hand, there were fewer older children, aged between 10 and 16 years old, with 7% in 2003 as opposed to 15% in 1999.

The division of children between each age group differs significantly from the 2003 global averages of 36%, 42% and 22% respectively.

(b) Incoming access applications

Individual Ages 2003

	Number	Percent
1 yr	1	6%
4 yrs	4	24%
7 yrs	2	12%
8 yrs	4	24%
9 yrs	1	6%
11 yrs	3	18%
14 yrs	1	6%
15 yrs	1	6%
Total	17	100%

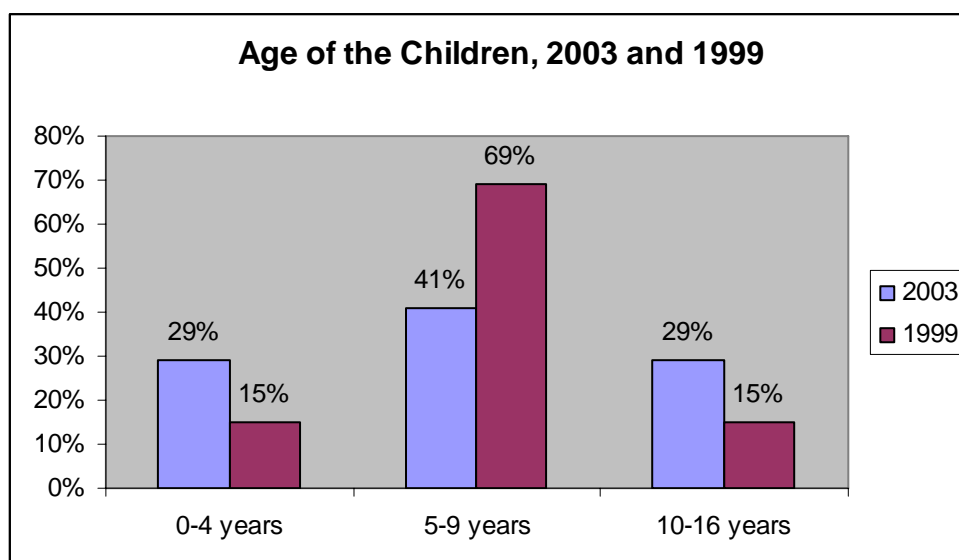


The above chart and table show ages of the individual children involved. 30% of access applications involved 1 – 6 years olds, compared with 35% globally. 5 children (30%) were aged over 10 years.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children

Age Band of the Children 2003

	Number	Percent
0-4 years	5	29%
5-9 years	7	41%
10-16 years	5	29%
Total	17	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 41% of children were aged between 5 and 9 years old compared with 69% in 1999. Globally in 2003, 46% of children were aged between 5 and 9 years. The proportion of children aged between 0-4 years and 10-16 years have both increased from 15% to 29% each. These figures can be contrasted to the 2003 global averages of 20% and 34%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	6	43%
Male	8	57%
Total	14	100%

The proportions of female and male children differed from the global averages of 51% and 49% respectively, with a higher proportion of male children (57%). In 1999, 62% of children were male.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	9	53%
Male	8	47%
Total	17	100%

At 53%, there were proportionally more female children involved in access applications to Austria than the global average of 44%. In 1999, 54% of children involved in access applications were female.

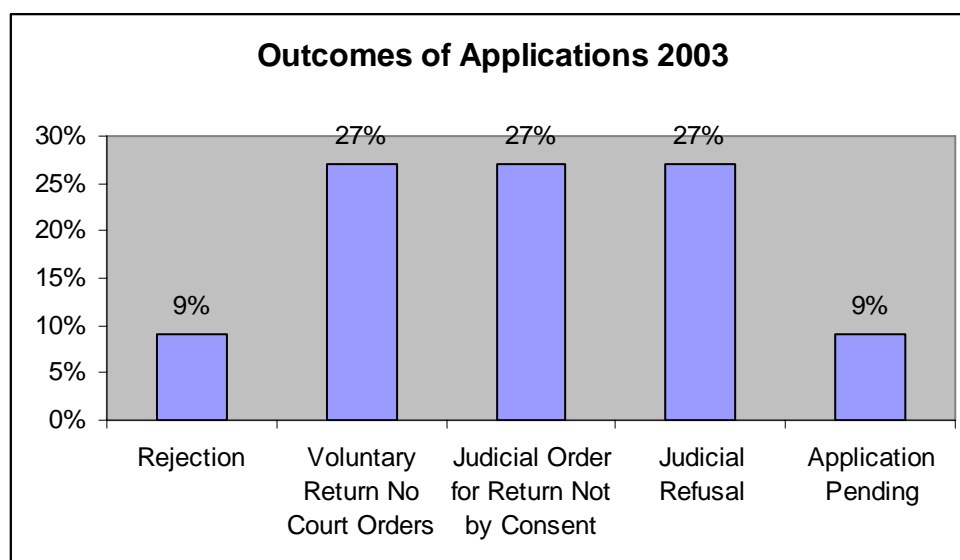
The outcomes

11. Overall outcomes

(a) Incoming return applications³

Outcome of Application

	Number	Percent
Rejection	1	9%
Voluntary Return No Court Orders	3	27%
Judicial Order for Return Not by Consent	3	27%
Judicial Refusal	3	27%
Application Pending	1	9%
Total	11	100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Austria in 2003, however, no judicial return was made with consent.

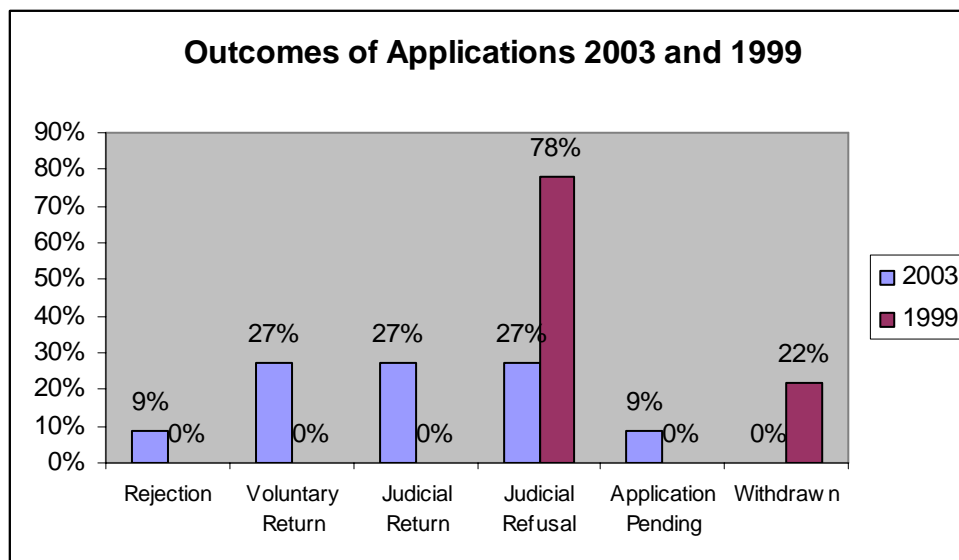
Overall, 54% of applications made to Austria ended in the child being returned either by a court order or voluntarily. This is higher than the global average return rate of 51%. Similarly, at 27%, the proportion of voluntary returns is above the global average of 22%. The proportion of judicial returns, 27%, follows the global average of 30%.

Of the 6 cases which went to court, 3 (50%) ended in judicial return, compared with 66% globally. The remaining 50% were judicially refused as compared with 29% globally.⁴

³ In one application this information was not stated.

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

One (9%) application was rejected by the Central Authority and one (9%) was still pending as of 30th June 2005. This compares with the global averages of 6% and 9% respectively.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

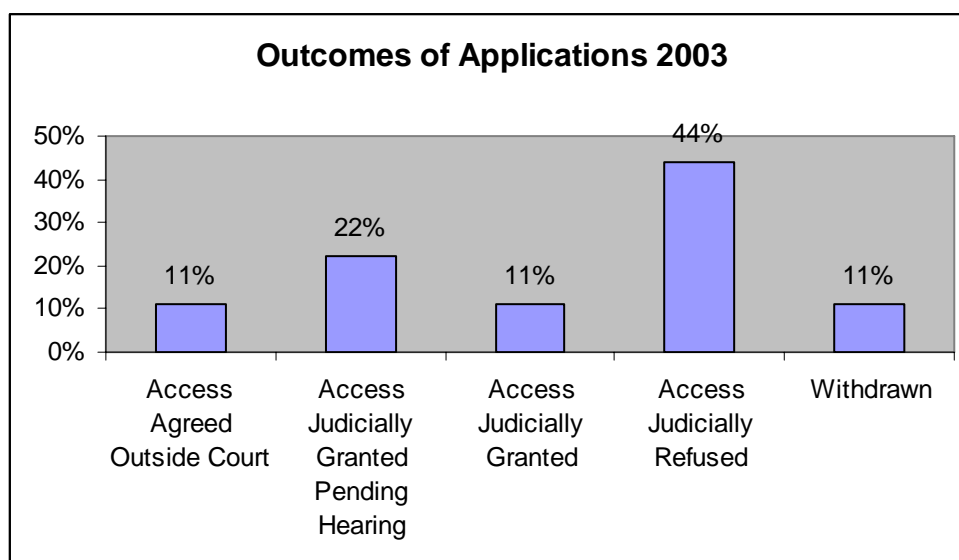
As can be seen, the outcomes in 2003 differ significantly from the outcomes in 1999. Indeed, in 1999 the majority of applications (78%) ended in judicial refusal, whereas in 2003 the refusals accounted for only 27% of all outcomes. In 1999, no applications resulted in the return of the child, as opposed to 6 (54%) applications which ended in the child being returned either voluntarily or by a court order in 2003.

No applications were withdrawn, compared with 2 (22%) in 1999. On the other hand, one application was rejected and one application was still pending, as opposed to none withdrawn or pending in 1999.

(b) Incoming access applications⁵

Outcome of Application		
	Number	Percent
Access Agreed Outside Court Proceedings	1	11%
Access Judicially Granted Pending Hearing	2	22%
Access Judicially Granted	1	11%
Access Judicially Refused	4	44%
Withdrawn	1	11%
Total	9	~100%

⁵ In 2 applications this information was not stated.



Relatively high proportion of access applications, 44%, resulted in access being judicially refused. This is markedly above the global average of 3% and an increase on the 1999 findings of 25%. 3 of the 4 applications were refused under domestic law and one was refused as a Hague application. On the other hand, at 22%, the proportion of applications where access was judicially granted pending a court hearing was considerably higher than the global average of 2%. Access was judicially granted in one (11%) application compared with the global average of 16%. In 1999, 3 out of 5 (38%) applications ended in access being judicially granted. One (11%) application was resolved voluntarily, as opposed to none in 1999. Globally, 13% of access applications resulted in voluntary settlement. One (11%) application was withdrawn, compared with 22% globally. It is to be noted that no application was pending as of 30th June 2005.

12. The reasons for rejection

(a) Incoming return applications

One application was rejected by the Central Authority. This rejection was because the child involved was located in another country.

13. The reasons for judicial refusal

(a) Incoming return applications⁶

Reason for Judicial Refusal

	Number	Percent
Child Not Habitually Resident in Requesting State	1	50%
Child's Objections	1	50%
Total	2	100%

The above table shows that one application was refused because the child was not habitually resident in the requesting State. The basis of the other application was that the child, aged 10 years old, objected. Globally, 15% of refusals were based on the former and 9% on the latter reason.

In 1999, the highest proportion of refusals, 43%, was based on Article 13 b). Interestingly, in 1999, no application was refused because of child's objections or

⁶ In one application the reason for refusal was not stated.

habitual residence. Conversely, in 2003 no application was refused on the basis of Article 13 *b*).

(b) Incoming access applications⁷

One of the access applications was refused because there was a risk of the wrongful retention of the child. In the remaining 2 refusals, children aged 14 and 15 years objected to contact with the applicant.

14. The reasons for judicial refusals and the relationship of the taking person

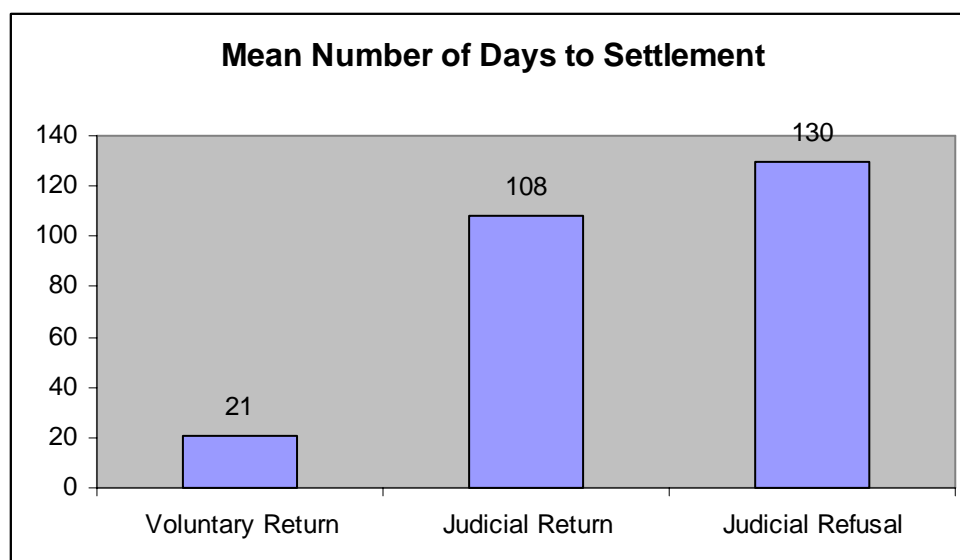
(a) Incoming return applications⁸

In one of the 2 refused applications the taking person was the mother of the child and in the other the taking person was the father. Globally, 77% of refusals involved mothers and 21% involved fathers.

Speed

15. The time between application and outcome

(a) Incoming return applications⁹

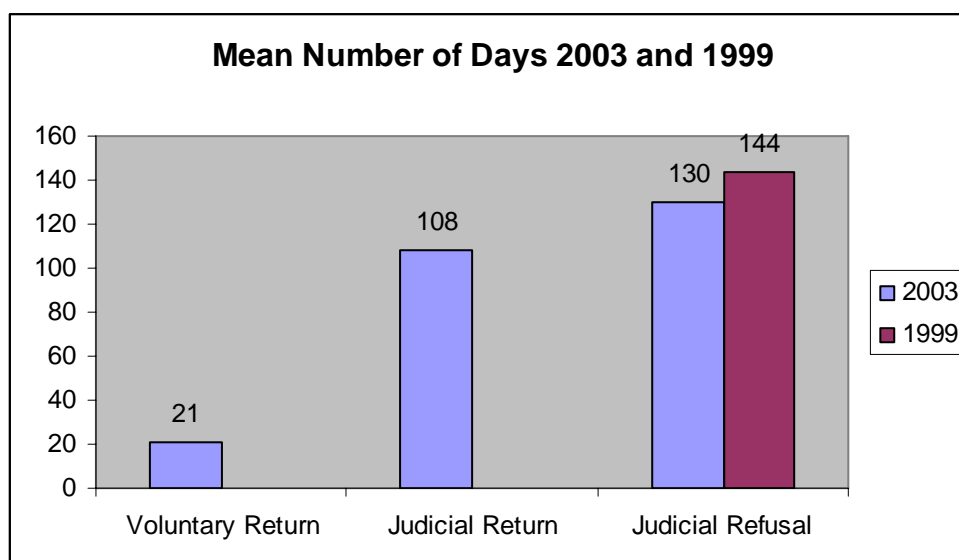


Voluntary returns took on average 21 days to reach a final outcome, which is significantly faster than the global average of 98 days. Similarly, the speed of judicial returns and judicial refusals, averaging 108 days and 130 days, was faster than the global averages of 125 days and 233 days respectively.

⁷ In one application the reason for refusal was not stated.

⁸ This information was not available in relation to one application.

⁹ In relation to one voluntary return and one judicial return this information was not stated.



The chart above shows that it took a mean average of 130 days as against 144 days in 1999 to make a judicial refusal.

**Number of Days Taken to Reach Final Outcome: 2003¹⁰
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return Order	Judicial Refusal
Mean	21	108	130
Median	21	108	125
Minimum	4	38	70
Maximum	37	177	195
Number of cases	2	2	3

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Austria. As can be seen, the slowest voluntary settlement was reached in 37 days, whereas the fastest was resolved in 4 days. The fastest judicial decision, a judicial return order, was made in 38 days whereas the slowest, a judicial refusal, was made in 195 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order
Mean	38
Median	38
Minimum	38
Maximum	38
Number of cases	1

The one judicial return which was an unappealed case took 38 days to reach the outcome.

¹⁰ Additionally, in relation to one voluntary return this information was not stated.

(b) Incoming access applications¹¹**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Access Agreed Outside Court	Access Judicially Granted	Access Judicially Granted Pending Court Hearing	Access Judicially Refused
Mean	103	91	62	148
Median	103	91	62	129
Minimum	103	91	62	48
Maximum	103	91	62	286
Number of cases	1	1	1	4

The fastest judicial refusal was made in 48 days and the slowest in 286 days, as opposed to 240 days globally. The voluntary settlement of access was reached in 103 days, compared with the global average of 245 days.

16. Appeals**(a) Incoming return applications****Appeals**

	Appellate Final Judicial Decision		Total
	Return	Refusal	
Return	1	0	1
Refusal	1	3	4
Total	2	3	5

As in 1999, there was a high proportion of appeals in Austria. Indeed, 5 out of 6 (83%) applications which went to court were appealed. 4 appeals upheld first instance decisions, in 3 cases to refuse return of the child and in the remaining one, to return the child. The other appeal overruled a first instance refusal to return.

This is a high proportion of appeals considering that globally just 22% of all cases which went to court were appealed. Nevertheless, all these cases were considered quickly, taking an average of 142 days.¹²

(b) Incoming access applications

2 access applications to Austria were appealed. Both upheld first instance decision. In one application access was judicially refused and in the other access was judicially granted. These applications took 286 and 91 days respectively to reach a final outcome. Globally, 14% of access applications which went to court were appealed.

¹¹ In relation to one application where access was granted pending court hearing this information was not stated.

¹² The information on speed was not available in relation to one decision on appeal.

BELARUS

The applications

1. The number of applications

Incoming Return Applications	2
Incoming Access Applications	0
Outgoing Return Applications	0
Outgoing Access Applications	0

According to the Central Authority for Belarus, they received 2 incoming return applications but no incoming access applications in 2003. This is an increase on no incoming applications received in 1999. It is to be noted that the overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

As in 1999, the Central Authority made no outgoing applications either for return or for access. Therefore the overall ratio of incoming to outgoing applications was 100%.

2. The Contracting States which made the application

The applications came from the Czech Republic and the Netherlands.

The taking person

3. The relationship of the taking person

Both taking persons (100%) were mothers. Globally, 68% of taking persons were mothers and 29% were fathers.

4. The status of the taking person as carer in relation to the child

Belarus did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Both taking persons had Belarusian nationality. Globally, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 54% of taking persons recorded as the mother of the child had the same nationality as the requested State.

The children

7. The total number of children

There were 3 children involved in the 2 incoming return applications in 2003. In 2003, on average 1.5 children were involved in return applications. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

The 2 return applications involved one sibling group of 2 children and one single child. Globally in 2003, 93% of applications involved one or 2 children.

9. The age of the children

The children involved in the return applications received by Belarus were relatively young, aged one, 3 and 5 years. Globally, 36% of children were aged between 0 and 4 years, 42% between 5 and 10 years and 22% between 10 and 16 years.

10. The gender of the children

The applications involved one female and 2 male children. Globally, 51% of children were female and 49% were male.

The outcomes

11. Overall outcomes

One of the 2 applications resulted in a voluntary return. The other application was rejected by the Central Authority. Globally, 22% of applications were resolved voluntarily and 6% were rejected.

12. The reasons for rejection

The one application was rejected because the child concerned was located in another country. Globally, 24% of rejections were based on this reason.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome

The one voluntary return was resolved within 42 days, which is quicker than the global average of 98 days.

16. Appeals

Not applicable.

BELGIUM

The applications

1. The number of applications

Incoming Return Applications	25
Incoming Access Applications	2
Outgoing Return Applications	44
Outgoing Access Applications	9

According to the Central Authority for Belgium, they received 25 incoming return applications and 2 incoming access applications in 2003, making a total of 27 incoming applications. This is an increase on the 9 incoming applications (all of which were return applications) made in 1999 though Belgium's ratification only came into force in May 1999.

The ratio of incoming return applications to access applications, 93% to 7%, compares with the global average of 84% to 16%.

Additionally, the Central Authority made 44 outgoing return applications¹ and 9 outgoing access applications in 2003. This is a significant increase on the 6 outgoing return applications and no outgoing access applications made in 1999.

Altogether, the Central Authority handled 80 new applications in 2003, compared with 15 new applications in 1999.

The overall ratio of incoming to outgoing applications was 34% to 66%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Netherlands	4	16%
UK - England & Wales	4	16%
France	3	12%
Israel	2	8%
Portugal	2	8%
USA	2	8%
Brazil	1	4%
Canada	1	4%
Germany	1	4%
Italy	1	4%
Luxembourg	1	4%
South Africa	1	4%
Spain	1	4%
Switzerland	1	4%
Total	25	100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Netherlands	4 (16%)	1 (11%)
UK – England & Wales	4 (16%)	2 (22%)
France	3 (12%)	2 (22%)
Israel	2 (8%)	1 (11%)
Portugal	2 (8%)	0 (0%)
USA	2 (8%)	1 (11%)
Brazil	1 (4%)	0 (0%)
Canada	1 (4%)	0 (0%)
Germany	1 (4%)	1 (11%)
Italy	1 (4%)	1 (11%)
Luxembourg	1 (4%)	0 (0%)
South Africa	1 (4%)	0 (0%)
Spain	1 (4%)	0 (0%)
Switzerland	1 (4%)	0 (0%)
Total	25 (100%)	9 (~100%)

Belgium received applications for return from 14 Contracting States, compared with 7 in 1999. The highest number of applications came from the Netherlands and England & Wales (4, 16% each) and France (3, 12%). This is similar to 1999 when the number of applications made by these 3 countries accounted together for 55% of all applications received.

Requesting States within the EU 2003

	Number	Percent
Netherlands	4	24%
UK - England & Wales	4	24%
France	3	18%
Portugal	2	12%
Germany	1	6%
Italy	1	6%
Luxembourg	1	6%
Spain	1	6%
Total	17	~100%

The above chart shows the number of applications received from countries that are now part of the European Union.² These States account for 17 of the 25 applications received by Belgium, a total of 68% of all applications. In the 1999 survey 77% (7 of the 9 applications) came from what are now EU Member States.

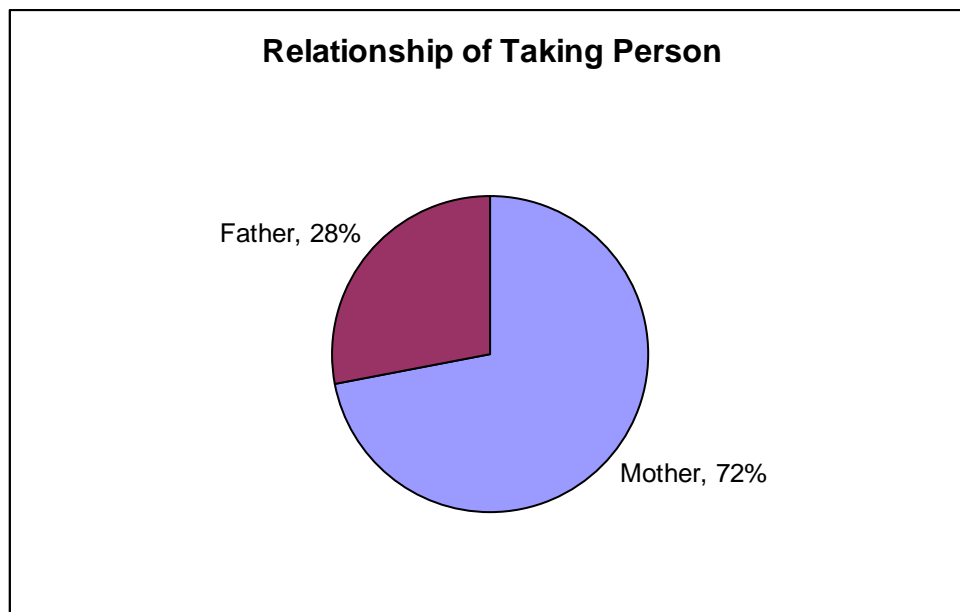
² This figure is based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

(b) Incoming access applications

The Central Authority for Belgium received 2 access applications compared with none in 1999. The requesting States were France and Switzerland.

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications****Relationship of the Taking Person**

	Number	Percent
Mother	18	72%
Father	7	28%
Total	25	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. In 2003, 72% of taking persons were the mother of the child. This compares with the global average of 68%, but shows a marked increase since 1999 when only 44% of taking persons were recorded as female.

(b) Incoming access application

In one of the 2 access applications the respondent was the mother. The other respondent was the stepmother of the child (father's wife).³ Globally in 2003, 79% of respondents in access applications were recorded as the mother of the child.

4. The status of the taking person as carer in relation to the child

Belgium did not provide information on the status of the taking person/respondent as carer.

³ Recorded as 'other relative'.

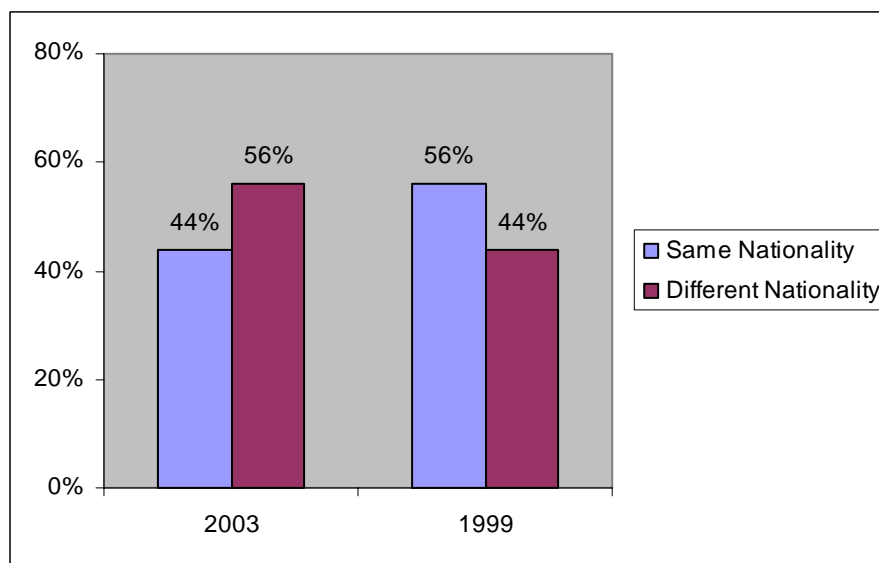
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	11	44%
Different Nationality	14	56%
Total	25	100%

This table shows that in 44% of applications the taking person was a Belgian national (including one case in which the taking person had dual nationality) and in 56% of applications they were not. This is different to the global averages of 55% and 45% respectively.



The chart above compares the 2003 findings on nationality with the 1999 survey. Interestingly, the pattern recorded in 2003 is directly the reverse of the pattern recorded in 1999. As the chart shows, the proportion of Belgian nationals taking children to Belgium dropped from 56% in 1999 to 44% in 2003. Correspondingly, the percentage of taking persons having a different nationality than the requested State rose from 44% in 1999 to 56% in 2003.

These figures can be compared with the 2003 global average of 55% of taking persons having the same nationality as the requested State.

(b) Incoming access applications

In one of the 2 access applications the respondent was a Belgian national. Globally in 2003, 53% respondents in access applications had the same nationality as the requested State.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to the Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	7	4	11
Different Nationality	11	3	14
Total	18	7	25

The table above shows the nationality of the taking persons in relation to their gender. In 7 out of 18 applications (39%) in relation to mothers, the taking person was a Belgian national. In relation to fathers, 4 out of 7 (57%) were Belgian.

These figures can be compared with the global 2003 average where 54% of mothers and 55% of fathers were nationals of the requested State.

The 2003 findings are different to the pattern recorded in the 1999 survey, where 75% of female taking persons and 40% of male taking persons were Belgian nationals.

(b) Incoming access applications

In the access applications, the respondent recorded as the stepmother of the child was a Belgian national. The other respondent, the mother of the child, had a different nationality than the requested State. Globally in 2003, 51% of respondent mothers in access applications had a different nationality than the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 38 children involved in the 25 incoming return applications in 2003. This can be compared with the total of at least 12 children being involved in the 9 return applications in 1999.⁴

In 2003, on average 1.52 children were involved in return applications. Proportionally, this represents an increase in the average number of (1.33) per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 2 children involved in the 2 incoming access applications in 2003. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

⁴ The exact number of children in 3 applications was not stated, 2 of these applications, however, involved sibling groups.

Single Child or Sibling Group

	Number	Percent
Single Child	14	56%
Sibling Group	11	44%
Total	25	100%

Number of Children

	Number	Percent
1 Child	14	56%
2 Children	8	32%
3 Children	3	12%
Total	25	100%

The proportion of single children involved in applications for return, 56%, is below the 2003 global average of 67% and was a decrease from the 1999 proportion of 63%. The overall number of applications concerning one or 2 children (88%) was slightly below the 2003 global average of 93%.

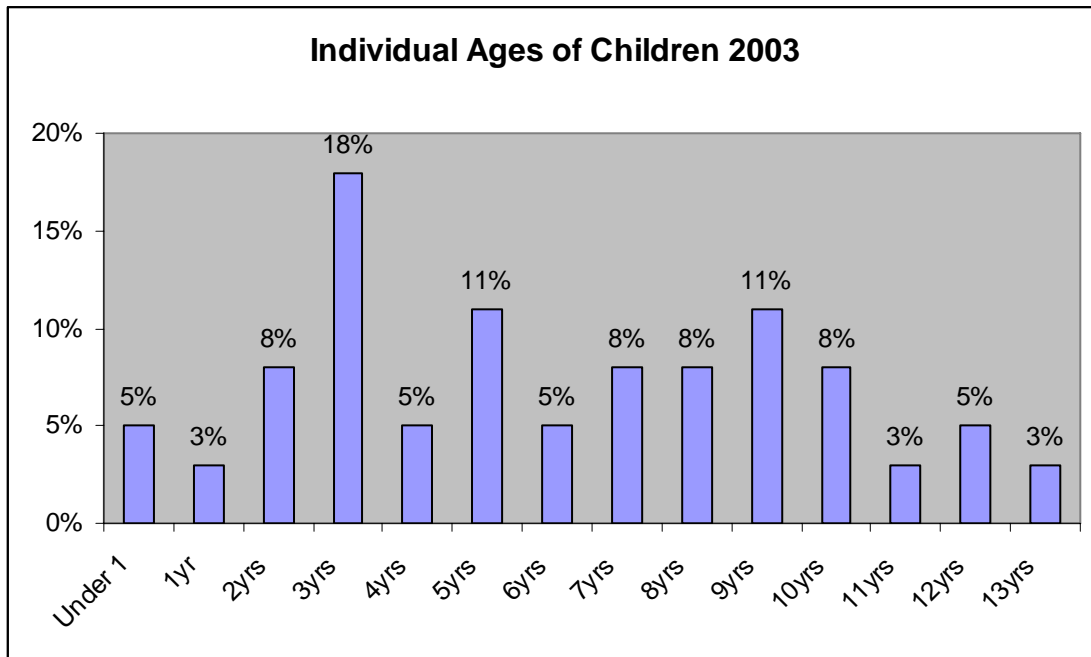
Applications involving a sibling group comprised 11, 44% of all applications. Of these, 8, 32% involved 2 children and 3, 12% involved 3 children.

(b) Incoming access applications

Each of the 2 access applications involved a single child. Globally in 2003, 71% of access applications involved a single child.

9. The age of the children**(a) Incoming return applications****Individual Ages 2003**

	Number	Percent
Under 1	2	5%
1 yr	1	3%
2 yrs	3	8%
3 yrs	7	18%
4 yrs	2	5%
5 yrs	4	11%
6 yrs	2	5%
7 yrs	3	8%
8 yrs	3	8%
9 yrs	4	11%
10 yrs	3	8%
11 yrs	1	3%
12 yrs	2	5%
13 yrs	1	3%
Total	38	~100%

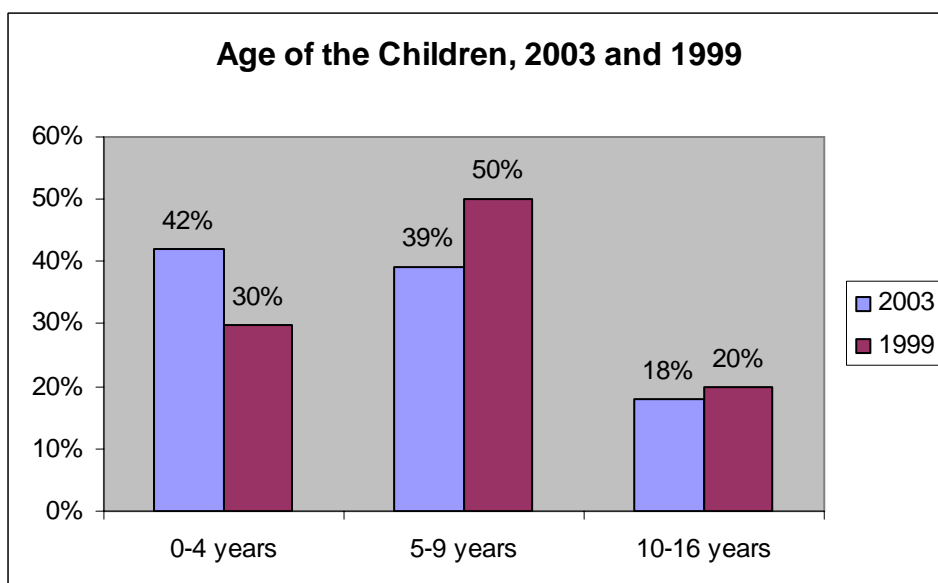


The above table and chart show the ages of the individual children involved. Interestingly, 7 children (18%) were 3 years old. The abduction of children aged between ages 1 and 6 accounts for 50% of applications compared with 55% globally. There were no applications involving children older than 13 years.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	16	42%
5-9 years	15	39%
10-16 years	7	18%
Total	38	~100%



Of the 38 children included, 39% were aged between 5-9 years which is a decrease on the 50% recorded in 1999. This can be compared with the 2003 global average of 42%. A slight decrease (2%) was recorded also in relation to the number of children aged between 10-16 years. On the other hand, the proportion of children aged between 0-4 years increased from 30% in 1999 to 42% in 2003. This is markedly higher than the 2003 global average of 22%.

(b) Incoming access applications

The children involved in the 2 incoming access applications were aged 4 and 12 years. Globally in 2003, 20% of children involved in access applications were aged between 0-4 years and 34% were aged between 10-16 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	18	47%
Male	20	53%
Total	38	100%

As can be seen, the gender of the children in return applications was almost evenly split between males and females. Males accounted for 53% and females for 47% of all children involved in the return applications. Globally in 2003, 49% of children were male and 51% were female. In 1999, 40% of children involved in the return applications to Belgium were male.

(b) Incoming access applications

The children involved in the 2003 access applications were a male and a female. Globally in 2003, 55% of children involved in access applications were male.

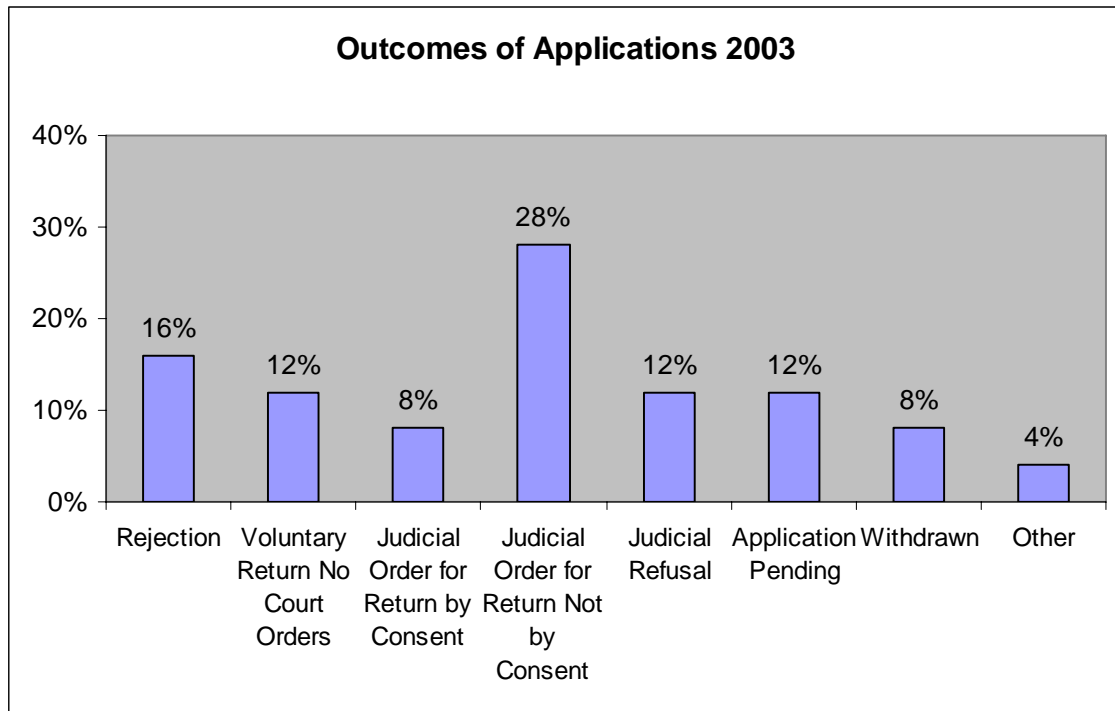
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	4	16%
Voluntary Return No Court Orders	3	12%
Judicial Order for Return by Consent	2	8%
Judicial Order for Return Not by Consent	7	28%
Judicial Refusal	3	12%
Application Pending	3	12%
Withdrawn	2	8%
Other	1	4%
Total	25	100%



The above chart shows the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Belgium in 2003, 2 judicial return orders were made with consent and 7 without consent.

Proportionally, the figures show that judicial order for return not by consent was the most common outcome for an application, with a total of 7 (28%) applications. Combining judicial and voluntary returns the overall return rate was 48%, which compares with the global average of 51%. However, on the other hand, the number of voluntary returns, at 12%, remains lower than the global average of 22%.

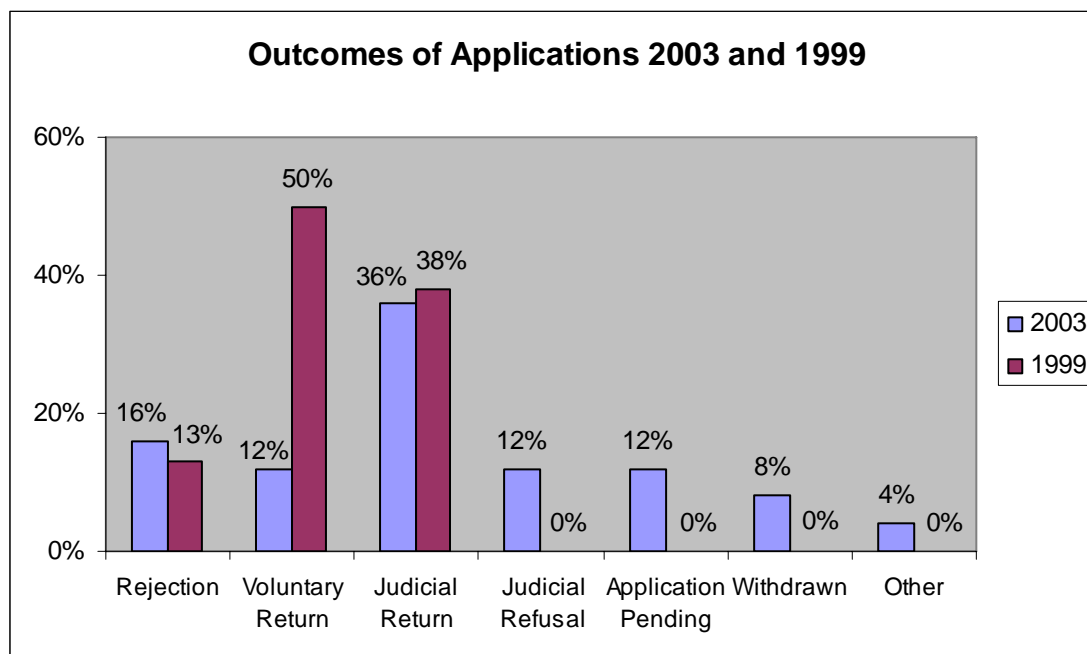
Of the 12 applications which went to court, 9 (75%), resulted in a return order, which is higher than the global average of 66%.⁵

In one application the child was removed by the applicant to France.⁶

The withdrawal rate of 8% is below the 2003 global average of 15%. As of 30th June 2005, 12% of cases were still pending, which is above the global average of 9%.

⁵ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁶ Recorded as 'other' outcome.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Unlike in 1999, at 36%, judicial return was the most common outcome for an application. As can be seen, the proportion of judicial returns slightly decreased from 38% in 1999 to 36% in 2003. The proportion of voluntary returns dropped from 50% in 1999 to 12% in 2003. Consequently, the overall return rate markedly decreased, from 88% in 1999 to 48% in 2003.

Overall, 12 (48%) of all applications went to court, which represents an increase on the 3 (38%) of cases recorded in the 1999 survey. Of these cases, 3 (25%) were judicially refused, compared with none in 1999.

8% of applications were withdrawn and 12% of applications were still pending as of the cut-off period for the survey, as opposed to none withdrawals and pending applications in 1999.

(b) Incoming access applications

In one of the 2 access applications, access was judicially granted pending court hearing. The other application was rejected by the Central Authority.

12. The reasons for rejection

(a) Incoming return applications

In 2003, Belgium rejected 4 (16%) applications as against the global average of 6%. In 1999, no application was rejected.

One (25%) case was rejected as the child was located in another country. In a second case, the child was not located. Globally, 24% of applications were rejected because of the former reason and 27% of applications because of the latter reason.

Finally, 2 (50%) applications were rejected on the ground that the Convention was not in force at time, as opposed to 8% globally.

(c) Incoming access applications

The one incoming access application was rejected because the child was not located. Globally, 10% of access applications were rejected on this ground.

13. The reasons for judicial refusal

(a) Incoming return applications⁷

There were two exceptions relied upon in the 2 applications which were refused. One application was refused because the applicant had no rights of custody. The refusal in the other application was based on Art.13b. Globally, 8% of applications were refused because of the former reason and 18% of applications because of the latter reason.

14. The reasons for judicial refusal and the relationship of the taking person

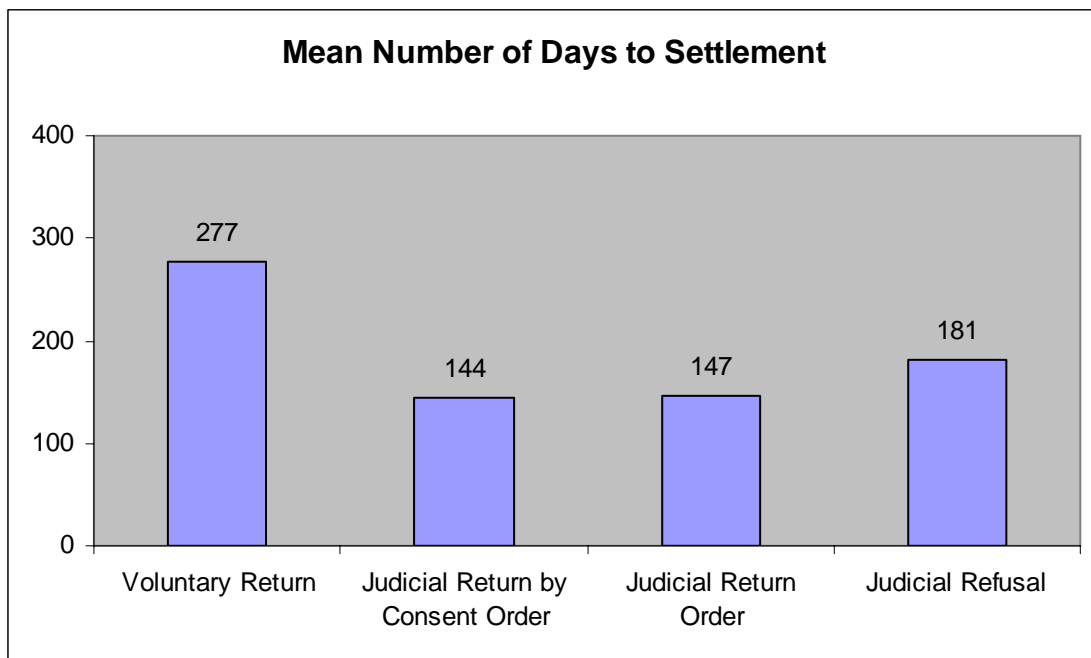
(a) Incoming return applications⁸

In both applications where the reason for refusal was known, the taking person was the child's mother. There was also an additional case involving a father for which the reason for refusal was unknown. Globally, 77% of refusals involved mothers and 21% of refusals involved fathers.

Speed

15. The time between application and outcome

(a) Incoming return applications⁹

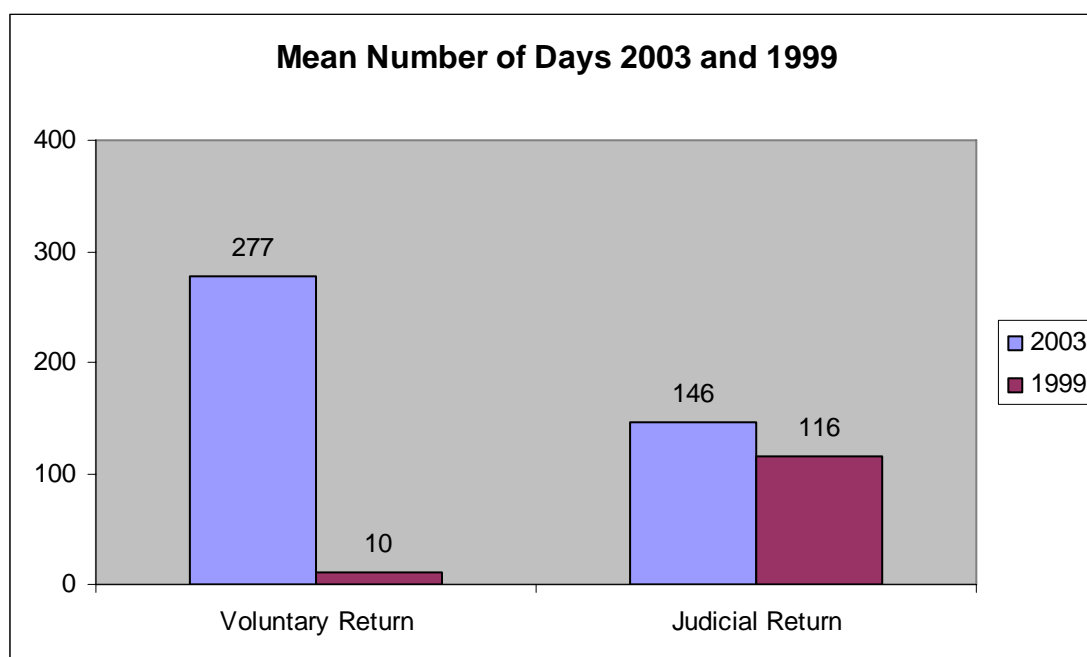


As can be seen, return orders by consent were resolved slightly quicker than return orders without consent, in 144 days compared with 147 days. These figures can be compared with the 2003 global averages of 85 days and 143 days respectively. The one voluntary return where timing was available took 277 days to reach the outcome, which is significantly longer than the 2003 global average of 98 days. Similarly, the speed of judicial refusals, averaging 181 days, was faster than the global mean of 233 days.

⁷ In one application the reason for refusal was not available.

⁸ This information was not available in one application.

⁹ In relation to 2 voluntary returns and one judicial refusal this information was not stated.



The chart above shows that judicial returns were resolved in a combined average of 146 days, compared with 116 days in 1999. The one voluntary return took significantly longer to reach a final outcome, 277 days as opposed to 10 days in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	277	144	147	181
Median	277	144	81	181
Minimum	277	44	7	149
Maximum	277	244	458	212
Number of cases	1	2	7	2

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Belgium. The fastest judicial decision, a judicial return without consent, was made in 7 days, the slowest, again a judicial return (though without consent), was made in 458 days. The voluntary return, for which we have timing, took 277 days to reach the final outcome which seems an extraordinarily long time.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	44	181
Median	45	181
Minimum	7	149
Maximum	81	212
Number of cases	4	2

As can be seen, in relation to judicial return orders the exclusion of appealed cases significantly affects the overall mean average taken to reach an outcome 44 days as

against 147 days. But it makes no difference with regard to judicial refusals, since there were no appeals against these decisions.

(b) Incoming access applications

The one application in which access was judicially granted pending court hearing took 193 days to reach final outcome.

16. Appeals

(a) Incoming return applications

3 out of 12 (25%) judicial decisions were appealed compared with 9% globally. In all these cases the appellate court upheld the first instance decision. All 3 cases resulted in a judicial return. These applications took an average 284 days to reach final outcome.

In 1999, there were 2 appeals, both of which resulted in the return of the children. The 2 cases took 92 days and 140 days respectively which was considerably faster than the 1999 global norm of 208 days.

(b) Incoming access applications

The application that took 193 days was an appealed case. Access was granted at first instance and on appeal.

BELGIQUE

Les demandes

1. Nombre de demandes

Demandes de retour reçues	25
Demandes de droit de visite reçues	2
Demandes de retour envoyées	44
Demandes de droit de visite envoyées	9

D'après l'Autorité centrale belge, en 2003, la Belgique a reçu 25 demandes de retour et 2 demandes de droit de visite, soit 27 demandes au total. Cela traduit une hausse par rapport aux 9 demandes reçues en 1999 (toutes des demandes de retour) bien que la ratification par la Belgique n'ait pris effet qu'en mai 1999.

Le rapport entre les demandes de retour et les demandes de droit de visite reçues est de 93% contre 7%, alors que les résultats d'ensemble révèlent un rapport de 84% contre 16%.

En outre, l'Autorité centrale a envoyé 44 demandes de retour¹ et 9 demandes de droit de visite en 2003. Cela traduit une hausse importante par rapport aux 6 demandes de retour et aucune demande de droit de visite envoyées en 1999.

En tout et pour tout, l'Autorité centrale belge a traité 80 nouvelles demandes en 2003, contre 15 nouvelles demandes en 1999.

De manière générale, 34% de demandes ont été reçues pour 66% de demandes envoyées.

2. Etats contractants qui ont envoyé des demandes

(a) Demandes de retour reçues

¹ Ceci est le nombre total de demandes sur la base des informations fournies par l'Autorité centrale, c-à-d le nombre de demandes qu'elle a envoyées. Ces demandes peuvent ne pas avoir été transmises à l'Autorité centrale étrangère ; en 2003, par exemple, certaines demandes peuvent avoir été retirées avant leur transmission ou elles peuvent ne pas avoir été envoyées à l'Autorité centrale étrangère (ou reçues par celle-ci) avant le 31 décembre 2003.

Etats requérants en 2003

	Nombre	Taux
Pays-Bas	4	16%
RU - Angleterre et Pays de Galles	4	16%
France	3	12%
Israël	2	8%
Portugal	2	8%
Etats-Unis	2	8%
Brésil	1	4%
Canada	1	4%
Allemagne	1	4%
Italie	1	4%
Luxembourg	1	4%
Afrique du Sud	1	4%
Espagne	1	4%
Suisse	1	4%
Total	25	100%

Etats requérants par rapport à 1999

	Nombre de demandes en 2003	Nombre de demandes en 1999
Pays-Bas	4 (16%)	1 (11%)
RU – Angleterre et Pays de Galles	4 (16%)	2 (22%)
France	3 (12%)	2 (22%)
Israel	2 (8%)	1 (11%)
Portugal	2 (8%)	0 (0%)
Etats-Unis	2 (8%)	1 (11%)
Brésil	1 (4%)	0 (0%)
Canada	1 (4%)	0 (0%)
Allemagne	1 (4%)	1 (11%)
Italie	1 (4%)	1 (11%)
Luxembourg	1 (4%)	0 (0%)
Afrique du Sud	1 (4%)	0 (0%)
Espagne	1 (4%)	0 (0%)
Suisse	1 (4%)	0 (0%)
Total	25 (100%)	9 (~100%)

La Belgique a reçu des demandes de retour de 14 Etats contractants, contre 7 en 1999. Les Pays-Bas et l'Angleterre et le Pays de Galles (avec 4 demandes, soit 16% chacun) et la France (3 demandes, soit 12%) ont envoyé le plus grand nombre de demandes. Ces taux sont comparables à ceux de 1999, où ces 3 Etats avaient à eux seuls reçus 55% du total des demandes.

Etats requérants membres de l'UE en 2003

	Nombre	Taux
Pays-Bas	4	24%
RU - Angleterre et Pays de Galles	4	24%
France	3	18%
Portugal	2	12%
Allemagne	1	6%
Italie	1	6%
Luxembourg	1	6%
Espagne	1	6%
Total	17	~100%

Le tableau ci-dessus montre le nombre de demandes reçues par les Etats qui sont actuellement membres de l'Union européenne (UE)². Ces Etats ont envoyé 17 demandes sur les 25 reçues par la Belgique, soit 68% du total des demandes. En 1999, 77% des demandes (7 sur 9) provenaient d'Etats qui sont aujourd'hui membres de l'UE.

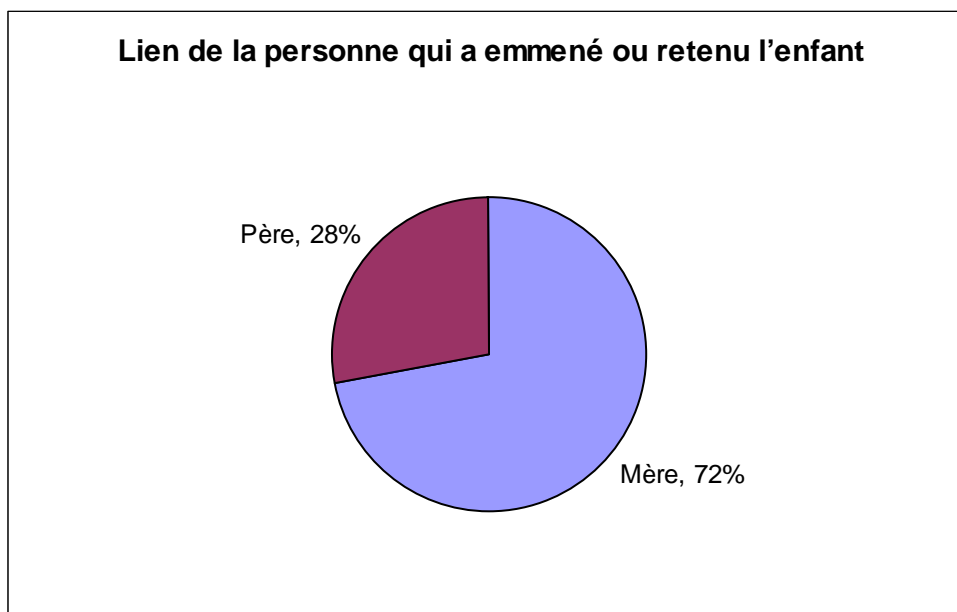
(b) Demandes de droit de visite reçues

L'Autorité centrale belge a reçu 2 demandes de droit de visite contre aucune en 1999. La France et la Suisse étaient les Etats requérants.

La personne qui a emmené ou retenu l'enfant / le défendeur**3. Lien de la personne qui a emmené ou retenu l'enfant / le défendeur****(a) Demandes de retour reçues****Lien de la personne qui a emmené ou retenu l'enfant**

	Nombre	Taux
Mère	18	72%
Père	7	28%
Total	25	100%

² Ces chiffres se réfèrent à l'Union européenne depuis 2006 par rapport à 2003. Les membres actuels de l'UE sont l'Allemagne, l'Autriche, la Belgique, Chypre, le Danemark, l'Espagne, l'Estonie, la Finlande, la France, la Grèce, la Hongrie, l'Irlande, l'Italie, la Lettonie, la Lituanie, le Luxembourg, Malte, les Pays-Bas, la Pologne, le Portugal, la République tchèque, le Royaume-Uni, la Slovaquie, la Slovénie et la Suède.



L'étude de 2003 a cherché à obtenir des informations sur le lien entre l'enfant et la personne qui l'a emmené ou retenu, alors qu'en 1999 on ne s'intéressait qu'au sexe de la personne qui a emmené ou retenu l'enfant (homme, femme). En 2003, 72% des personnes qui ont emmené ou retenu l'enfant étaient mères de l'enfant. Cela est comparable à la moyenne générale de 68%, mais révèle une hausse significative par rapport à 1999, où seulement 44% de personnes qui ont emmené ou retenu l'enfant étaient des femmes.

(b) Demandes de droit de visite reçues

Dans l'une des deux demandes de droit de visite, la mère était défenderesse. L'autre défendeur était la belle-mère de l'enfant (la femme du père)³. Le taux d'ensemble relevé pour les demandes de droit de visite en 2003 est de 79% de mères défenderesses.

4. Attributs de la personne qui a emmené ou retenu l'enfant par rapport à la responsabilité de l'enfant

(a) Demandes de retour reçues

La Belgique n'a pas précisé si les personnes qui ont emmené ou retenu l'enfant avaient ou non la responsabilité de celui-ci.

5. Nationalité de la personne qui a emmené ou retenu l'enfant / défendeur

(a) Demandes de retour reçues

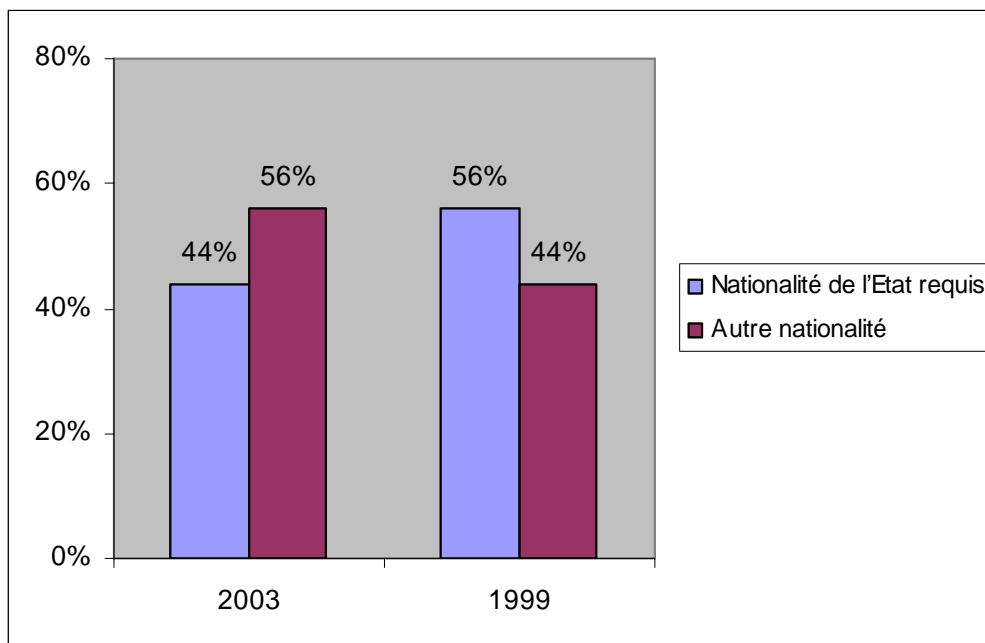
La personne qui a emmené ou retenu l'enfant a la nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	11	44%
Autre nationalité	14	56%
Total	25	100%

Ce tableau montre que dans 44% des demandes, la personne qui a emmené ou retenu l'enfant était belge (dont une personne avec la double nationalité) et dans 56% des

³ Classée dans la catégorie « autre membre de la famille ».

demandes, elle avait une autre nationalité. Cela diffère des taux d'ensemble respectifs de 55% et 45%.



Le graphique ci-dessus compare les taux de 2003 relatifs à la nationalité avec ceux de 1999. Il est intéressant de constater que la tendance observée en 2003 est exactement inversée par rapport à 1999. Comme le montre le graphique, le taux de belges qui ont emmené ou retenu l'enfant en Belgique a chuté de 56% en 1999 à 44% en 2003. Parallèlement, la proportion de personnes qui ont emmené ou retenu l'enfant présentant une autre nationalité que celle de l'Etat requis a augmenté de 44% en 1999 à 56% en 2003.

Ces taux se rapprochent de la moyenne générale pour 2003 de 55 % de personnes ressortissantes de l'Etat requis ayant emmené ou retenu l'enfant.

(b) Demandes de droit de visite reçues

Dans l'une des 2 demandes de droit de visite, le défendeur était belge. La moyenne globale pour les demandes de droit de visite en 2003 est de 53% de défendeurs avec la nationalité de l'Etat requis.

6. Nationalité et lien de la personne qui a emmené ou retenu l'enfant / le défendeur (combinés)

(a) Demandes de retour reçues

Nationalité et lien de la personne qui a emmené ou retenu l'enfant

	Lien de la personne qui a emmené ou retenu l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	7	3	10
Autre nationalité	11	3	14
Total	18	7	25

Le tableau ci-dessus met en relation le sexe et la nationalité des personnes qui ont emmené ou retenu l'enfant. Dans 7 demandes sur 18 (39%), la mère qui a emmené ou

retenu l'enfant était de nationalité belge. Dans 4 demandes sur 7, le père qui a emmené ou retenu l'enfant était belge.

Ces taux sont à rapprocher des moyennes générales pour 2003 de 54% de mères et 55% de pères nationaux de l'Etat requis.

Les résultats de 2003 divergent des tendances observées en 1999, où 75% de femmes et 40% d'hommes qui ont emmené ou retenu l'enfant étaient de nationalité belge.

(b) Demandes de droit de visite reçues

Pour les demandes de droit de visite, la belle-mère qui était défenderesse était de nationalité belge. L'autre défendeur, la mère de l'enfant, avait une autre nationalité que celle de l'Etat requis. Les moyennes globales de 2003 indiquent que 51% des mères défenderesses dans les demandes de droit de visite avaient une autre nationalité que celle de l'Etat requis.

Les enfants

7. Nombre total d'enfants

(a) Demandes de retour reçues

38 enfants ont fait l'objet des 25 demandes de retour reçues en 2003. Ceci est à rapprocher avec le total de 12 enfants au moins des 9 demandes de retour reçues de 1999⁴.

En 2003, il y avait en moyenne 1,52 enfants par demande de retour. Proportionnellement, cela traduit une hausse par rapport aux 1,33 enfants en moyenne par demande de retour reçue en 1999. Dans l'ensemble, en 2003, il y avait en moyenne 1,4 enfants par demande de retour.

(b) Demandes de droit de visite reçues

2 enfants ont fait l'objet des 2 demandes de droit de visite reçues en 2003. La moyenne générale en 2003 est de 1,3 enfants par demande de droit de visite.

8. Enfants uniques ou fratries

(a) Demandes de retour reçues

Enfant unique ou fratrie

	Nombre	Taux
Enfant unique	14	56%
Fratrie	11	44%
Total	25	100%

⁴ Le nombre exact d'enfants n'a pas été communiqué pour 3 demandes; 2 de ces demandes concernaient cependant une fratrie.

Nombre d'enfants

	Nombre	Taux
1 enfant	14	56%
2 enfants	8	32%
3 enfants	3	12%
Total	25	100%

Le taux d'enfants uniques dans les demandes de retour (56%) est inférieur au taux global de 67% pour 2003 et traduit une baisse par rapport au taux de 63% pour 1999. Le taux de 88% de demandes relatives à 1 ou 2 enfants est légèrement inférieur à la moyenne générale de 93% en 2003.

11 demandes concernaient une fratrie, soit 44% des demandes. 8 de ces demandes (32%) étaient relatives à 2 enfants et 3 demandes (12%) à 3 enfants.

(b) Demandes de droit de visite reçues

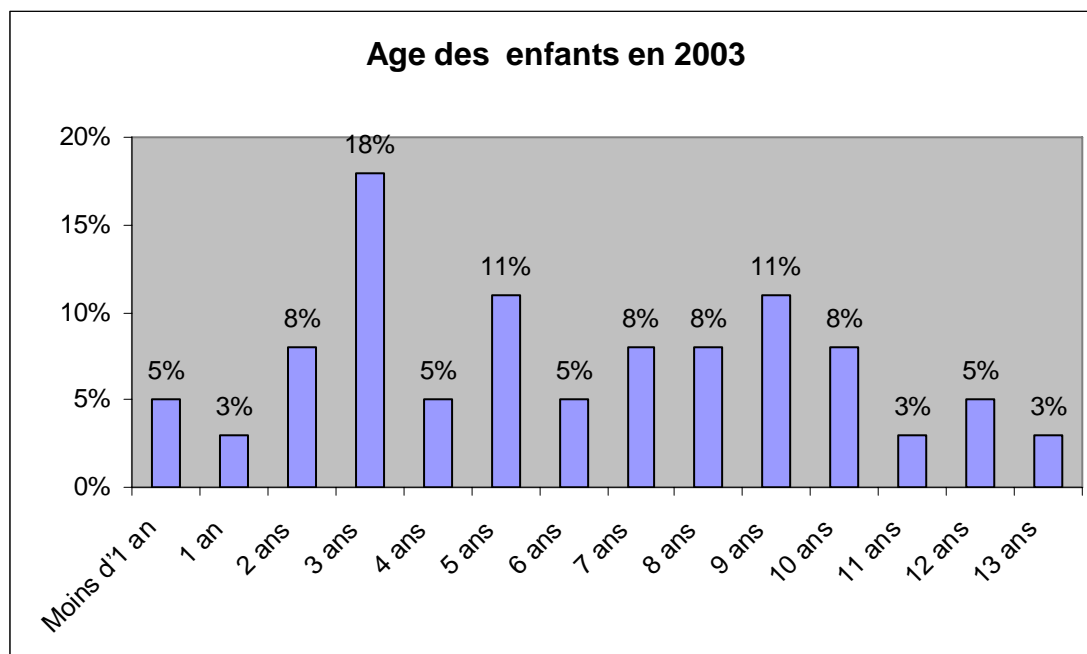
Chacune des 2 demandes de droit de visite concernait un enfant unique. En 2003, 71% du total global des demandes de droit de visite étaient relatives à un enfant unique.

9. Age des enfants

(a) Demandes de retour reçues

Age des enfants en 2003

	Nombre	Taux
Moins d'1 an	2	5%
1 an	1	3%
2 ans	3	8%
3 ans	7	18%
4 ans	2	5%
5 ans	4	11%
6 ans	2	5%
7 ans	3	8%
8 ans	3	8%
9 ans	4	11%
10 ans	3	8%
11 ans	1	3%
12 ans	2	5%
13 ans	1	3%
Total	38	~100%

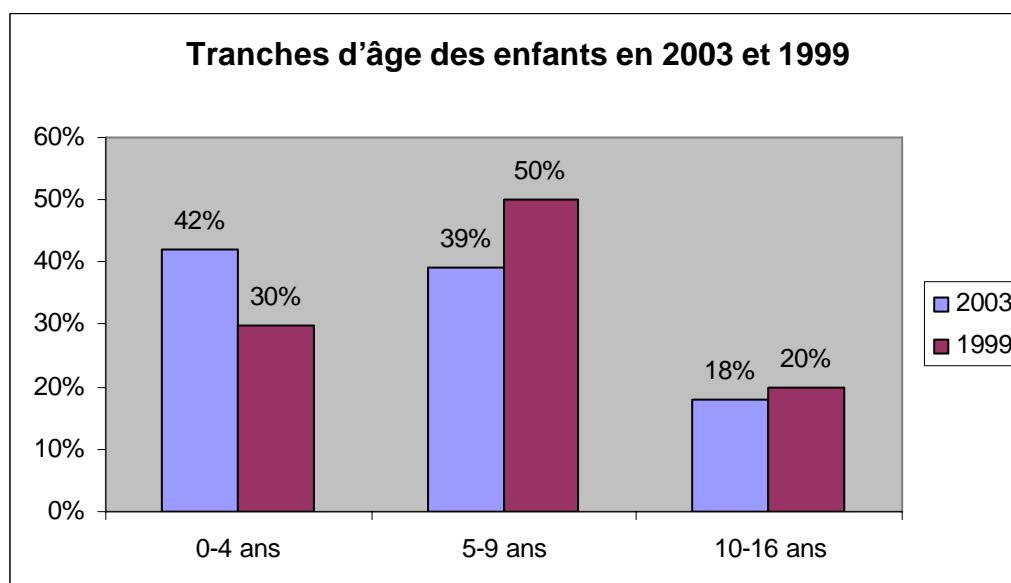


Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant. Il est intéressant de constater que 7 enfants (18%) étaient âgés de 3 ans. L'enlèvement d'enfants âgés de 1 à 6 ans correspond à 50% des demandes, contre 55% du total global. Aucune demande ne concernait d'enfant de 13 ans ou plus.

L'étude de 1999 n'était pas à ce niveau suffisamment détaillée pour nous permettre de comparer les résultats. Néanmoins, nous avons des données sur les tranches d'âge des enfants, lesquelles peuvent être comparées.

Tranches d'âge des enfants en 2003

	Nombre	Taux
0-4 ans	16	42%
5-9 ans	15	39%
10-16 ans	7	18%
Total	38	~100%



Parmi les 38 enfants impliqués, 39% étaient âgés de 5 à 9 ans, ce qui traduit une baisse par rapport aux 50% relevés en 1999. Ce taux est à rapprocher de la moyenne globale de 42% pour 2003. Une légère baisse a aussi été relevée pour le nombre d'enfants âgés de 10 à 16 ans. Par contre, le taux d'enfants âgés de 0 à 4 ans a augmenté de 30% en 1999 à 42% en 2003, ce qui est nettement supérieur au taux global de 22%.

(b) Demandes de droit de visite reçues

Les enfants des 2 demandes de droit de visite étaient âgés de 4 et 12 ans. Globalement, en 2003, 20% des enfants dans les demandes de droit de visite étaient âgés de 0 à 4 ans et 34% de 10 à 16 ans.

10. Sexe des enfants

(a) Demandes de retour reçues

Sexe des enfants

	Nombre	Taux
Féminin	18	47%
Masculin	20	53%
Total	38	100%

Comme l'indique le tableau ci-dessus, il y avait presque autant de filles que de garçons faisant l'objet d'une demande, soit 53% de garçons pour 47% de filles dans les demandes de retour. Globalement, pour 2003, il y avait 49% de garçons et 51% de filles. En 1999, 40% des enfants dans les demandes de retour reçues par la Belgique étaient des garçons.

(b) Demandes de droit de visite reçues

Les enfants dans les demandes de droit de visite reçues en 2003 étaient un garçon et une fille. Les résultats globaux indiquent un taux de 55% de garçons dans les demandes de droit de visite.

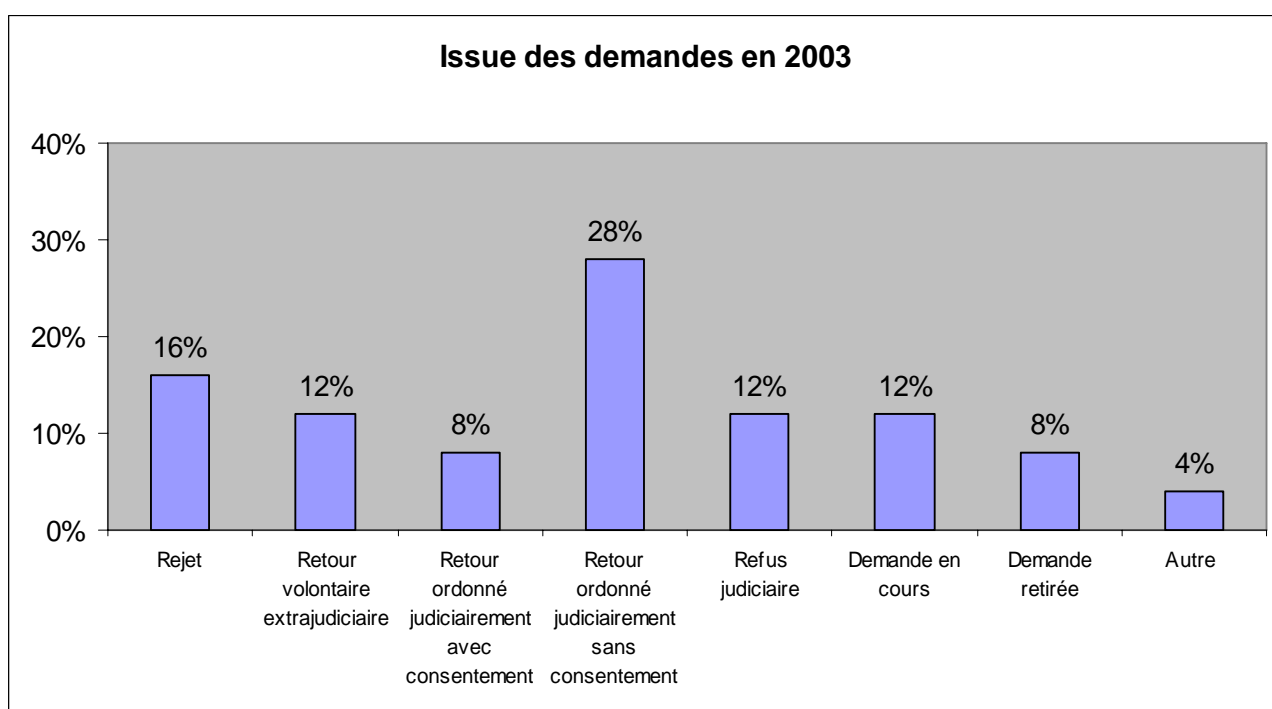
Issues des demandes

11. Issues globales

(a) Demandes de retour reçues

Issue des demandes en 2003

	Nombre	Taux
Rejet	4	16%
Retour volontaire extrajudiciaire	3	12%
Retour ordonné judiciairement avec consentement	2	8%
Retour ordonné judiciairement sans consentement	7	28%
Refus judiciaire	3	12%
Demande en cours	3	12%
Demande retirée	2	8%
Autre	1	4%
Total	25	100%



Le tableau ci-dessus montre les issues de toutes les demandes déposées en 2003.

Contrairement à l'étude de 1999, celle de 2003 distingue entre les retours ordonnés judiciairement avec ou sans consentement. En Belgique, en 2003, 2 retours ordonnés judiciairement ont été prononcés avec consentement et 7 sans consentement.

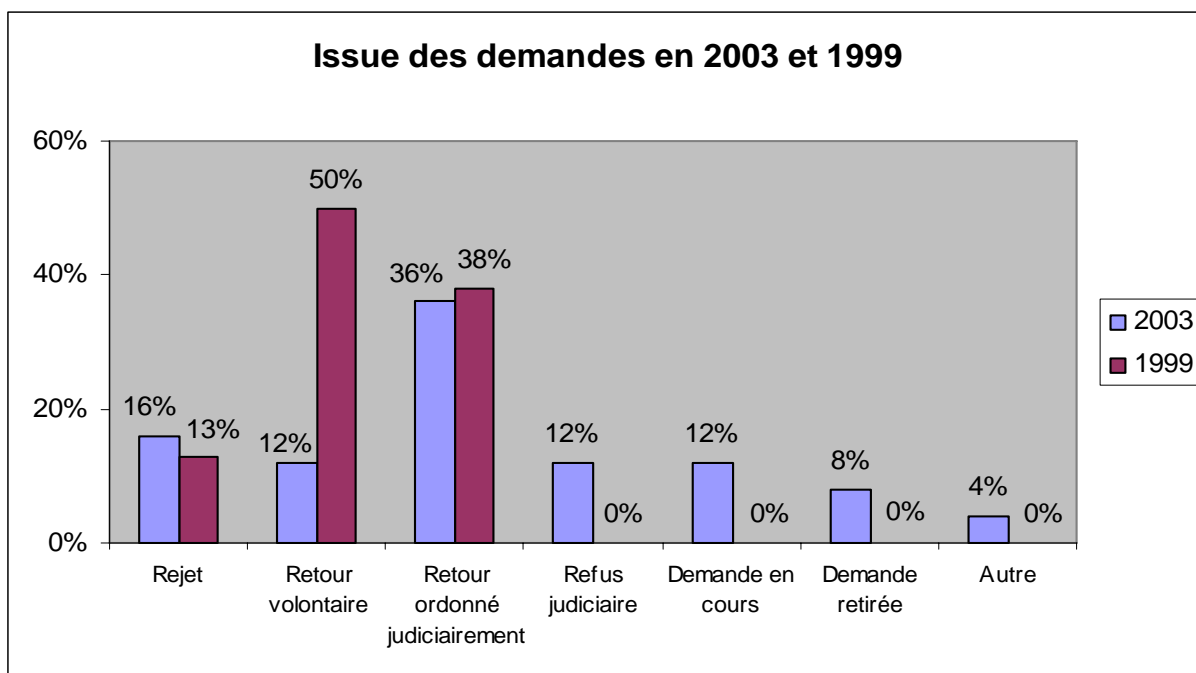
Proportionnellement, les taux indiquent que l'issue la plus courante était le retour ordonné judiciairement sans consentement, ce qui concernait 7 demandes (28%). Si l'on combine les retours ordonnés judiciairement et les retours volontaires, le taux de retours était de 48%, ce qui est comparable au taux global de 51%. Par contre, le taux de retours volontaires (12%) reste en deçà du taux global de 22%.

Des 12 demandes traitées par voie judiciaire, 9 (75%) ont abouti à un retour ordonné judiciairement, ce qui est supérieur à la moyenne générale de 66%⁵.

Dans une demande, l'enfant a été déplacé par le demandeur vers la France⁶.

⁵ Globalement, 66% de demandes ont abouti à un retour, 5% à un droit de visite, 28% à un refus judiciaire. Voir Partie I du Rapport de 2003, p. 32.

Le taux de demandes retirées de 8% est inférieur au taux global de 15% pour 2003. Au 30 juin 2005, 12% des affaires étaient toujours en cours, ce qui est supérieur au taux global de 9%.



Le graphique ci-dessus classe les issues des demandes de sorte à pouvoir les comparer avec les résultats de 1999. Ainsi, les « retours ordonnés judiciairement » incluent les retours ordonnés judiciairement avec consentement et sans consentement.

A la différence de l'étude de 1999, l'issue de la demande la plus courante était le retour ordonné judiciairement (36%). Comme indiqué, le taux de retours ordonnés judiciairement a légèrement baissé de 38% en 1999 à 36% en 2003. Le taux de retours volontaires a baissé de 50% en 1999 à 12% en 2003. Il en résulte que le taux de retours a chuté de manière radicale, passant de 88% en 1999 à 48% en 2003.

Dans l'ensemble, 12 demandes (48%) ont été traitées par voie judiciaire, ce qui traduit une hausse par rapport aux 3 demandes (38%) comptabilisées en 1999. 3 de ces demandes (25%) ont été refusées judiciairement, contre aucun refus en 1999.

8% des demandes ont été retirées et 12% des demandes étaient toujours en cours à la date butoir du 30 juin 2005, contre aucune demande retirée ou en cours en 1999.

(b) Demandes de droit de visite reçues

L'une des deux demandes a abouti à un droit de visite accordé judiciairement avant l'audience judiciaire. L'autre demande a été rejetée par l'Autorité centrale.

12. Motifs du rejet

(a) Demandes de retour reçues

⁶ Classée dans la catégorie « Autre issue ».

En 2003, l'Autorité centrale belge a rejeté 4 demandes (16%), contre globalement 6% en 2003. En 1999, aucune demande n'avait été rejetée.

Dans une affaire (25%), la demande a été rejetée parce que l'enfant a été localisée dans un autre Etat. Dans une deuxième affaire, l'enfant n'a pas pu être localisé. Dans les résultats globaux, 24% des demandes ont été rejetées pour la première raison et 27% pour la deuxième raison.

Enfin, 2 demandes (50%) ont été rejetées parce que la Convention n'était pas entrée en vigueur à ce moment, contre un taux global de 8%.

(b) Demandes de droit de visite reçues

La seule demande de droit de visite rejetée l'a été parce que l'enfant n'a pas pu être localisé. Globalement, 10% des demandes de droit de visite ont été rejetées pour ce motif.

13. Motifs du refus judiciaire

(a) Demandes de retour reçues⁷

Deux exceptions ont été invoquées pour les 2 demandes refusées. Le refus d'une demande reposait sur l'absence de droit de garde du demandeur. Le refus de l'autre demande reposait sur l'article 13(1) *b*). Globalement, 8% des demandes ont été refusées pour le premier motif et 18% pour le second motif.

14. Motifs du refus judiciaire et lien de la personne qui a emmené ou retenu l'enfant⁸

(a) Demandes de retour reçues

Dans les deux demandes pour lesquelles le motif du refus était connu, la personne qui a emmené ou retenu l'enfant était la mère de ce dernier. Dans un cas supplémentaire mettant en cause le père, le motif du refus était inconnu. Les résultats globaux de 2003 indiquent que 77% des refus concernaient la mère et 21% le père.

Rapidité de traitement des demandes

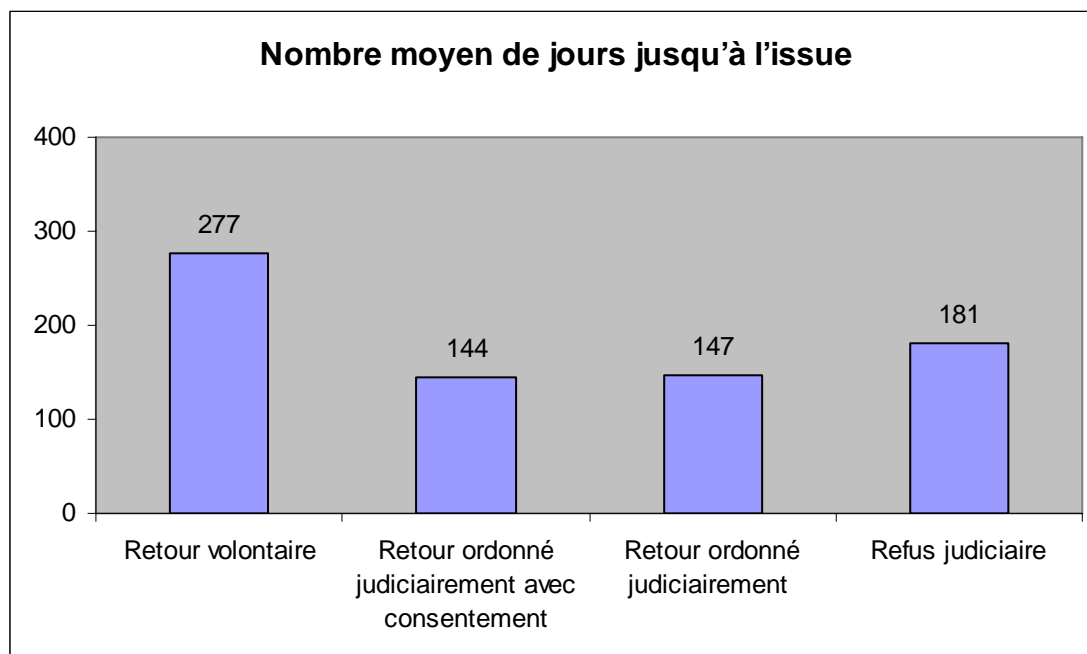
15. Durée entre la demande et son aboutissement

(a) Demandes de retour reçues⁹

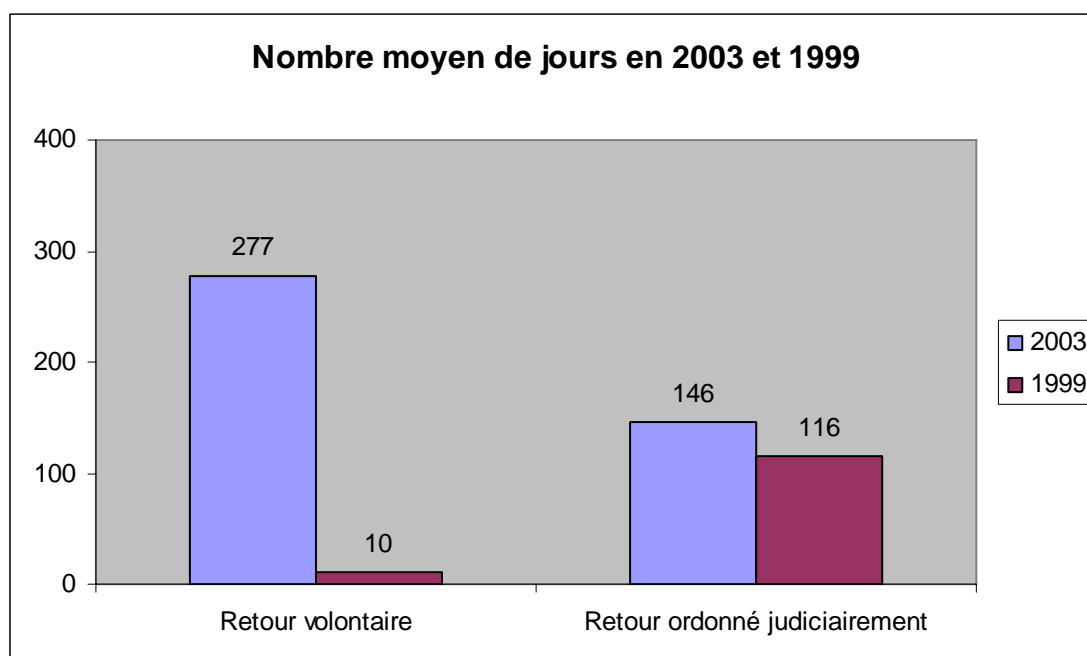
⁷ Le motif du refus n'a pas été communiqué pour une demande.

⁸ Cette information n'a pas été communiquée pour une demande.

⁹ Cette information n'a pas été communiquée pour 2 remises volontaires et un refus judiciaire.



Comme l'indique le graphique, les retours ordonnés judiciairement avec consentement ont été prononcés plus rapidement (144 jours) que les retours ordonnés judiciairement sans consentement (147 jours). Ces chiffres sont à rapprocher des taux globaux pour 2003 qui indiquent respectivement 85 jours contre 143 jours. L'unique retour volontaire pour lequel une durée a été précisée a pris 277 jours, ce qui est nettement plus long que la moyenne générale de 98 jours. De même, les refus judiciaires, prononcés au bout de 181 jours en moyenne, ont été prononcés plus rapidement que la moyenne générale de 233 jours.



Le graphique ci-dessus indique que les retours ordonnés judiciairement (combinés) ont été prononcés au bout de 146 jours en moyenne, contre 116 jours en 1999. Le retour volontaire a pris beaucoup plus de temps, en l'occurrence 277 jours contre 10 jours en 1999.

**Nombre de jours jusqu'à l'issue définitive en 2003
(y compris les décisions en appel)**

	Retour volontaire extrajudiciaire	Retour ordonné judiciairement avec consentement	Retour ordonné judiciairement	Refus judiciaire
Moyenne	277	144	147	181
Médiane	277	144	81	181
Minimum	277	44	7	149
Maximum	277	244	458	212
Nombres de demandes	1	2	7	2

Le tableau ci-dessus montre les différences de durées jusqu'à l'issue et offre un aperçu plus informatif du système belge. Le délai le plus court pour les décisions judiciaires (un retour ordonné judiciairement sans consentement) était de 7 jours, et le délai le plus long de 458 jours. Le retour volontaire pour lequel nous avons des informations de durée a eu lieu au bout de 277 jours, ce qui semble extrêmement long.

**Nombre de jours jusqu'à l'issue définitive en 2003
(à l'exclusion des décisions en appel)**

	Retour ordonné judiciairement	Refus judiciaire
Moyenne	44	181
Médiane	45	181
Minimum	7	149
Maximum	81	212
Nombres de demandes	4	2

Comme l'indique le tableau, en matière de retours ordonnés judiciairement, ne pas comptabiliser les demandes traitées en appel affecte de manière significative la durée moyenne jusqu'à l'issue, en l'occurrence 44 jours contre 147 jours. Mais cela n'a pas d'incidence sur les refus judiciaires, vu qu'aucune décision n'a fait l'objet d'un appel.

(b) Demandes de droit de visite reçues

La seule demande pour laquelle un droit de visite a été accordé judiciairement avant l'audience a abouti au bout de 193 jours.

15. Appels

(a) Demandes de retour reçues

Des 12 demandes traitées par voie judiciaire, 3 (25%) ont fait l'objet d'un recours, contre globalement 9% d'appels. Pour toutes ces demandes, l'instance d'appel a confirmé la décision de première instance. Les 3 demandes ont abouti à un retour ordonné judiciairement, au bout de 284 jours en moyenne.

En 1999, les 2 appels qui avaient été interjetés avaient abouti au retour de l'enfant. Les 2 affaires avaient duré respectivement 92 et 140 jours, ce qui était alors nettement plus rapide que la moyenne globale de 208 jours en 1999.

(b) Demandes de droit de visite reçues

La demande qui a abouti au bout de 193 jours a été rendue en appel. Le droit de visite avait été accordé en première instance et confirmé en appel.

BELIZE

The applications

1. The number of applications

Incoming Return Applications	2
Incoming Access Applications	0
Outgoing Return Applications	2
Outgoing Access Applications	0

According to the Central Authority for Belize, they received 2 incoming return applications but no incoming access applications in 2003. It is to be noted that the overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

Additionally, the Central Authority made 2 outgoing return applications but no outgoing access applications in that year.

Altogether the Central Authority handled 4 new applications in 2003.

The overall ratio of incoming to outgoing applications was 50%: 50%.

Belize did not participate in the 1999 survey and we cannot therefore compare the number of applications received in that year.

2. The Contracting States which made the application

The applications came from England and Wales and the USA.

The taking person

3. The relationship of the taking person

The taking person in one application was the father and in the other the mother. Globally, 29% of taking persons were recorded as the father of the child and 68% as the mother of the child.

4. The status of the taking person as carer in relation to the child

Belize did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Neither of the 2 taking persons were Belize nationals. Globally, 45% of taking person had a different nationality from the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 46% of mothers and 45% of fathers had a different nationality from the requested State.

The children

7. The total number of children

There were 2 children involved in the 2 incoming applications. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Both applications involved a single child. Globally, 67% of return applications involved single children.

9. The age of the children

Both children were 11 years old. Globally, 22% of children involved in return applications were older than 10 years.

10. The gender of the children

One of the 2 children was a male and the other was a female. Globally, 49% of children were male and 51% were female.

The outcomes

11. Overall outcomes

One application resulted in a voluntary return. The other case concluded in a judicial return order without consent. This can be compared with the 2003 global averages of 22% and 20% respectively. The overall 100% return rate compares with 51% globally.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome¹

The one voluntary return was resolved in 11 days as opposed to 98 days globally.

16. Appeals

The one judicial decision was not appealed.

¹ The timing was not available in relation to the one judicial return order.

BELICE

Las solicitudes

1. El número de solicitudes

Solicitudes de restitución recibidas	2
Solicitudes de derecho de visita recibidas	0
Solicitudes de restitución efectuadas	2
Solicitudes de derecho de visita efectuadas	0

De acuerdo a la Autoridad Central de Belice, ésta recibió 2 solicitudes de restitución pero ninguna solicitud de derecho de visita en el 2003. Debe notarse que el ratio general de solicitudes de restitución frente a solicitudes de derecho de visita (100%) estuvo por encima del promedio global de 84% a 16%.

Además, la Autoridad Central efectuó 2 solicitudes de restitución pero ninguna solicitud de derecho de visita durante ese año.

En conjunto, la Autoridad Central tramitó 4 solicitudes nuevas en el 2003.

El ratio general de solicitudes recibidas y efectuadas fue de 50%: 50%.

Belice no participó en el estudio de 1999 y, por lo tanto no podemos comparar el número de solicitudes recibidas en ese año.

2. Los Estados contratantes que efectuaron la solicitud

Las solicitudes provenían de Inglaterra y Gales y EE.UU.

La persona que se lleva o retiene al menor

3. La relación entre el menor y la persona que se lo lleva o lo retiene

En una solicitud la persona que se llevo o retuvo al menor fue el padre y en otra la madre. A nivel global, el 29% de personas que se llevaron o retuvieron menores fueron registradas como padres y el 68% como madres.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

Belice no proporcionó información sobre la situación de las personas que se llevaron o retuvieron menores en el ejercicio de su cuidado.

5. La nacionalidad de la persona que se lleva o retiene al menor

Ninguna de las dos personas que se llevaron o retuvieron menores era nacional de Belice. A nivel global, el 45% de personas que se llevaron o retuvieron menores tenían nacionalidad diferente a la del Estado requerido.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor combinadas

Véase 3 y 5 arriba. A nivel global, 46% de madres y 45% de padres tenían nacionalidad diferente a la del Estado requerido.

Los menores

7. El número total de menores

Hubo 2 menores comprendidos en las solicitudes recibidas. A nivel global, un promedio de 1.4 menores estuvieron comprendidos en solicitudes de restitución en el 2003.

8. Un menor o grupo de hermanos

Las dos solicitudes comprendieron a un solo menor. A nivel global, el 67% de solicitudes de restitución comprendieron a un menor.

9. La edad de los menores

Los dos menores tenían 11 años. A nivel global, 22% de menores comprendidos en solicitudes de restitución tenían más de 10 años.

10.El sexo de los menores

Uno de los menores era varón y la otra mujer. A nivel global, el 49% de los menores eran varones y el 51% mujeres.

Los resultados

11.Los resultados totales

Una solicitud concluyó con la restitución voluntaria. El otro caso concluyó con una orden judicial de restitución sin consentimiento. Esto puede compararse con el promedio global de 2003 de 22% y 20%, respectivamente.

12.Las razones de rechazo

No aplicable.

13. Las razones de denegatoria judicial

No aplicable.

14. Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene

No aplicable.

Celeridad

15.El tiempo entre la solicitud y el resultado¹

La restitución voluntaria tomó 11 días frente a los 88 días a nivel global.

16.Apelaciones

La decisión judicial no fue apelada.

¹ No estuvo disponible el tiempo respecto de la orden de restitución judicial.

BOSNIA AND HERZEGOVINA

The applications

1. The number of applications

Incoming Return Applications	5
Incoming Access Applications	0
Outgoing Return Applications	1
Outgoing Access Applications	0

According to the Central Authority for Bosnia and Herzegovina, they received 5 incoming return applications but no incoming access applications in 2003. This is an increase on the 3 incoming applications (of which all were for return) made in 1999. It is to be noted that the ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made one outgoing return application¹ but no outgoing access applications in 2003. This is an increase on no outgoing applications made in 1999.

Altogether, the Central Authority handled 6 new applications in 2003, compared with 3 new applications in 1999.

The overall ratio of incoming to outgoing applications was 83% to 17%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
Germany	3	60%
Netherlands	1	20%
Slovakia	1	20%
Total	5	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Germany	3 (60%)	2 (67%)
Netherlands	1 (20%)	0 (0%)
Slovakia	1 (20%)	0 (0%)
Sweden	0 (0%)	1 (33%)
Total	5 (100%)	3 (100%)

Bosnia and Herzegovina received applications from 3 Contracting States, compared with 2 in 1999.

As in 1999, Germany made more applications than any other Contracting State, 3 (60%) compared with 2 (67%) in 1999. The Netherlands and Slovak Republic made one application each.

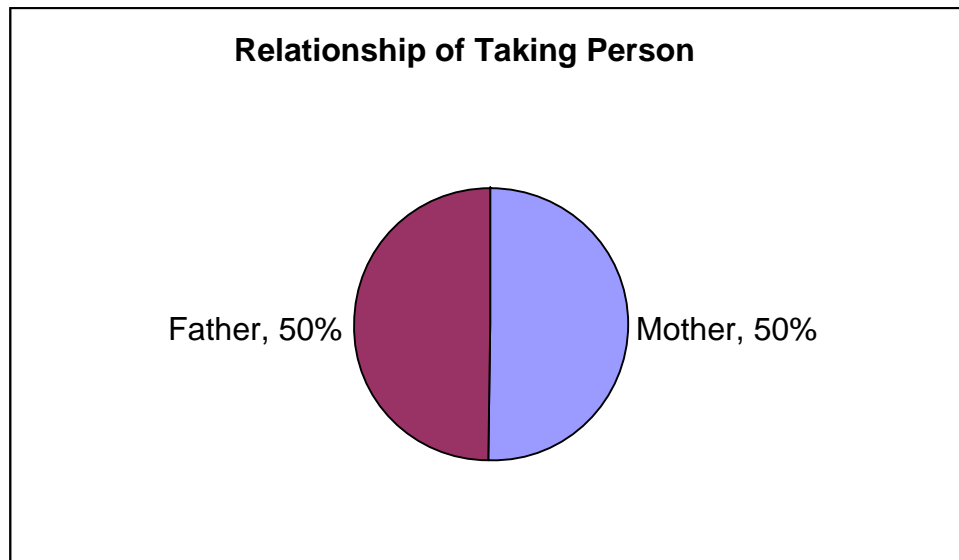
¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

The taking person

3. The relationship of the taking person²

Relationship of the Taking Person

	Number	Percent
Mother	2	50%
Father	2	50%
Total	4	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Two (50%) taking persons were mothers. This is less than the global average of 68%, but is a marked decrease in respondent mothers since 1999, where all 3 (100%) taking persons were recorded as female.

4. The status of the taking person as carer in relation to the child

Bosnia and Herzegovina did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Bosnia and Herzegovina did not provide information on the nationality of the taking person.

6. The relationship and nationality of the taking person combined

Not applicable.

The children

7. The total number of children

There were 7 children involved in the 5 incoming return applications, compared with 3 children involved in the 3 return applications in 1999.

² This information was not stated in relation to one application.

In 2003, on average 1.4 children were involved in return applications, which is the same as the 2003 global average. Proportionally, this represents an increase in the number of children per return application to Bosnia and Herzegovina, compared with one child per application in 1999.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	3	60%
Sibling Group	2	40%
Total	5	100%

Number of Children

	Number	Percent
1 Child	3	60%
2 Children	2	40%
Total	5	100%

The above tables show that 3 out of 5 (60%) applications involved a single child, which is similar to the 2003 global average of 67%. Globally, 93% of applications involved no more than one or 2 children. However, in applications to Bosnia and Herzegovina the proportion is higher with all 5 (100%) applications involving one or two children. In 1999, each application involved a single child.

9. The age of the children

Bosnia and Herzegovina did not provide information on the age of the children.

10. The gender of the children

Gender of the Children

	Number	Percent
Female	3	43%
Male	4	57%
Total	7	100%

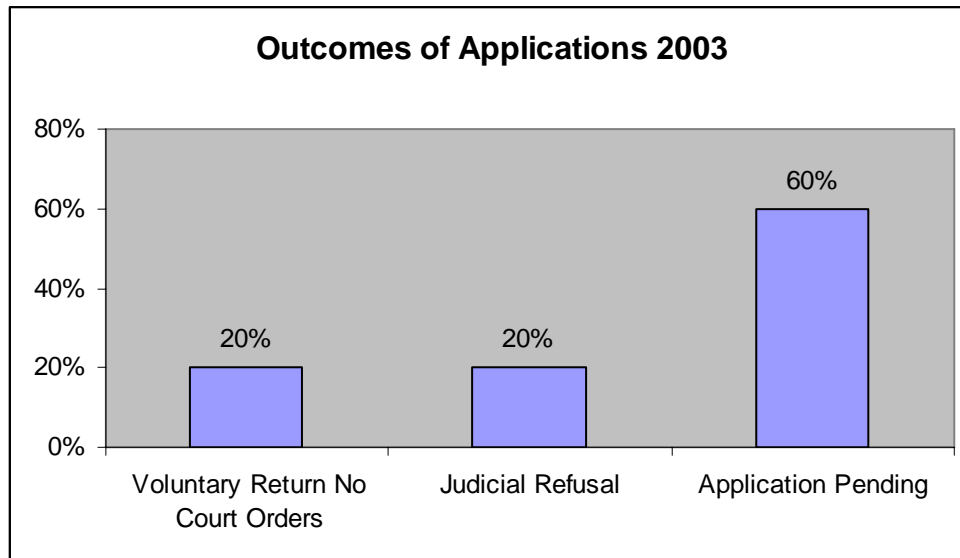
Only a minority (43%) of children were female compared with the 2003 global average of 51%. In contrast, in 1999, 2 of the 3 (67%) children involved were female.

The outcomes

11. Overall outcomes

Outcome of the Application

	Number	Percent
Voluntary Return No Court Orders	1	20%
Judicial Refusal	1	20%
Application Pending	3	60%
Total	5	100%



The above table shows the outcome of all applications in 2003. There was one (20%) voluntary return and one (20%) judicial refusal. Globally in 2003, 22% of applications ended in a voluntary return and 13% in a judicial refusal. As of 30th June 2005, 3 (60%) applications were still pending. This is markedly above the 2003 global average of 9%. The overall return rate was 20%, which is also well below the global average of 51%. In 1999, one application was resolved voluntarily and the two applications were judicially refused.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

The reason for the one judicial refusal was not available.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome

The voluntary return application took 51 days, which is quicker than the global average of 98 days. The judicial refusal took 480 days to conclude but this was an appealed decision (see below). In 1999, the applications were resolved quickly. The voluntary return was affected within 12 days and the 2 judicial refusals were heard in 22 and 23 days respectively.

16. Appeals

The application which resulted in judicial refusal was an appealed case. This case took 480 days to reach final outcome, which is considerably longer than the global average of 233 days. In 1999, no application was appealed.

BURKINA FASO

The applications

1. The number of applications

Incoming Return Applications	1
Incoming Access Applications	0
Outgoing Return Applications	1
Outgoing Access Applications	0

According to the Central Authority for Burkina Faso, they received one incoming return application but no incoming access applications in 2003. It is to be noted that the overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

Additionally, the Central Authority made one outgoing return application but no outgoing access applications in that year.

Altogether, the Central Authority handled 2 new applications in 2003.

The overall ratio of incoming to outgoing applications was 50% to 50%.

Burkina Faso did not participate in the 1999 statistical survey and we cannot therefore compare the number of applications received in that year.

2. The Contracting States which made the application

The information on the requesting State was not provided.

The taking person

3. The relationship of the taking person

The taking person was recorded as the father of the child. Globally, 29% of taking persons were fathers.

4. The status of the taking person as carer in relation to the child

Burkina Faso did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

The taking person was Burkina Faso national. Globally, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 55% of taking persons recorded as the father of the child had the same nationality as the requested State.

The children

7. The total number of children

There was one child involved in the one incoming return applications in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

The one return application involved a single child. Globally in 2003, 93% of applications involved one or 2 children.

9. The age of the children

The child involved was 13 years old. Globally, 22% of children were aged between 10 and 16 years.

10. The gender of the children

The one application involved a female child. Globally, 51% of children were female.

The outcomes**11. Overall outcomes**

The one application resulted in a voluntary return of the child. Globally, 22% of return applications ended in child being returned voluntarily.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed**15. The time between application and outcome**

The one voluntary return was resolved within 90 days, as opposed to the global average of 98 days.

16. Appeals

Not applicable.

BURKINA FASO

Les demandes

1. Nombre de demandes

Demandes de retour reçues	1
Demandes de droit de visite reçues	0
Demandes de retour envoyées	1
Demandes de droit de visite envoyées	0

D'après l'Autorité centrale, le Burkina Faso a reçu 1 demande de retour et aucune demande de droit de visite en 2003. Le rapport entre les demandes de retour et les demandes de droit de visite reçues (100%) est supérieur aux résultats d'ensemble qui révèlent un rapport de 84% contre 16%.

En outre, l'Autorité centrale a envoyé 1 demande de retour et aucune demande de droit de visite en 2003.

En tout et pour tout, l'Autorité centrale a traité 2 nouvelles demandes en 2003.

De manière générale, 50% de demandes ont été reçues pour 50% de demandes envoyées.

Le Burkina Faso n'a pas participé à l'étude statistique de 1999, ainsi nous ne pouvons pas faire de comparaison avec les demandes de 1999.

2. Etats contractants qui ont envoyé des demandes

L'information relative à l'Etat requérant n'a pas été fournie.

La personne qui a emmené ou retenu l'enfant

3. Lien de la personne qui a emmené ou retenu l'enfant

La personne qui a emmené ou retenu l'enfant était le père de l'enfant. De manière générale, 29% des personnes qui ont emmené ou retenu l'enfant étaient pères de l'enfant.

4. Attributs de la personne qui a emmené ou retenu l'enfant par rapport à la responsabilité de l'enfant

Le Burkina Faso n'a pas précisé si les personnes qui ont emmené ou retenu l'enfant avaient ou non la responsabilité de celui-ci.

5. Nationalité de la personne qui a emmené ou retenu l'enfant

La personne qui a emmené ou retenu l'enfant avait la nationalité du Burkina Faso. De manière générale, 55% des personnes qui ont emmené ou retenu l'enfant étaient les pères de l'enfant et avaient la nationalité de l'Etat requis.

6. Nationalité et lien de la personne qui a emmené ou retenu l'enfant

Voir 3 et 5 ci-dessus. De manière générale, 55% des personnes qui ont emmené ou retenu l'enfant étaient les pères de l'enfant et avaient la nationalité de l'Etat requis.

Les enfants

7. Nombre total d'enfants

Un enfant était impliqué dans une demande de retour reçue en 2003. Dans l'ensemble, en 2003, il y avait en moyenne 1,4 enfants par demande de retour.

8. Enfants uniques ou fratries

L'unique demande de retour concernée un enfant unique. Dans l'ensemble, en 2003, 93% des demandes concernées un ou deux enfants.

9. Age des enfants

L'enfant concernée avait 13 ans. Dans l'ensemble, 22% des enfants étaient âgés entre 10 et 16 ans.

10. Sexe des enfants

L'unique demande concernée une fille. Dans l'ensemble, 51% des enfants étaient des filles.

Issues des demandes

11. Issues globales

L'issue de l'unique demande était un retour volontaire de l'enfant. Dans l'ensemble, 22% des demandes de retour ont abouti avec le retour volontaire de l'enfant.

12. Motifs du rejet

Sans objet.

13. Motifs du refus judiciaire

Sans objet.

14. Motifs du refus judiciaire et lien de la personne qui a emmené ou retenu l'enfant

Sans objet.

Rapidité de traitement des demandes

15. Durée entre la demande et son aboutissement

L'unique retour volontaire a pris 277 jours, ce qui est plus court que la moyenne générale de 98 jours.

16. Appels

Sans objet.

CANADA

Incoming Return Applications	56
Incoming Access Applications	11
Outgoing Return Applications	55
Outgoing Access Applications	14

1. The number of applications

Canada is a Federal nation and there is a Central Authority in each Province and Territory.¹ According to the Central Authorities in Canada², they received 56 incoming return and 11 incoming access applications in 2003, making a total of 67 incoming applications. This is an increase on the 44 incoming applications (of which 36 were for return and 8 for access) made in 1999. The ratio of incoming return applications to access applications, 84% to 16%, is identical to the 2003 global average.

Additionally, the Central Authorities in Canada made 55 outgoing return applications³ and 14 outgoing access applications in 2003. This is an increase on the 59 outgoing applications (comprising 49 return applications and 10 access applications) made in 1999.

Altogether, the Central Authorities in Canada handled 136 new applications in 2003 compared with 103 in 1999.

The overall ratio of incoming to outgoing applications was 49% to 51%.

(a) Incoming return applications**Canadian Province/Territory Which Received the Application**

	Number	Percent
Ontario	19	34%
British Columbia	9	16%
Nova Scotia	2	4%
Quebec	19	34%
Saskatchewan	1	2%
Alberta	6	11%
Total	56	~100%

(b) Incoming access applications**Canadian Province/Territory Which Received the Application**

	Number	Percent
Ontario	5	45%
Alberta	4	36%
British Columbia	1	9%
Saskatchewan	1	9%
Total	11	100%

¹ The Province of Alberta has in fact designated 2 Central Authorities.

² Except for the Central Authority for Newfoundland as this Province did not participate in this survey.

³ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

The tables above show that Ontario received the most applications with 24, 19 of which were for return and 5 for access. Quebec received the second most applications with 19, all of which were return applications. In 1999, the 2 Canadian States which received the most applications were Quebec and Alberta.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
USA	26	46%
France	7	13%
UK - England & Wales	5	9%
Mexico	3	5%
Australia	2	4%
Colombia	2	4%
Germany	2	4%
Belgium	1	2%
Croatia	1	2%
Ireland	1	2%
Israel	1	2%
New Zealand	1	2%
Poland	1	2%
South Africa	1	2%
Sweden	1	2%
UK - Nth Ireland	1	2%
Total	56	~100%

Requesting States compared with 1999 figures⁴

	Number of Applications 2003	Number of Applications 1999
USA	26 (46%)	11 (31%)
France	7 (13%)	5 (14%)
UK - England & Wales	5 (9%)	5 (14%)
Mexico	3 (5%)	1 (3%)
Australia	2 (4%)	0 (0%)
Colombia	2 (4%)	0 (0%)
Germany	2 (4%)	2 (6%)
Belgium	1 (2%)	1 (3%)
Croatia	1 (2%)	0 (0%)
Ireland	1 (2%)	1 (3%)
Israel	1 (2%)	1 (3%)
New Zealand	1 (2%)	0 (0%)
Poland	1 (2%)	0 (0%)
South Africa	1 (2%)	0 (0%)
Sweden	1 (2%)	0 (0%)
UK - Northern Ireland	1 (2%)	0 (0%)
Netherlands	0 (0%)	3 (8%)
Hungary	0 (0%)	2 (6%)
Austria	0 (0%)	1 (3%)
China - Hong Kong	0 (0%)	1 (3%)
Italy	0 (0%)	1 (3%)
Portugal	0 (0%)	1 (3%)
Total	56 (~ 100%)	36 (~ 100%)

As in 1999, the highest number of applications came from the USA, the nearest geographical State to Canada. Indeed, in 2003, almost half of the applications for return, 46%, came from the USA. Similar trends have been found in relation to other neighbouring countries such as the USA and Mexico and New Zealand and Australia.

In both the 1999 and 2003 surveys, relatively high proportion of applications came from France and England & Wales, 13% and 9% in 2003, compared with 14% from each in 1999. Interestingly, there were no applications from the Netherlands and Hungary, as opposed to 3 (8%) and 2 (6%) respectively in 1999.

⁴ The Province of Newfoundland is not included in the above figures as it did not participate in this survey. On the other hand, the application of the Convention to the Province of Nunavut was extended only in 2000 and therefore this Province was not included in the 1999 survey.

(b) Incoming access applications**Requesting States 2003**

	Number	Percent
UK - England & Wales	2	18%
Argentina	1	9%
Australia	1	9%
Belgium	1	9%
Denmark	1	9%
Hungary	1	9%
Israel	1	9%
Italy	1	9%
Norway	1	9%
South Africa	1	9%
Total	11	~100%

Requesting States compared with 1999 figures⁵

	Number of Applications 2003	Number of Applications 1999
UK - England & Wales	2 (18%)	2 (25%)
Argentina	1 (9%)	0 (0%)
Australia	1 (9%)	0 (0%)
Belgium	1 (9%)	0 (0%)
Denmark	1 (9%)	0 (0%)
Hungary	1 (9%)	0 (0%)
Israel	1 (9%)	0 (0%)
Italy	1 (9%)	1 (13%)
Norway	1 (9%)	0 (0%)
South Africa	1 (9%)	0 (0%)
Switzerland	0 (0%)	2 (25%)
Germany	0 (0%)	1 (13%)
Portugal	0 (0%)	1 (13%)
USA	0 (0%)	1 (13%)
Total	11 (~100%)	8 (~100%)

As the tables above show, the pattern of access applications is different from those for return. No application was received from the USA. Similarly, in 1999, the USA made only one access application to Canada.

⁵ The Province of Newfoundland is not included in the above figures as it did not participate in this survey. On the other hand, the application of the Convention to the Province of Nunavut was extended only in 2000 and therefore this Province was not included in the 1999 survey.

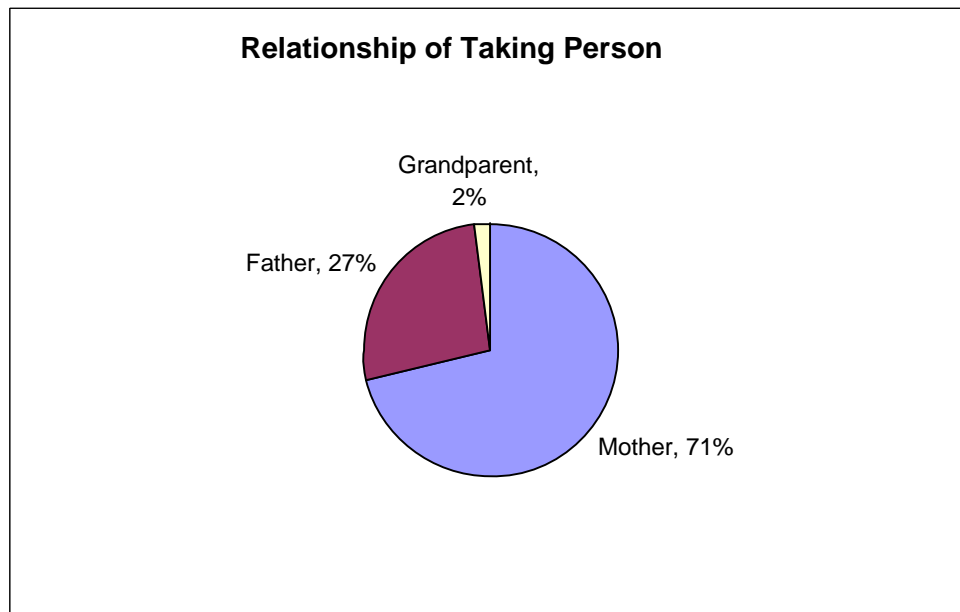
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	40	71%
Father	15	27%
Grandparent	1	2%
Total	56	100%



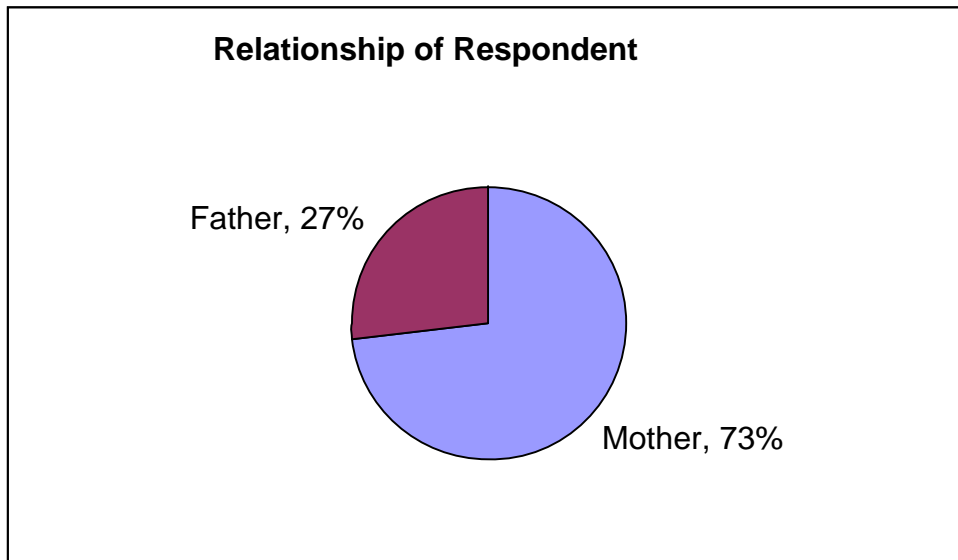
The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Proportionally, slightly more mothers were taking persons than the global average, 71% as opposed to 68%. This is similar to the 1999 findings, where 75% of taking persons were recorded as female.

In one (2%) application the taking person was the grandparent of the child.

(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	8	73%
Father	3	27%
Total	11	100%



In 8 (73%) access applications the respondent was the mother, as opposed to the 2003 global average of 79%. In 1999, 75% of respondents were recorded as female.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications⁶

Status of the Taking Person as Carer

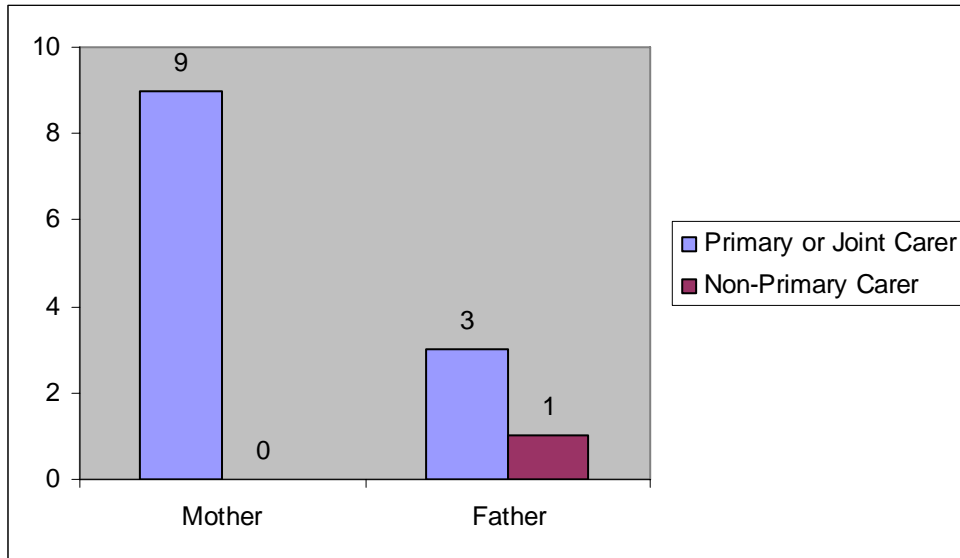
	Number	Percent
Primary or Joint Primary Carer	12	92%
Non-Primary Carer	1	8%
Total	13	100%

The table above shows that in an overwhelming majority of applications, 92% (where information was available), the taking person was the primary or joint primary carer of the child. This is marginally above the global average of 68%. However, it is not possible to draw any meaningful conclusions as in a further 43 applications the status of the taking person in relation to the child was not stated.

Status as Carer and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary or Joint Primary Carer	9	3	12
Non-Primary Carer	0	1	1
Total	9	4	13

⁶ This information was not available in relation to 43 applications.



The above table and chart show that where the status as carer was known, 3 of the 4 (75%) of the respondent fathers were the primary carer of the child. This is markedly different from the global average of 28%. All 9 mothers were primary carer of the child, compared with 84% globally.

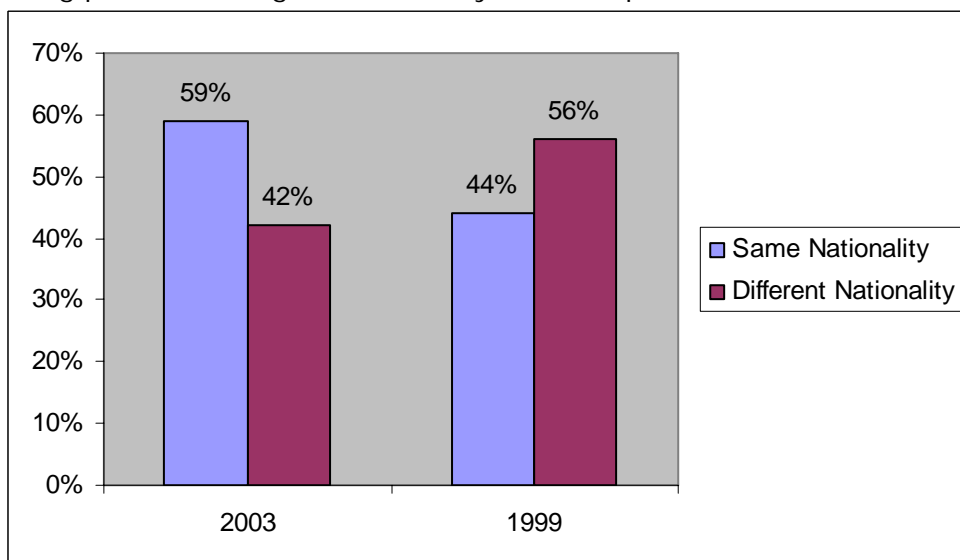
5. The nationality of the taking person / respondent

(a) Incoming return applications⁷

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	31	59%
Different Nationality	22	42%
Total	53	~100%

The above table shows that in 59% of applications, the taking person was Canadian (including 13 taking persons with dual nationality). This is similar to the global average of 55% of taking persons having the nationality of the requested State.



⁷ In relation to 3 applications this information was not stated.

The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Canadian nationals taking children to Canada rose from 44% in 1999 to 59% in 2003.

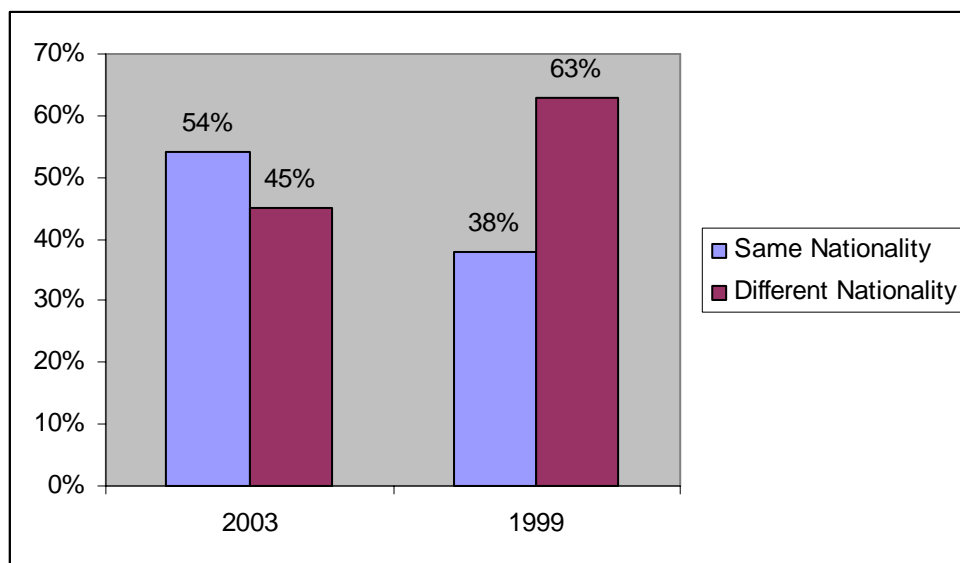
This can be compared with the 2003 global average of 55%.

(b) Incoming access applications⁸

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	6	54%
Different Nationality	5	45%
Total	11	~100%

The proportion of respondents having the nationality of the requested State, 54% (including 4 persons with dual nationality), compares with the 2003 global average of 53%.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having Canadian nationality increased from 38% in 1999 to 54% in 2003.

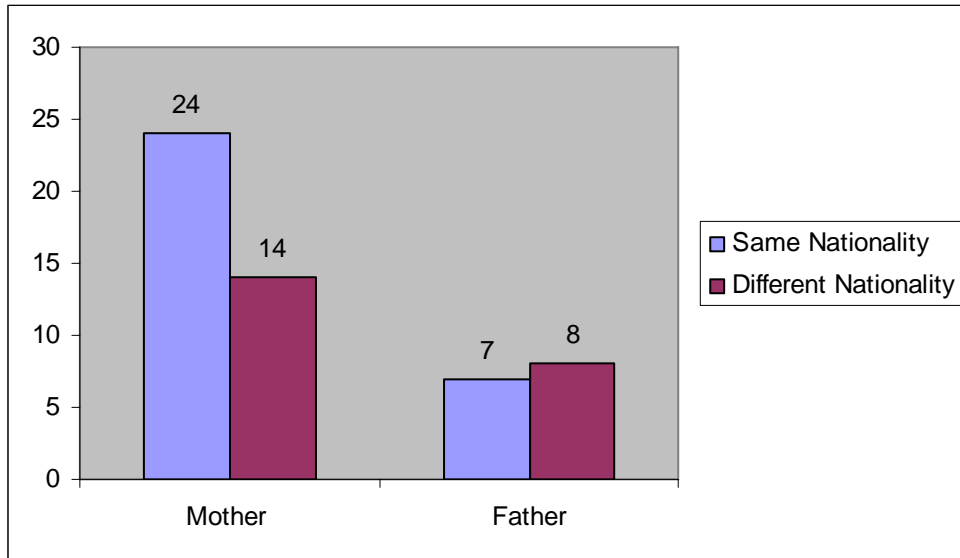
6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	24	7	31
Different Nationality	14	8	22
Total	38	15	53

⁸ This information was not available in relation to 3 applications.

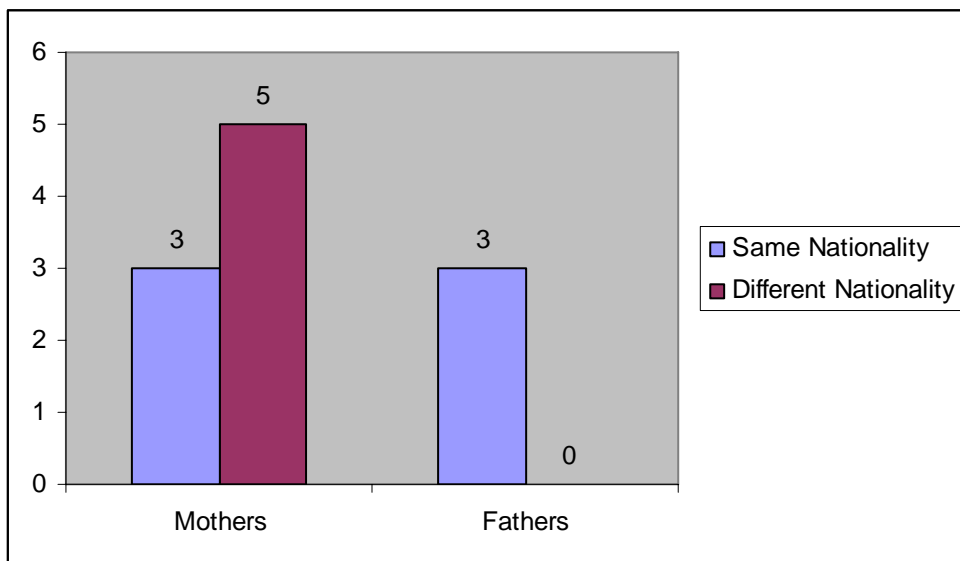


The majority (63%) of mothers who were taking persons were Canadian (24 out of 38). In relation to fathers, 7 out of the 15 (47%) taking persons were Canadian nationals. These findings can be compared with the 2003 global averages where 54% of mothers and 55% of fathers were nationals of the requested State. The 1999 survey recorded that 50% of males and 42% of females were Canadian.

(b) Incoming access applications

Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	3	3	6
Different Nationality	5	0	5
Total	8	3	11



In the access applications received by Canada, only 3 out of 8 (38%) respondent mothers but all respondent fathers were Canadian. This is different from the 2003 global averages of 49% of mothers and 68% of fathers respectively. The 1999 survey recorded that 50% of males and 33% of females were Canadian.

The children

7. The total number of children

(a) Incoming return applications

There were 78 children involved in the 56 incoming return applications in 2003. This can be compared with the total of 50 children being involved in the 36 return applications in 1999.

As in 1999, on average 1.39 children were involved in return applications to Canada in 2003. Globally in 2003, on average 1.4 children were involved in return applications.

(b) Incoming access applications

There were 15 children involved in the 11 incoming access applications in 2003. This can be compared with the total of at least⁹ 9 children being involved in the 9 access applications in 1999.

In 2003, on average 1.36 children were involved in access applications. Proportionally, this represents an increase in the number of children per access application, compared with at least one child per application in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	39	70%
Sibling Group	17	30%
Total	56	100%

Number of Children

	Number	Percent
1 Child	39	70%
2 Children	12	21%
3 Children	5	9%
Total	56	100%

The proportion of single children involved in applications for return, 70%, compares with the global average of 67% and is similar to the 1999 average of 64%. Also, like the global average of 93% and the 1999 proportion of 97%, the vast majority of applications (91%) involved no more than 2 children.

5 applications (9%) involved sibling groups of 3 children.

⁹ One application involved a sibling group and therefore at least 2 children, but the exact number was not stated.

(b) Incoming access applications**Single Child or Sibling**

	Numbe	Percen
Single	9	82%
Sibling	2	18%
Total	11	100

Number of Children

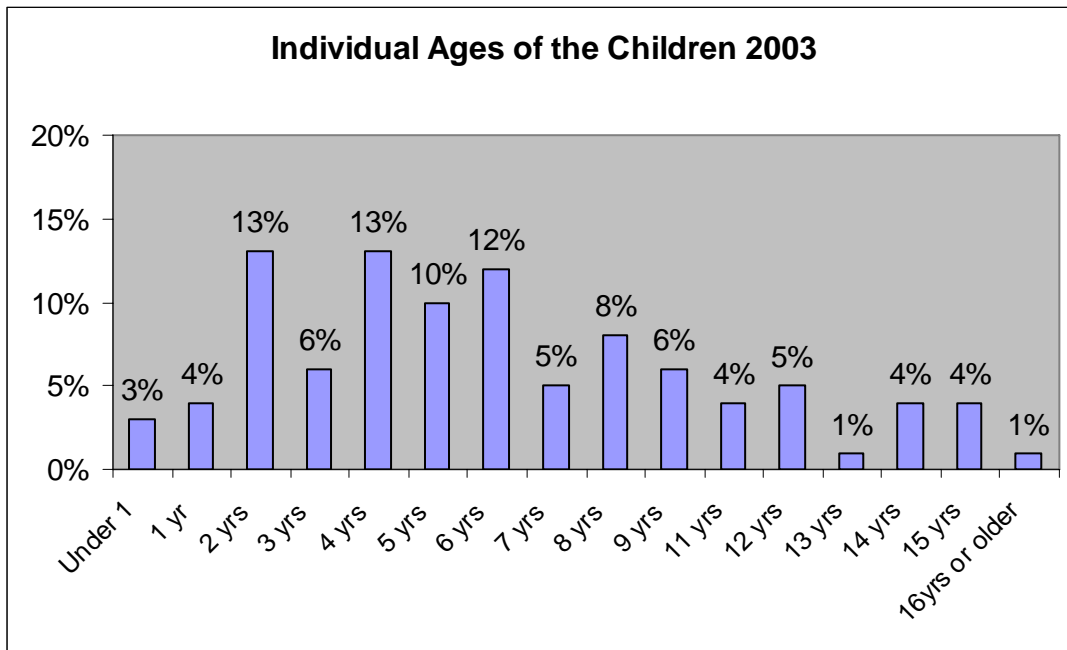
	Number	Percent
1 Child	9	82%
3 Children	2	18%
Total	11	100%

For access applications the proportion of single children, 82%, was higher than the 2003 global average of 71% but a decrease on the 88% recorded in 1999. Interestingly, both sibling groups involved 3 children.

9. The age of the children**(a) Incoming return applications¹⁰****Individual Ages 2003**

	Number	Percent
Under 1	2	3%
1 yr	3	4%
2 yrs	10	13%
3 yrs	5	6%
4 yrs	10	13%
5 yrs	8	10%
6 yrs	9	12%
7 yrs	4	5%
8 yrs	6	8%
9 yrs	5	6%
11 yrs	3	4%
12yrs	4	5%
13 yrs	1	1%
14 yrs	3	4%
15 yrs	3	4%
16yrs or older	1	1%
Total	77	~100%

¹⁰ In relation to one child this information was not stated.

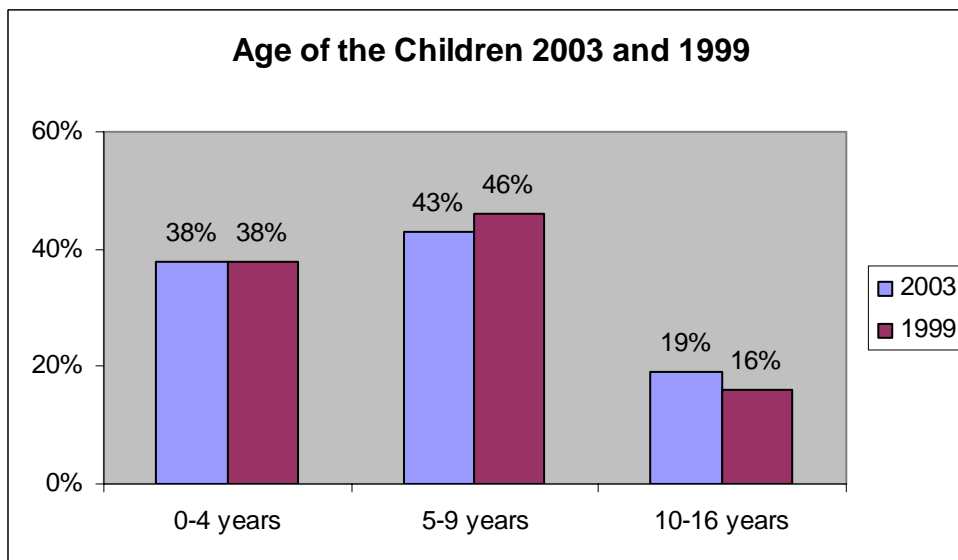


The above table and chart show the ages of the individual children involved. 58% of children were aged between ages 1 and 6, compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children

Age Band of the Children 2003

	Number	Percent
0-4 years	29	38%
5-9 years	33	43%
10-16 years	15	19%
Total	77	100%

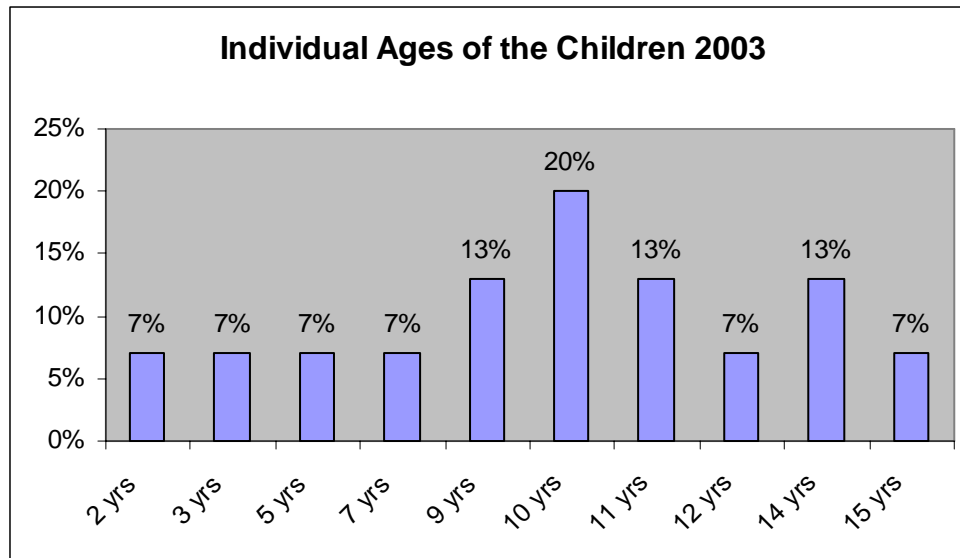


As can be seen, the division of children between each age group is almost identical to the 1999 findings. It compares with the 2003 global averages of 36%, 42% and 22% respectively.

18. Incoming access applications

Individual Ages 2003

	Number	Percent
2 yrs	1	7%
3 yrs	1	7%
5 yrs	1	7%
7 yrs	1	7%
9 yrs	2	13%
10 yrs	3	20%
11 yrs	2	13%
12 yrs	1	7%
14 yrs	2	13%
15 yrs	1	7%
Total	15	~100%

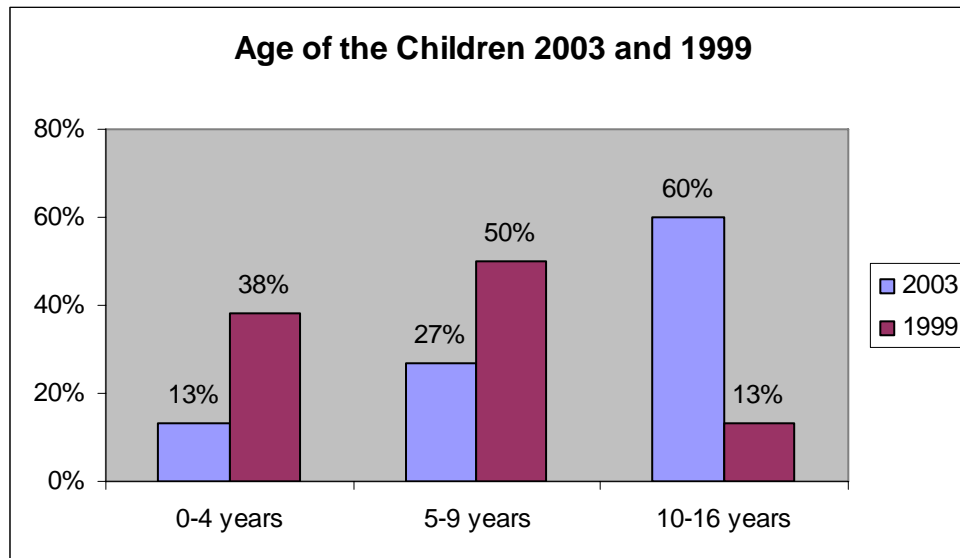


The above chart and table show ages of the individual children involved. 21% of access applications involved 1 – 6 years olds, compared with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children

Age Band of the Children 2003

	Number	Percent
0-4 years	2	13%
5-9 years	4	27%
10-16 years	9	60%
Total	15	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. Unlike in 1999, proportionally more older children, namely those between 10 and 16 years, were involved in access applications received by Canada. Indeed, 60% of children involved in access applications in 2003 were aged between 10-16 years. This is markedly above the global average of 34% and the 1999 findings of 13%.

On the other hand, the number of children aged between 0-4 years and 5-9 years both decreased from 38% to 13% and 50% to 27% respectively. These figures can be compared with the 2003 global averages of 20% and 46%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	42	54%
Male	36	46%
Total	78	100%

Females accounted for 54% and males for 46% of all children involved in the return applications, which compares with the 2003 global averages of 51% and 49% respectively. Similarly, in 1999, 52% of children involved in applications to Canada were females.

(b) Incoming access applications

Gender of the Children 2003

	Number	Percent
Female	4	27%
Male	11	73%
Total	15	100%

At 73%, the proportion of male children involved in access applications to Canada was higher than the 2003 global average of 55% but similar to the 1999 survey which recorded that 71% of children involved were males.

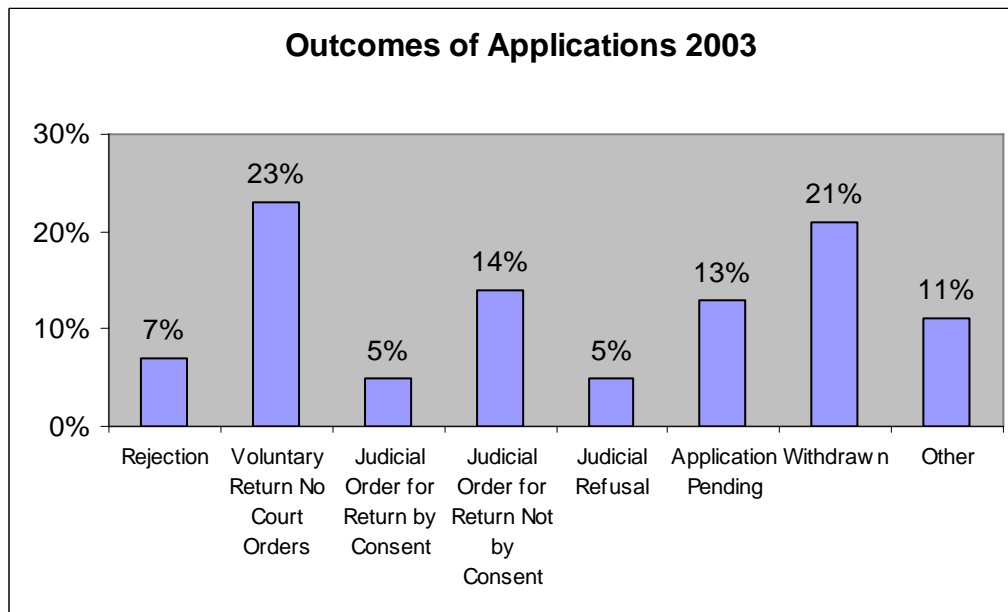
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	4	7%
Voluntary Return No Court Orders	13	23%
Judicial Order for Return by Consent	3	5%
Judicial Order for Return Not by Consent	8	14%
Judicial Refusal	3	5%
Application Pending	7	13%
Withdrawn	12	21%
Other	6	11%
Total	56	~100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Canada, in 2003, 3 (5%) judicial return orders were made with consent and 8 (14%) without consent.

Overall, 42% of applications made to Canada ended in the child being returned either by a court order or voluntarily, which is below the global average return rate of 51%. Nevertheless, at 23%, the proportion of voluntary returns is slightly above the global average of 22% and at 5%, the proportion of judicial refusals is markedly below the global average of 13%.

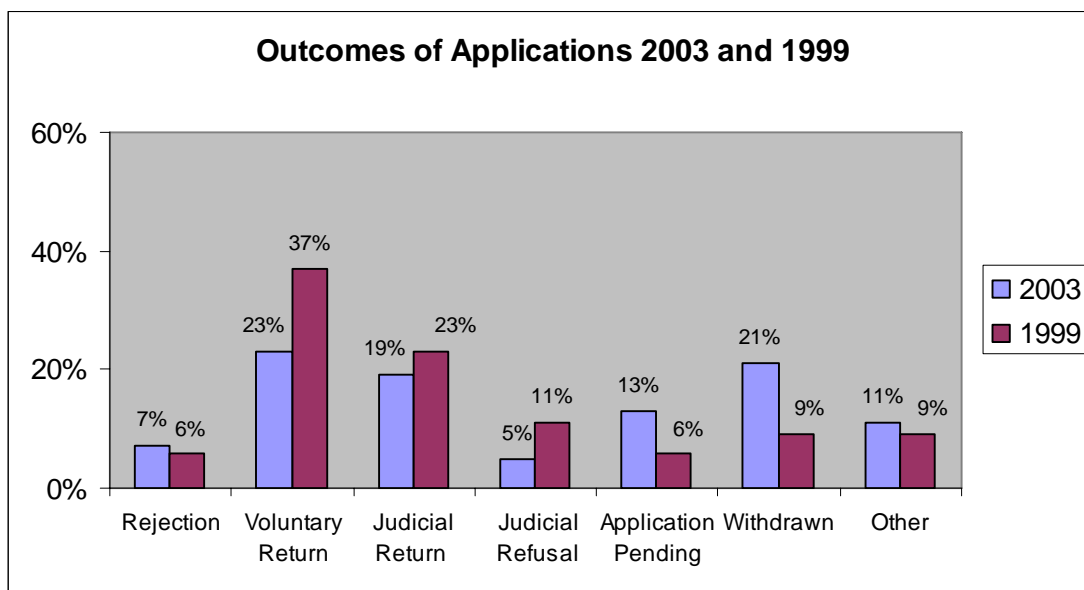
14 applications (25%) went to court. Of these cases, 79% ended in a judicial return and the remaining 21% were judicially refused as compared with 29% globally.¹¹

In 2 applications involving 3 children each, there were different outcomes for the children concerned.¹² In one of these cases, the application was rejected in relation to one child but it was still pending in relation to the remaining 2 children involved. The rejection was based on the fact that the child attained the age of 16 years.

In the other application, one of the 3 children involved was voluntarily returned and in relation to the remaining 2 children the application was withdrawn.

In 2 applications the child involved attained the age of 16 years and in one application an interim custody was granted to the abductor.¹³ In one application the parties agreed to child remaining with the taking person in Canada.¹⁴

At 22%¹⁵, the withdrawal rate is above the global average of 15%. As of 30th June 2005, 7 (13%) applications were still pending¹⁶, compared with the 2003 global average of 9%.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

As can be seen, the proportion of judicial returns slightly decreased, from 23% in 1999 to 19% in 2003. Similarly, the proportion of voluntary returns dropped from 37% in 1999 to 23% in 2003. Consequently, the overall return rate decreased, from 60% in 1999 to 42% in 2003.

On the other hand, a lower proportion of applications ended in judicial refusal, 5% as opposed to 11% in 1999. These differences are in part caused by the relatively high numbers of withdrawn and pending applications.

¹¹ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

¹² Both recorded as 'other'.

¹³ All 3 outcomes recorded as 'other'.

¹⁴ Recorded as 'other'.

¹⁵ In fact the overall withdrawal rate was slightly higher because in one case in which the outcome was classified as 'other' the application was withdrawn in relation to 2 of the 3 children involved (see above).

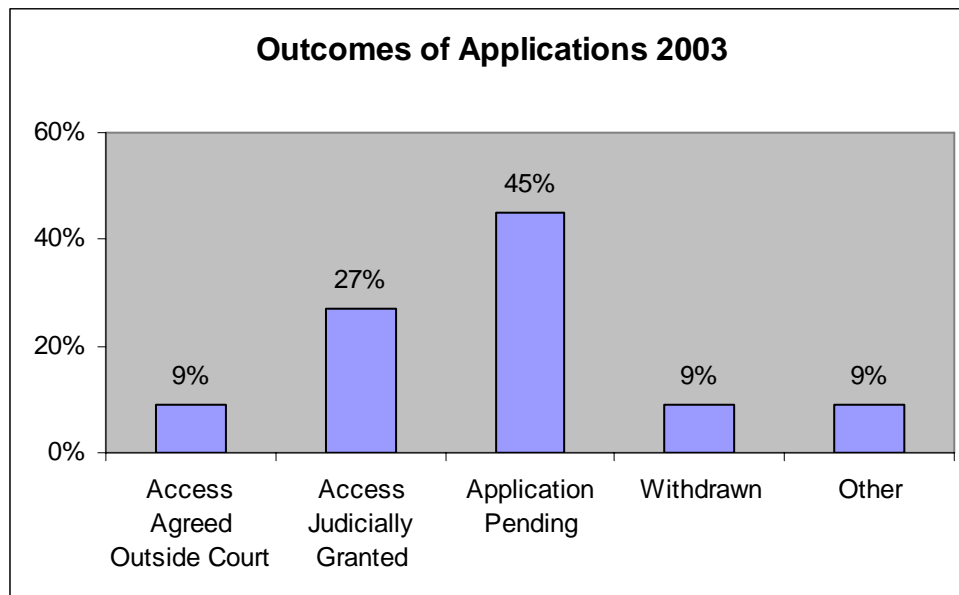
¹⁶ In fact the overall proportion of pending applications was slightly higher because in one case in which the outcome was classified as 'other' the application was still pending in relation to 2 of the 3 children involved (see above).

A considerably higher proportion of applications was withdrawn, 21% as opposed to 9% in 1999. Similarly, over twice the 1999 findings, 13% compared with 6% of applications were still pending as of cut-off period for the survey.

(b) Incoming access applications

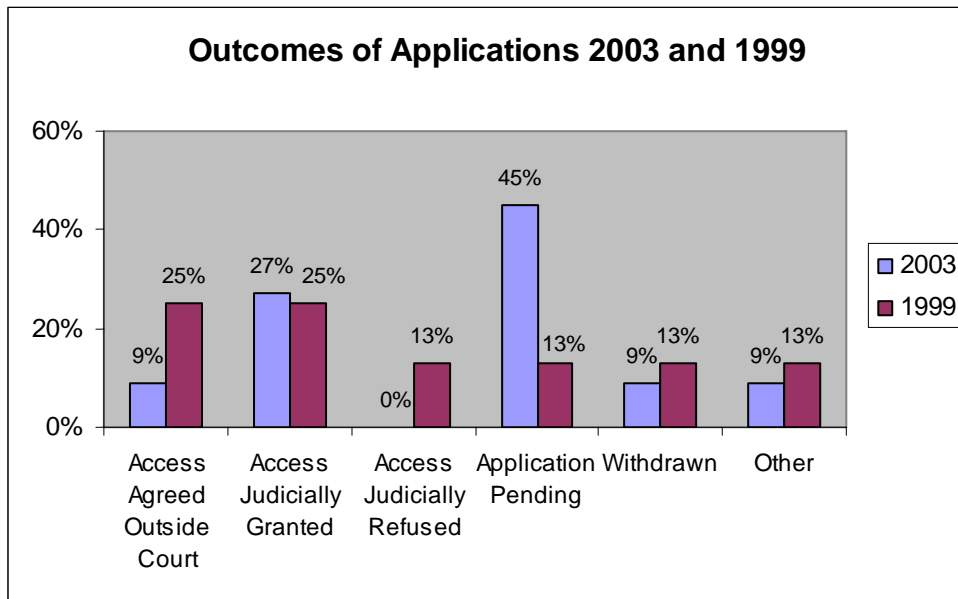
Outcome of Application

	Number	Percent
Access Agreed Outside Court Proceedings	1	9%
Access Judicially Granted	3	27%
Application Pending	5	45%
Withdrawn	1	9%
Other	1	9%
Total	11	~100%



It is immediately noticeable that nearly half of the applications (5, 45%) were still pending as of 30th June 2005. This is above the global average of 22%. 3 (27%) applications resulted in access being granted by the courts and one (9%) application resulted in voluntarily agreed access, as against the global averages of 16% and 13% respectively. All 3 applications in which access was granted were resolved under domestic law. At 9%, the withdrawal rate was below the global average of 22%. One case was closed following attainment of the jurisdiction.¹⁷

¹⁷ Recorded as 'other' outcome.



As can be seen, 36% of applications ended with access being granted or agreed, as opposed to 50% in 1999. Globally in 2003, 33% of applications ended with access being granted or agreed. The proportion of applications in which access was judicially granted (27%) compares favourably with the 1999 proportion of 25%. On the other hand, there was a marked decrease in voluntary settlements of access, from 25% in 1999 to 9% in 2003.

The withdrawal rate slightly decreased, from 13% in 1999 to 9% in 2003. On the other hand, at 45%, the proportion of pending applications was considerably higher than in 1999 (13%). No application was judicially refused, as opposed to 13% in 1999.

12. Overall outcomes by Province and Territory

(a) Incoming return applications

	Overall Outcome per Application								Total
	Rejection	Voluntary Return No Court Orders	Judicial Order for Return by Consent	Judicial Order for Return Not by Consent	Judicial Refusal	Application Pending	Withdrawn	Other	
Ontario	0	5	0	2	0	5	5	2	19
British Columbia	1	3	0	2	0	1	2	0	9
Nova Scotia	0	1	0	0	0	0	0	1	2
Quebec	3	3	2	4	2	0	4	1	19
Saskatchewan	0	1	0	0	0	0	0	0	1
Alberta	0	0	1	0	1	1	1	2	6
Total	4	13	3	8	3	7	12	6	56

The table above shows that 5 out of 9 (56%) applications to British Columbia resulted in a return either voluntarily or judicially. Slightly lower proportion of applications (47%) ended in the return being agreed or ordered in Quebec. Conversely, as in 1999, no child was judicially returned from Saskatchewan; nevertheless, there was one voluntary return in both 1999 and 2003. Similarly, there was one voluntary return in both 1999 and 2003 in Nova Scotia. In Alberta, only one out of 6 applications ended in the return of the child, as opposed to 4 out of 4 in 1999.

(b) Incoming access applications

	Overall Outcome per Application					Total
	Access Agreed Outside Court Proceedings	Access Judicially Granted - Under domestic law	Application Pending	Withdrawn	Other	
Ontario	1	0	2	1	1	5
British Columbia	0	0	1	0	0	1
Saskatchewan	0	1	0	0	0	1
Alberta	0	2	2	0	0	4
Total	1	3	5	1	1	11

Only Ontario and Alberta received significant number of access applications. However, only in one of the 5 access applications in Ontario and in one of the 4 access applications in Alberta, was access either agreed voluntarily or granted by a court order. In 1999, Alberta was the sole Province with a higher number of access applications, namely, 4; 3 of which resulted in access being agreed voluntarily or granted by a court order.

13. The reasons for rejection**(a) Incoming return applications****Reason for Rejection by the Central Authority**

	Number	Percent
Child over 16	1	20%
Child Located in Another Country	3	60%
Applicant Had No Rights of Custody	1	20%
Total	5	100%

The most common reason for rejection was that the child was located in another country. 3 out of 5 (60%) rejections were based on this reason. This is different from the 1999 survey, where both applications were rejected because the child was not located. The overall rejection rate in applications to Canada was 7%, which was slightly higher than the 2003 global average of 6%. In 1999, the rejection rate in applications to Canada was 6%, as opposed to the 1999 global average of 10%.

(b) Incoming access applications

Not applicable.

14. The reasons for judicial refusal

(a) Incoming return applications

Overall Reason for Judicial Refusal per Application

	Number	Percent
Art 12	1	33%
Art 13b	1	33%
Child's Objections	1	33%
Total	3	~100%

Of the 14 applications which went to court, 3 (21%) were refused, which is a decrease on the 4 out of 12 (33%) applications in 1999 and below the 2003 global average of 29%. As in 1999, the reasons for refusal were diverse, each refusal being based on a different reason. Article 12 and Article 13 *b*) were relied upon also in 1999. Additionally, in 1999, there was one refusal based on the fact that the child involved was not habitually resident in the requesting State and the remaining one application was refused for some 'other' reason.

The refusals have not been analysed by Province and Territory as the numbers were small.

15. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Refusal

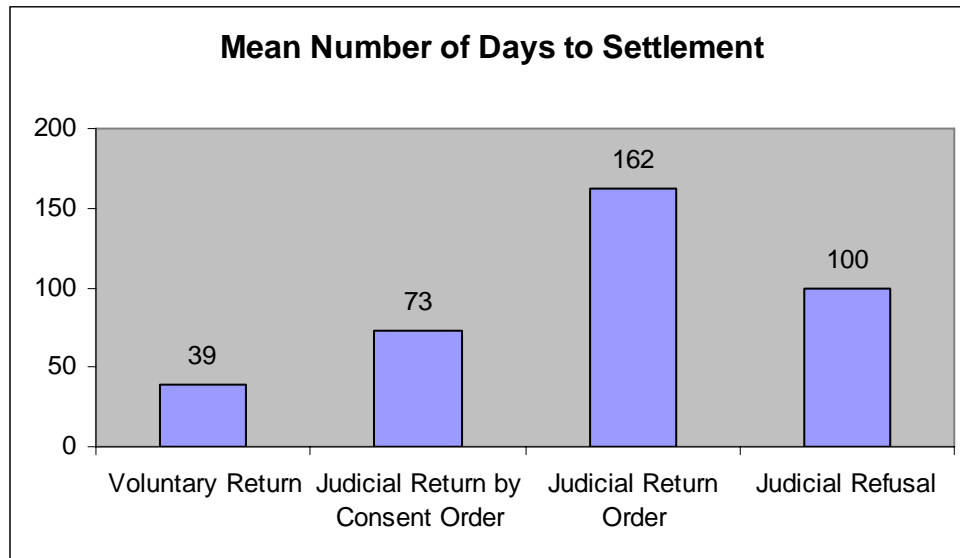
	Mother	Total
Art 12	1	1
Art 13b	1	1
Child's Objections	1	1
Total	3	3

The table above shows that in all 3 applications which were refused, the taking person was the mother of the child. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall. The 1999 survey recorded that in 2 of the 4 applications which were refused, the gender of the taking person was male.

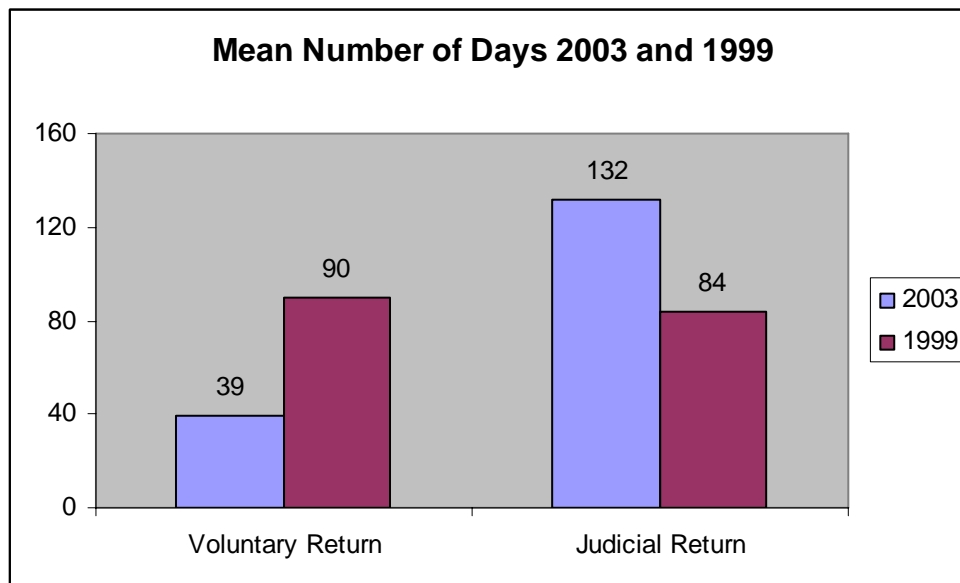
Speed

16. The time between application and outcome

(a) Incoming return applications¹⁸



Predictably, return orders by consent were resolved quicker than return orders without consent, in 73 days compared with 162 days. This can be compared with the global averages of 85 days and 143 days respectively. Voluntary returns took on average 39 days to reach final outcome, which is quicker than the global mean of 98 days. Similarly, the speed of judicial refusals, averaging 100 days, was considerably quicker than the global mean of 233 days.



The chart above shows that judicial returns were resolved in a combined average of 132 days compared with 84 days in 1999. It took a mean average of 39 days as against 90 days in 1999 to reach a voluntary agreement. With regard to judicial refusals, it is not possible to make a comparison as in 1999 this information was not available.

¹⁸ This information was not available in relation to 9 voluntary returns and 2 judicial returns made without consent.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	39	73	162	100
Median	35	64	134	76
Minimum	1	14	56	14
Maximum	83	142	344	210
Number of cases	4	3	6	3

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Canada. The table includes all applications where the timing was available, including the applications which were appealed. As can be seen, the slowest judicial decision, a judicial return without consent, was made in 344 days. The slowest judicial refusal took 210 days to reach the outcome, whereas the fastest refusal took only 14 days. Interestingly, there was one voluntary return case which took only one day to reach an outcome. The slowest voluntary return was resolved in 83 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	165	45
Median	184	45
Minimum	83	14
Maximum	228	76
Number of cases	3	2

As can be seen, in relation to judicial returns the exclusion of appealed cases does not significantly affect the overall mean average taken to reach final outcomes. In relation to judicial refusals, there is a difference of 55 days in the mean average before and after the exclusion of appealed cases.

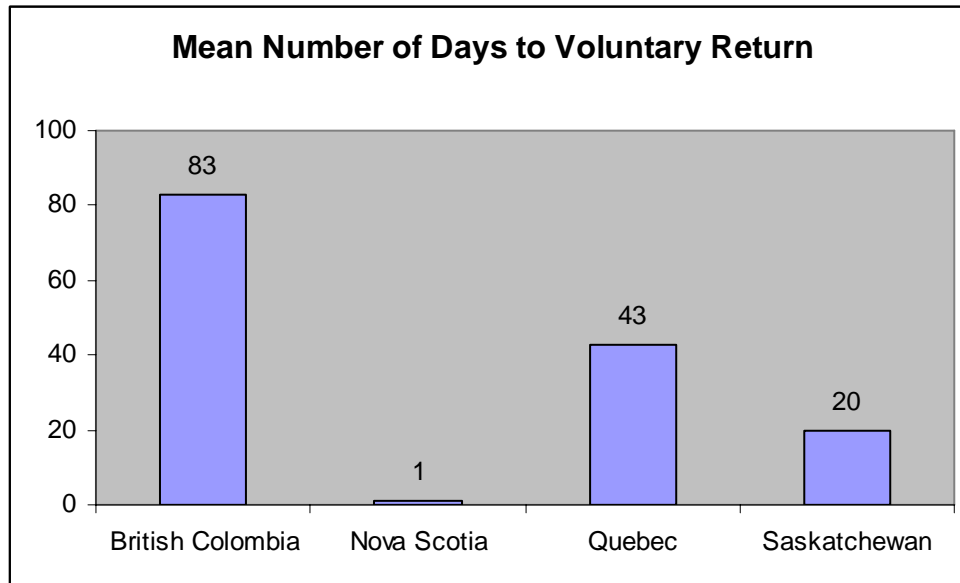
(b) Incoming access applications

The timing was not available in relation to any access application.

17. Speed by Province and Territory

(a) Incoming return applications

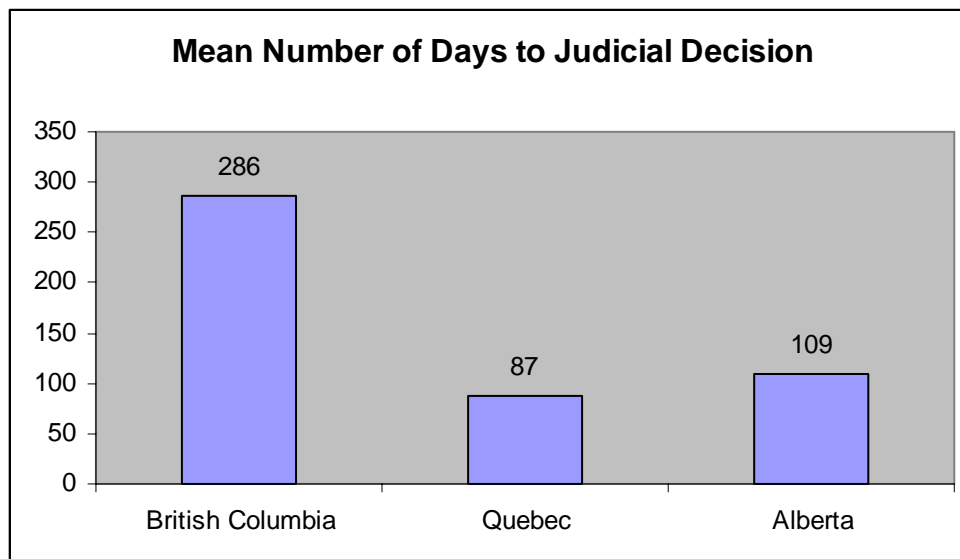
(i) Voluntary Returns



The chart above shows the average number of days taken to reach a voluntary return in all of the relevant Provinces. As can be seen, all 4 Provinces were quicker than the global average of 98 days. However, the number of voluntary returns was small, the figure stated for Quebec applied to 3 cases and the figures stated for British Columbia, Nova Scotia and Saskatchewan applied to one case each.

In 1999, voluntary returns took mean averages of 106 days in Quebec, 44 days in Nova Scotia, 78 days in Alberta and 61 days in Ontario.

(ii) Judicial Returns and Refusals



The above chart shows the mean number of days to judicial decision in each of the relevant Provinces. As in 1999, Quebec and Alberta both made judicial decisions in less time than the global average of 179 days. The figure stated for Alberta referred to only 2 applications but the figure stated for Quebec concerned 8 applications.

18. Appeals

(a) Incoming return applications

Of the 14 applications which went to court, 4 (29%) were appealed. Globally 22% of all cases which went to court were appealed.

3 applications for return were judicially granted upon an appeal, one in British Columbia and the remaining 2 in Quebec. In all these decisions the appellate court upheld first instance decisions. The decisions were concluded in 344 days, 74 days and 56 days respectively. Globally, judicial returns on appeal took a mean average of 206 days from application to final outcome.

Additionally, one appeal in Quebec overruled a first instance decision to return. This application took 210 days to reach final outcome.

In 1999, 2 judicial decisions were appealed, one in Manitoba and the other in Ontario. The decisions resulted in judicial return and were concluded in 192 days and 134 days respectively.

(b) Incoming access applications

None of the judicial decisions was appealed.

CANADA**Les demandes****1. Nombre de demandes**

Demandes de retour reçues	56
Demandes de droit de visite reçues	11
Demandes de retour envoyées	55
Demandes de droit de visite envoyées	14

Le Canada est un Etat fédéral dans lequel l'on trouve une Autorité centrale dans chaque province et territoire¹.

D'après les Autorités centrales canadiennes², en 2003, le Canada a reçu 56 demandes de retour et 11 demandes de droit de visite, soit 67 demandes reçues au total. Cela traduit une hausse par rapport aux 44 demandes reçues en 1999 (dont 36 pour un retour et 8 pour un droit de visite). Le rapport entre les demandes de retour et les demandes de droit de visite reçues est de 84% contre 16%, ce qui est un rapport similaire à celui relevé pour les résultats d'ensemble en 2003.

En outre, les Autorités centrales du Canada ont envoyé 55 demandes de retour³ et 14 demandes de droit de visite en 2003. Cela traduit une hausse par rapport aux 59 demandes envoyées en 1999 (dont 49 demandes de retour et 10 demandes de droit de visite).

En tout et pour tout, les Autorités centrales canadiennes ont traité 136 nouvelles demandes en 2003, contre 103 en 1999⁴.

Dans l'ensemble, 49% de demandes ont été reçues pour 51% de demandes envoyées.

(a) Demandes de retour reçues**Province ou territoire canadien qui a reçu des demandes**

	Nombre	Taux
Ontario	19	34%
Québec	19	34%
Colombie Britannique	9	16%
Alberta	6	11%
Nouvelle-Ecosse	2	4%
Saskatchewan	1	2%
Total	56	~100%

¹ La Province de l'Alberta a en fait désigné 2 Autorités centrales.

² Sauf l'Autorité centrale de Terre-Neuve-et-Labrador qui n'a pas participé à cette étude.

³ Ceci est le nombre total de demandes sur la base des informations fournies par l'Autorité centrale, c-à-d le nombre de demandes qu'elle a envoyées. Ces demandes peuvent ne pas avoir été transmises à l'Autorité centrale étrangère ; en 2003, par exemple, certaines demandes ont pu être retirées avant leur transmission ou ne pas avoir été envoyées à l'Autorité centrale étrangère (ou reçues par celle-ci) avant le 31 décembre 2003.

⁴ La Province de Terre-Neuve-et-Labrador n'est pas prise en compte dans les chiffres cités car elle n'a pas participé à cette étude.

(b) Demandes de droit de visite reçues**Province ou territoire canadien qui a reçu des demandes**

	Nombre	Taux
Ontario	5	45%
Alberta	4	36%
Colombie Britannique	1	9%
Saskatchewan	1	9%
Total	11	100%

Les tableaux ci-dessus indiquent que l'Ontario a reçu le plus de demandes (24), dont 19 demandes de retour et 5 demandes de droit de visite. Le Québec se trouve en deuxième position avec 19 demandes, toutes des demandes de retour. En 1999, parmi les provinces et territoires du Canada, l'Alberta et le Québec sont ceux ayant reçu le plus de demandes.

2. Etats contractants qui ont envoyé des demandes**(a) Demandes de retour reçues****Etats requérants en 2003**

	Nombre	Taux
Etats-Unis	26	46%
France	7	13%
RU – Angleterre et Pays de Galles	5	9%
Mexique	3	5%
Australie	2	4%
Colombie	2	4%
Allemagne	2	4%
Belgique	1	2%
Croatie	1	2%
Irlande	1	2%
Israël	1	2%
Nouvelle-Zélande	1	2%
Pologne	1	2%
Afrique du Sud	1	2%
Suède	1	2%
RU – Irlande du Nord	1	2%
Total	56	~100%

Etats requérants par rapport à 1999⁵

	Nombre de demandes en 2003	Nombre de demandes en 1999
Etats-Unis	26 (46%)	11 (31%)
France	7 (13%)	5 (14%)
RU- Angleterre & Pays de Galles	5 (9%)	5 (14%)
Mexique	3 (5%)	1 (3%)
Australie	2 (4%)	0 (0%)
Colombie	2 (4%)	0 (0%)
Allemagne	2 (4%)	2 (6%)
Belgique	1 (2%)	1 (3%)
Croatie	1 (2%)	0 (0%)
Irlande	1 (2%)	1 (3%)
Israël	1 (2%)	1 (3%)
Nouvelle-Zélande	1 (2%)	0 (0%)
Pologne	1 (2%)	0 (0%)
Afrique du Sud	1 (2%)	0 (0%)
Suède	1 (2%)	0 (0%)
RU – Irlande du Nord	1 (2%)	0 (0%)
Pays-Bas	0 (0%)	3 (8%)
Hongrie	0 (0%)	2 (6%)
Autriche	0 (0%)	1 (3%)
Chine – Hongkong	0 (0%)	1 (3%)
Italie	0 (0%)	1 (3%)
Portugal	0 (0%)	1 (3%)
Total	56 (~100%)	36 (~100%)

Comme en 1999, le plus grand nombre de demandes provenait des Etats-Unis d'Amérique, le voisin géographiquement le plus proche du Canada. En effet, en 2003, près de la moitié des demandes de retour (46%) a été envoyée par cet Etat. Les mêmes tendances ont été observées entre d'autres Etats voisins, comme entre les Etats-Unis et le Mexique, ou encore l'Australie et la Nouvelle-Zélande.

Pour les deux années 1999 et 2003, une forte proportion de demandes a émané de la France ainsi que de l'Angleterre et du Pays de Galles, 13% et 9 % en 2003, contre 14% chacun en 1999. Il est intéressant qu'aucune demande n'a été envoyée par les Pays-Bas et la Hongrie, alors qu'en 1999 ils avaient envoyé respectivement 3 demandes (8%) et 2 demandes (6%).

(b) Demandes de droit de visite reçues

⁵ La Province de Terre-Neuve-et-Labrador n'est pas prise en compte dans les chiffres cités car elle n'a pas participé à cette étude. D'autre part, la mise en œuvre de la Convention dans la Province de Nunavut n'a eu lieu qu'en 2000, si bien que cette province n'avait pas participé à l'étude de 1999.

Etats requérants en 2003

	Nombre	Taux
RU – Angleterre et Pays de Galles	2	18%
Argentine	1	9%
Australie	1	9%
Belgique	1	9%
Danemark	1	9%
Hongrie	1	9%
Israël	1	9%
Italie	1	9%
Norvège	1	9%
Afrique du Sud	1	9%
Total	11	~100%

Etats requérants par rapport à 1999⁶

	Nombre de demandes en 2003	Nombre de demandes en 199
RU – Angleterre & Pays de Galles	2 (18%)	2 (25%)
Argentine	1 (9%)	0 (0%)
Australie	1 (9%)	0 (0%)
Belgique	1 (9%)	0 (0%)
Danemark	1 (9%)	0 (0%)
Hongrie	1 (9%)	0 (0%)
Israël	1 (9%)	0 (0%)
Italie	1 (9%)	1 (13%)
Norvège	1 (9%)	0 (0%)
Afrique du Sud	1 (9%)	0 (0%)
Suisse	0 (0%)	2 (25%)
Allemagne	0 (0%)	1 (13%)
Portugal	0 (0%)	1 (13%)
Etats-Unis	0 (0%)	1 (13%)
Total	11 (~100%)	8 (~100%)

Comme l'indique le tableau ci-dessus, la tendance observée pour les demandes de droit de visite est différente de celle observée pour les demandes de retour. Aucune demande n'a été envoyée par les Etats-Unis. De même, en 1999, les Etats-Unis n'ont envoyé qu'une seule demande de droit de visite au Canada.

La personne qui a emmené ou retenu l'enfant/ le défendeur

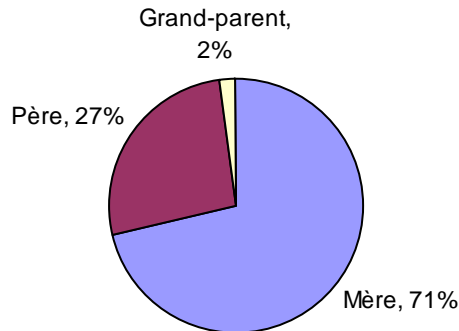
3. Lien avec la personne qui a emmené ou retenu l'enfant / le défendeur

(a) Demandes de retour reçues

⁶ La Province de Terre-Neuve-et-Labrador n'est pas prise en compte dans les chiffres cités car elle n'a pas participé à cette étude. D'autre part, la mise en œuvre de la Convention dans la Province de Nunavut n'a eu lieu qu'en 2000, si bien que cette province n'avait pas participé à l'étude de 1999.

Lien de la personne qui a emmené ou retenu l'enfant

	Nombre	Taux
Mère	40	71%
Père	15	27%
Grand-parent	1	2%
Total	56	100%

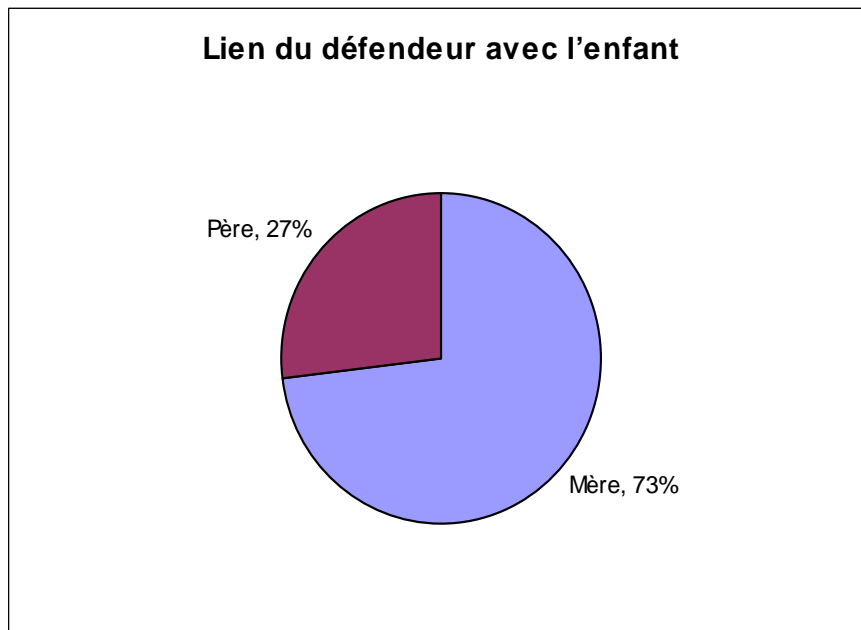
Lien de la personne qui a emmené ou retenu l'enfant

L'étude de 2003 a cherché à obtenir des informations sur le lien entre l'enfant et la personne qui l'a emmené ou retenu, alors qu'en 1999 on ne s'intéressait qu'au sexe de la personne qui a emmené ou retenu l'enfant (homme, femme ou couple). Proportionnellement, les personnes qui ont emmené ou retenu l'enfant étaient un peu plus fréquemment la mère (71%), par rapport à la moyenne globale de 68%. Cela est comparable aux résultats de 1999, où 75% de personnes qui ont emmené ou retenu l'enfant étaient des femmes.

Dans une demande (2%), la personne qui a emmené ou retenu l'enfant était l'un de ses grands-parents.

(c) Demandes de droit de visite reçues**Lien du défendeur avec l'enfant**

	Nombre	Taux
Mère	8	73%
Père	3	27%
Total	11	100%



Dans 8 demandes de droit de visite (73%), la mère était la défenderesse, contre un taux global de 79% en 2003. En 1999, 75% des défendeurs étaient des femmes.

4. Attributs de la personne qui a emmené ou retenu l'enfant par rapport à la responsabilité de l'enfant

(a) Demandes de retour reçues⁷

Attributs de la personne qui a emmené ou retenu l'enfant / défendeur

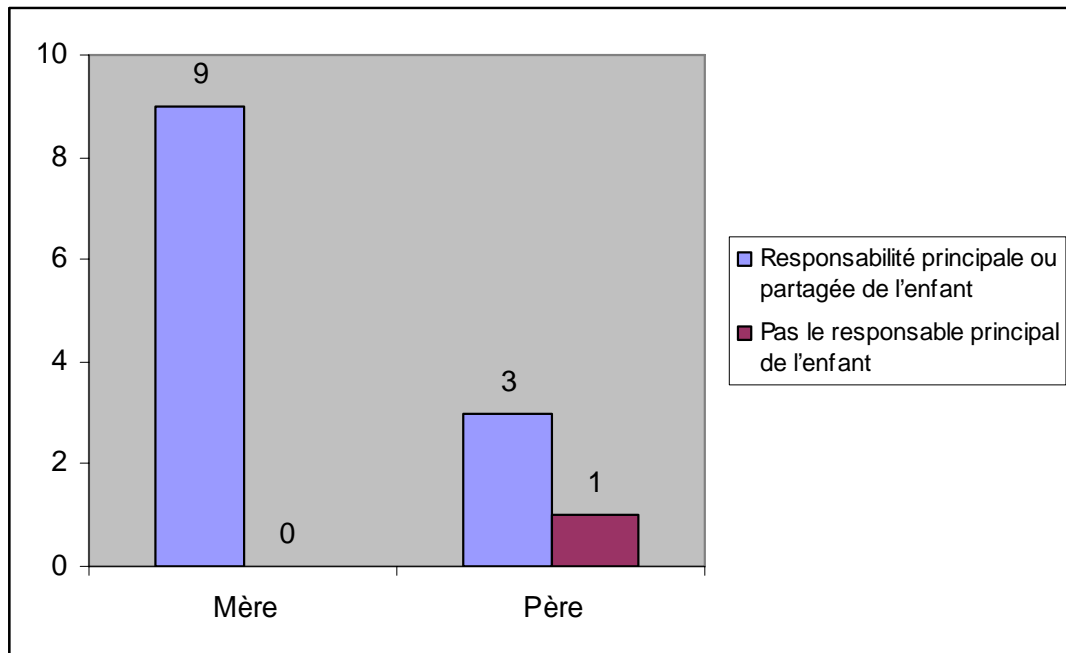
	Nombre	Taux
Responsabilité principale ou partagée de l'enfant	12	92%
Pas le responsable principal de l'enfant	1	8%
Total	13	100%

Le tableau ci-dessus montre que dans une majorité écrasante de demandes (92%, pour lesquelles l'information était communiquée), la personne qui a emmené ou retenu l'enfant avait la responsabilité principale ou partagée de l'enfant. Ce taux est très nettement supérieur au taux global de 68%. Cependant, il n'est pas possible d'en tirer des conclusions significatives, étant donné que pour les 43 demandes restantes, les attributs de la personne par rapport à la responsabilité de l'enfant n'ont pas été communiqués.

⁷ Cette information n'a pas été communiquée pour 43 demandes.

Attributs de la personne qui a emmené ou retenu l'enfant / défendeur

	Lien de la personne qui a emmené l'enfant		Total
	Mère	Père	
Responsabilité principale ou partagée de l'enfant	9	3	12
Pas le responsable principal de l'enfant	0	1	1
Total	9	4	13



Le tableau et le graphique ci-dessus montrent que lorsque les attributs de la personne étaient connus, 3 pères défendeurs sur 4 (75%) avaient la responsabilité principale de l'enfant. Ceci diverge considérablement de la moyenne générale de 28%. Les 9 mères avaient toutes la responsabilité principale de l'enfant, contre 84% dans l'ensemble.

5. Nationalité de la personne qui a emmené ou retenu l'enfant / défendeur

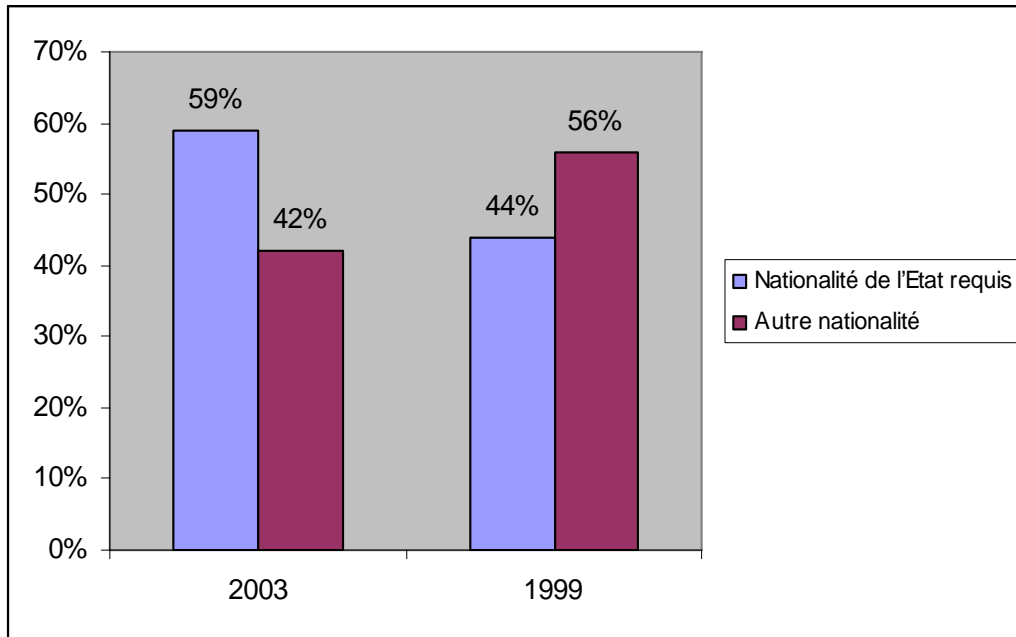
(a) Demandes de retour reçues⁸

La personne qui a emmené ou retenu l'enfant a la nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	31	59%
Autre nationalité	22	42%
Total	53	~100%

Ce tableau montre que dans 59% des demandes, la personne qui a emmené ou retenu l'enfant était canadienne (dont 13 personnes avec une double nationalité), ce qui est proche du taux d'ensemble de 55% de personnes qui a emmené ou retenu l'enfant ayant la nationalité de l'Etat requis.

⁸ En outre, cette information n'a pas été communiquée pour 3 demandes.



Le graphique ci-dessus compare les taux de 2003 relatifs à la nationalité avec ceux de 1999. Comme le montre le tableau, le taux de canadiens qui ont emmené ou retenu l'enfant au Canada a augmenté de 44% en 1999 à 59% en 2003. Ce taux est comparable au taux global pour 2003 de 55%.

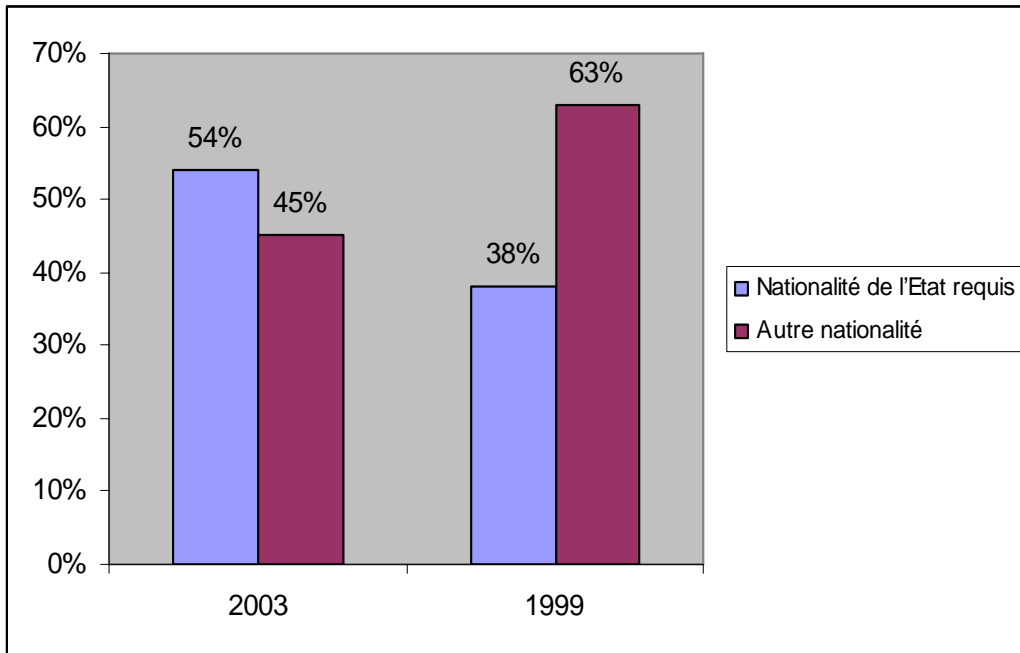
(b) Demandes de droit de visite reçues⁹

Défendeur et nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	6	54%
Autre nationalité	5	42%
Total	11	~100%

Comme pour les demandes de retour, le taux de défendeurs possédant la nationalité de l'Etat requis (54%) se rapproche de la moyenne d'ensemble de 53% pour 2003, dont 4 personnes avec une double nationalité.

⁹ Cette information n'a pas été communiquée pour 3 demandes.



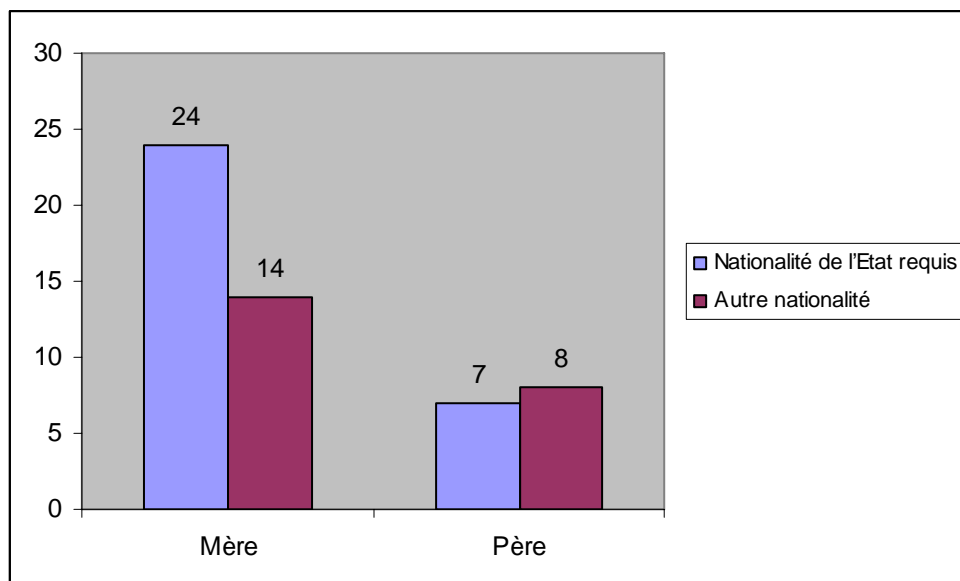
Le graphique ci-dessus compare les taux de 2003 relatifs à la nationalité avec ceux de 1999. Comme le montre le tableau, le taux de défenseurs canadiens a augmenté de 38% en 1999 à 54% en 2003.

6. Nationalité et lien de la personne qui a emmené ou retenu l'enfant / le défendeur (combinés)

(a) Demandes de retour reçues

Nationalité et lien de la personne qui a emmené ou retenu l'enfant

	Lien de la personne qui a emmené l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	24	7	31
Autre nationalité	14	8	22
Total	38	15	53

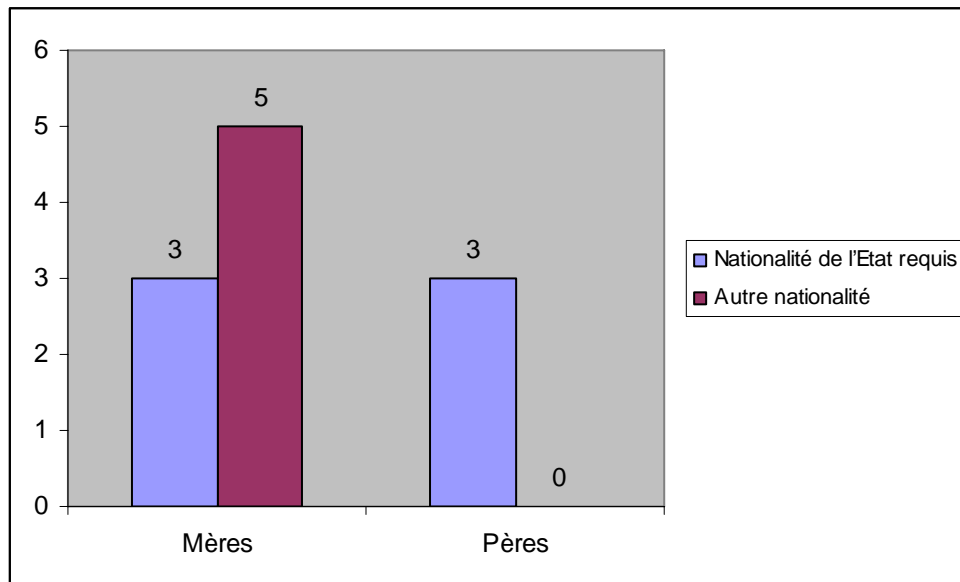


Les mères qui ont emmené ou retenu l'enfant avaient bien plus fréquemment la nationalité canadienne. En effet, 24 mères sur 38 (63%) étaient canadiennes. 7 personnes qui ont emmené ou retenu l'enfant sur 15 (47%) étaient des pères canadiens. Ces chiffres sont à rapprocher des moyennes globales pour 2003 de 54% de mères et 55% de pères avec la nationalité de l'Etat requis. En 1999, on avait relevé 50% d'hommes et 42% de femmes canadiens.

(b) Demandes de droit de visite reçues

Nationalité et lien du défendeur avec l'enfant

	Lien du défendeur avec l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	3	3	6
Autre nationalité	5	0	5
Total	8	3	11



Dans les demandes de droit de visite reçues par le Canada, 3 mères défenderesses seulement sur 8 (38%), mais tous les pères défendeurs, étaient canadiens. Ceci diverge des moyennes globales respectives pour 2003 de 49% de mères et 68% de pères. En 1999, 50% de défendeurs 33% de défenderesses étaient canadiens.

Les enfants

7. Nombre total d'enfants

(a) Demandes de retour reçues

78 enfants ont fait l'objet des 56 demandes de retour reçues en 2003. En 1999, 50 enfants au total ont fait l'objet des 36 demandes de retour reçues.

Comme en 1999, il y a en moyenne 1,39 enfants par demande de retour reçue par le Canada. Dans l'ensemble, en 2003, il y a en moyenne 1,4 enfants par demande de retour.

(b) Demandes de droit de visite reçues

15 enfants ont fait l'objet des 11 demandes de droit de visite reçues en 2003. En 1999, 9 enfants au moins¹⁰ ont été concernés par 9 demandes de droit de visite reçues. En 2003, il y a en moyenne 1,36 enfants par demande de droit de visite. Proportionnellement, cela traduit une hausse, comparé à la moyenne d'un enfant au moins par demande en 1999. En 2003, il y a en moyenne 1,3 enfants par demande de droit de visite.

8. Enfants uniques ou fratries**(a) Demandes de retour reçues****Enfant unique ou fratrie**

	Nombre	Taux
Enfant unique	39	70%
Fratrie	17	30%
Total	56	100%

Nombre d'enfants

	Nombre	Taux
1 enfant	39	70%
2 enfants	12	21%
3 enfants	5	9%
Total	56	100%

Le taux d'enfants uniques concernés par les demandes de retour (70%) est comparable au taux global de 67% et se rapproche du taux de 1999 (64%). En outre, la grande majorité des demandes (91%) implique 2 enfants au plus, ce qui se rapproche de la moyenne générale pour 2003 de 93% et du taux de 97% pour 1999. 5 demandes (9%) mettaient en cause une fratrie de 3 enfants.

(b) Demandes de droit de visite reçues**Enfant unique ou fratrie**

	Nombre	Taux
Enfant unique	9	82%
Fratrie	2	18%
Total	11	100%

Nombre d'enfants

	Nombre	Taux
1 enfant	9	82%
3 enfants	2	18%
Total	11	100%

¹⁰ Une demande mettait en cause une fratrie, donc au moins 2 enfants, sans que leur nombre exact n'ait été communiqué.

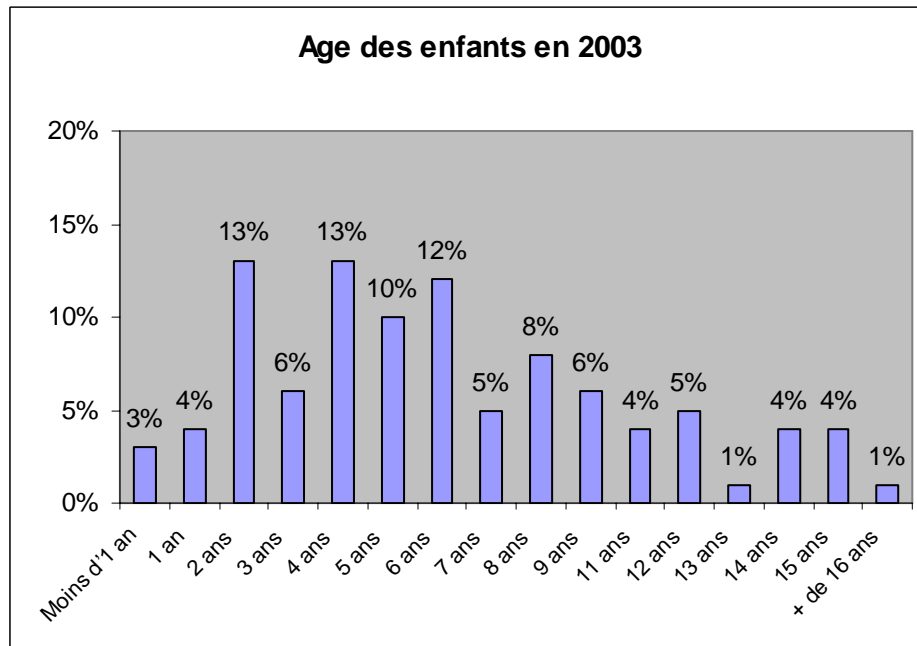
Pour les demandes de droit de visite, le taux d'enfants uniques (82%) est supérieur à la moyenne générale pour 2003 de 71%, mais inférieur au taux de 88% relevé en 1999. Il est intéressant de constater que les deux fratries mettaient en cause 3 enfants.

9. Age des enfants

(a) Demandes de retour reçues¹¹

Age des enfants en 2003

	Nombre	Taux
Moins d'1 an	2	3%
1 an	3	4%
2 ans	10	13%
3 ans	5	6%
4 ans	10	13%
5 ans	8	10%
6 ans	9	12%
7 ans	4	5%
8 ans	6	8%
9 ans	5	6%
11 ans	3	4%
12 ans	4	5%
13 ans	1	1%
14 ans	3	4%
15 ans	3	4%
+ de 16 ans	1	1%
Total	77	~100%



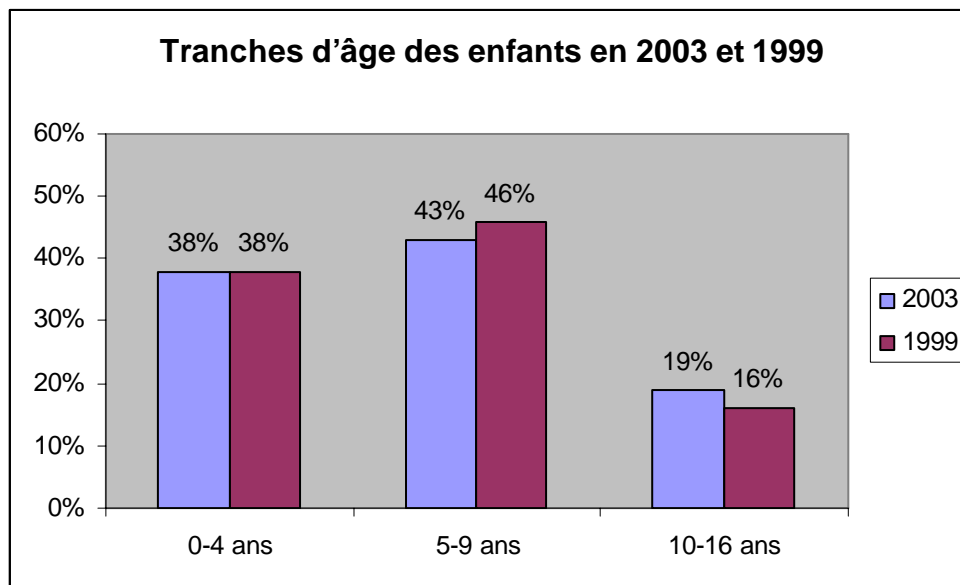
¹¹ Cette information n'a pas été communiquée pour 1 enfant.

Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant impliqué. 58% des enfants étaient âgés de 1 à 6 ans, ce qui s'aligne avec la moyenne générale de 55% en 2003.

L'étude de 1999 n'était pas à ce niveau suffisamment détaillée pour nous permettre de comparer les résultats. Néanmoins, nous avons des données sur les tranches d'âge des enfants, lesquelles peuvent être comparées.

Tranches d'âge des enfants en 2003

	Nombre	Taux
0-4 ans	29	38%
5-9 ans	33	43%
10-16 ans	15	19%
Total	77	100%

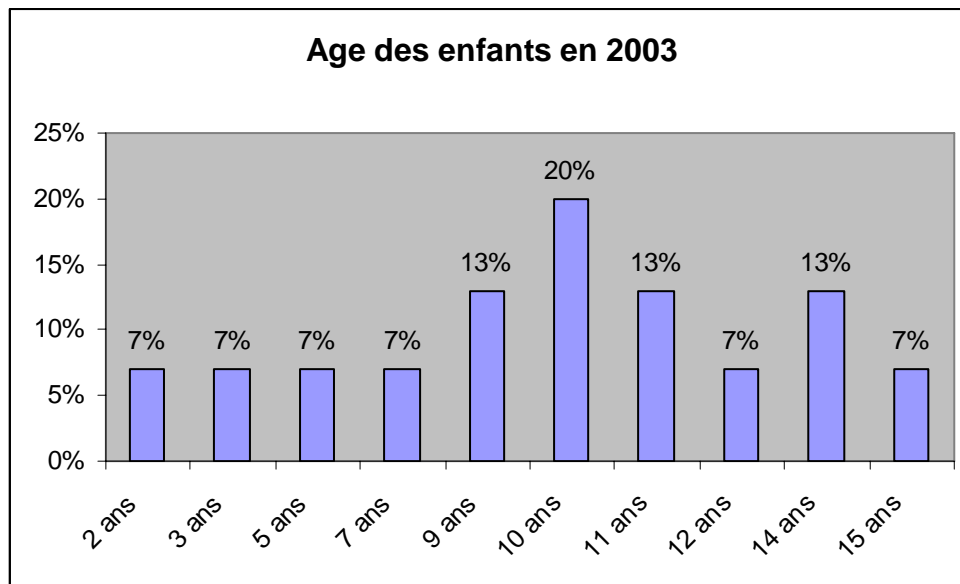


Comme il ressort du graphique, la répartition des enfants selon leur tranche d'âge est presque identique aux résultats de 1999. De même, elle se rapproche des moyennes générales respectives relevées en 2003 de 36%, 42% et 22%.

(b) Demandes de droit de visite reçues

Age des enfants en 2003

	Nombre	Taux
2 ans	1	7%
3 ans	1	7%
5 ans	1	7%
7 ans	1	7%
9 ans	2	13%
10 ans	3	20%
11 ans	2	13%
12 ans	1	7%
14 ans	2	13%
15 ans	1	7%
Total	15	~100%

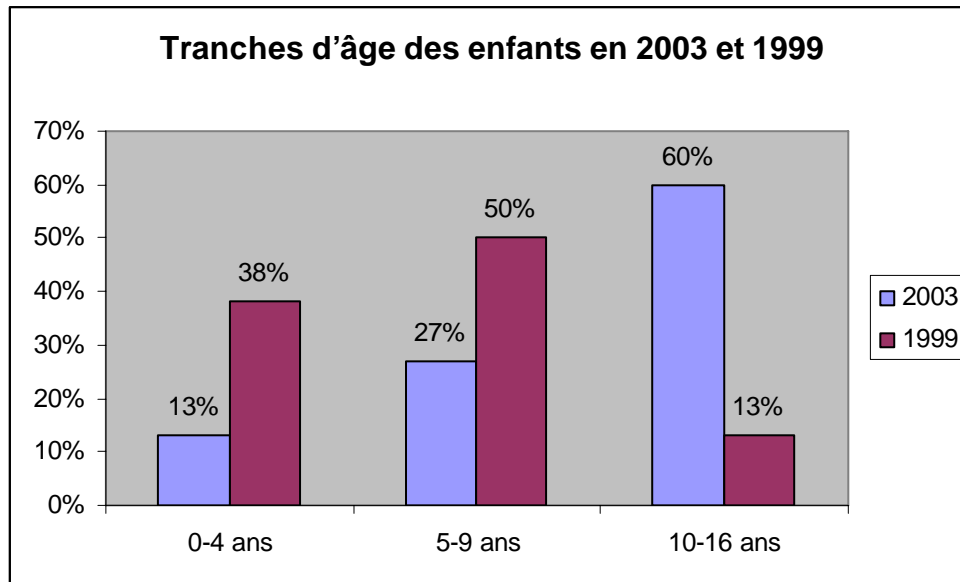


Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant impliqué. 21% des enfants étaient âgés de 1 à 6 ans, contre une moyenne générale pour 2003 de 35%.

L'étude de 1999 n'était pas à ce niveau suffisamment détaillée pour nous permettre de comparer les résultats. Néanmoins, nous avons des données sur les tranches d'âge des enfants, lesquelles peuvent être comparées.

Tranches d'âge des enfants en 2003

	Nombre	Taux
0-4 ans	2	13%
5-9 ans	4	27%
10-16 ans	9	60%
Total	77	100%



Les graphiques ci-dessus comparent les informations sur les tranches d'âge des enfants pour 2003 et 1999. Contrairement à 1999, proportionnellement, les enfants plus âgés, c'est-à-dire de 10 à 16 ans, faisaient plus fréquemment l'objet des demandes de droit de visite reçues par le Canada. En effet, en 2003, 60% des enfants concernés avaient entre 10 et 16 ans, ce qui est nettement supérieur au taux global de 34% et au taux de 13% pour 1999.

D'autre part, les taux d'enfants âgés de 0 à 4 ans et de 5 à 9 ans ont tous deux baissé respectivement de 38% à 13% et de 50% à 27%. Ces taux sont à rapprocher des moyennes générales pour 2003 de 20% et 46%

10. Sexe des enfants

(a) Demandes de retour reçues

Sexe des enfants

	Nombre	Taux
Féminin	42	54%
Masculin	36	46%
Total	78	100%

Il y avait 54% de filles et 46% de garçons dans les demandes de retour, ce qui s'aligne avec les résultats d'ensemble respectifs de 51% et 49%. En 1999, de même, 52% des enfants dans les demandes reçues par le Canada étaient des filles.

(b) Demandes de droit de visite reçues

Sexe des enfants

	Nombre	Taux
Féminin	4	27%
Masculin	11	73%
Total	15	100%

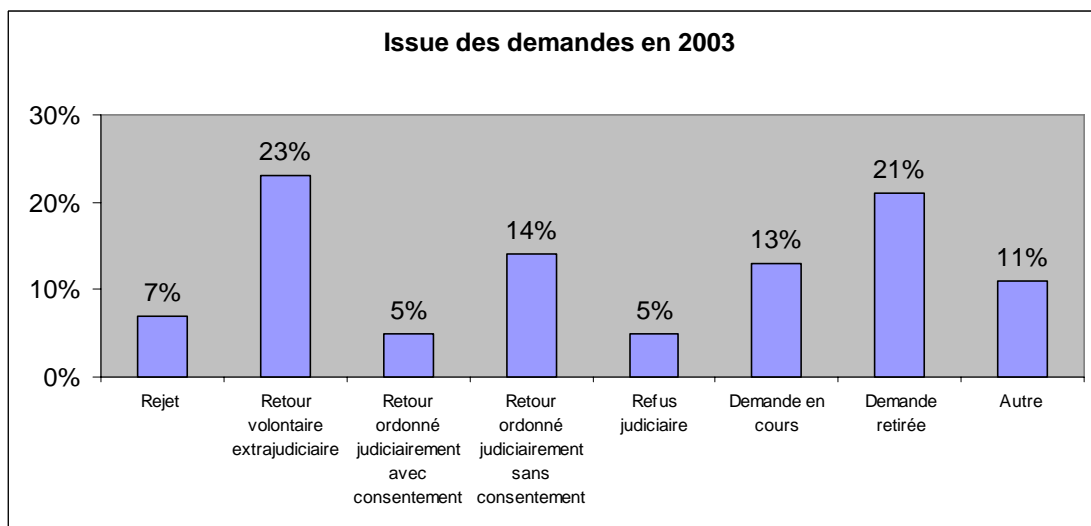
Le taux de 73% de garçons relevé dans les demandes de droit de visite reçues par le Canada est supérieur à la moyenne générale de 55% pour 2003, mais se rapproche du taux de 71% de garçons relevé en 1999.

Issues des demandes

11. Issues globales

(a) Demandes de retour reçues

Issue des demandes		
	Nombre	Taux
Rejet	4	7%
Retour volontaire extrajudiciaire	13	23%
Retour ordonné judiciairement avec consentement	3	5%
Retour ordonné judiciairement sans consentement	8	14%
Refus judiciaire	3	5%
Demande en cours	7	13%
Demande retirée	12	21%
Autre	6	11%
Total	56	~100%



Le tableau ci-dessus montre les issues de toutes les demandes déposées en 2003.

Contrairement à l'étude de 1999, celle de 2003 distingue les retours ordonnés judiciairement avec ou sans consentement. Au Canada, en 2003, 3 retours ordonnés judiciairement (5%) ont été prononcés avec consentement et 8 (14%) sans consentement.

Globalement, 42% des demandes reçues par le Canada ont abouti au retour de l'enfant, soit ordonné judiciairement, soit volontaire, ce qui est inférieur au taux global de 51%.

Néanmoins, le taux de retours volontaires (23%) est légèrement supérieur au taux global de 22% et celui de refus judiciaires (5%) est nettement inférieur au taux global de 13%.

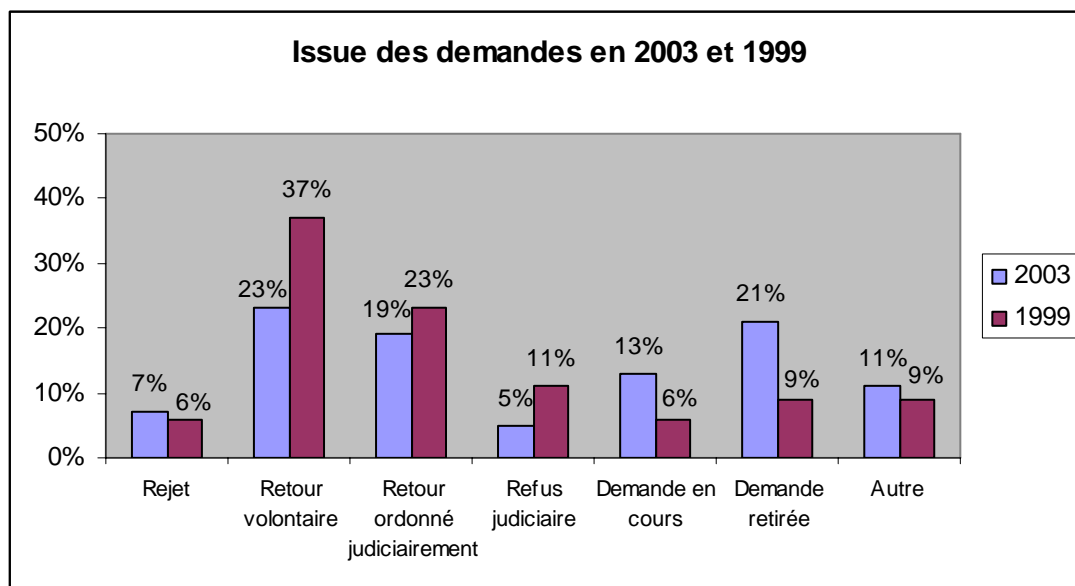
14 demandes (25%) ont été traitées par une autorité judiciaire. 79% d'entre elles ont abouti à un retour ordonné judiciairement et les 21% restantes à un refus judiciaire, contre 29% dans l'ensemble¹².

Dans 2 demandes mettant chacune en cause 3 enfants, les issues étaient différentes pour chaque enfant concerné¹³. Dans une affaire, la demande a été rejetée pour un enfant mais était toujours en cours pour les deux autres. Le rejet reposait sur le fait que l'enfant avait atteint l'âge de 16 ans.

Dans l'autre demande, l'un des 3 enfants a été volontairement retourné et la demande a été retirée pour les 2 autres enfants.

Dans 2 demandes, l'enfant a atteint l'âge de 16 ans et dans une demande, la garde provisoire a été accordée à la personne qui a emmené ou retenu l'enfant.¹⁴ Dans une demande, les parties se sont mises d'accord pour que l'enfant reste avec la personne qui l'a emmené ou retenu au Canada¹⁵.

Le taux de demandes retirées de 22%¹⁶ est supérieur au taux global de 15%. Au 30 juin 2005, 7 demandes (13%)¹⁷ étaient toujours en cours, contre une moyenne générale de 9% pour 2003.



Le graphique ci-dessus classe les issues de sorte à pouvoir les comparer avec les résultats de 1999. Ainsi, les « retours ordonnés judiciairement » incluent les retours ordonnés judiciairement avec consentement et sans consentement.

Comme indiqué, le taux de retours ordonnés judiciairement a légèrement diminué de 23% en 1999 à 19% en 2003. De même, le taux de retours volontaires a baissé de 37%

¹² Globalement, 66% des demandes ont abouti à un retour, 5% à un droit de visite et 29% à un refus judiciaire. Voir Partie I du Rapport de 2003, p. 32.

¹³ Classées toutes deux dans la catégorie « Autre issue ».

¹⁴ Classées toutes les trois dans la catégorie « Autre issue ».

¹⁵ Classée dans la catégorie « Autre issue ».

¹⁶ En fait, le taux de demandes retirées était légèrement plus élevé parce que la demande dont l'issue a été classée comme « Autre issue » a été retirée pour 2 des 3 enfants (voir *supra*).

¹⁷ En fait, le taux de demandes en cours était légèrement plus élevé parce que la demande dont l'issue a été classée comme « Autre issue » était toujours en cours pour 2 des 3 enfants (voir *supra*).

en 1999 à 23% en 2003. Il est en résulte que le taux de retours a baissé de 60% en 1999 à 42% en 2003.

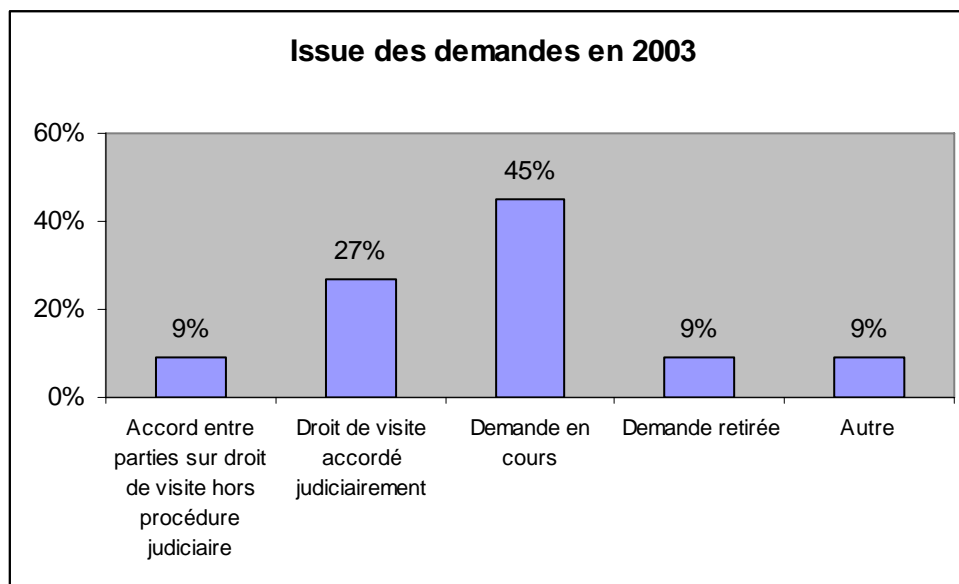
D'autre part, une proportion moins importante de demandes a été refusée judiciairement, soit 5% contre 11% en 1999. Ces divergences sont en partie dues au nombre relativement élevé de demandes retirées et en cours.

Une proportion considérablement élevée de demandes a été retirée, soit 21% contre 9% en 1999. De même, plus du double des demandes par rapport à 1999 (13% contre 6%) étaient toujours en cours à la date butoir fixée aux fins de cette étude.

(b) Demandes de droit de visite reçues

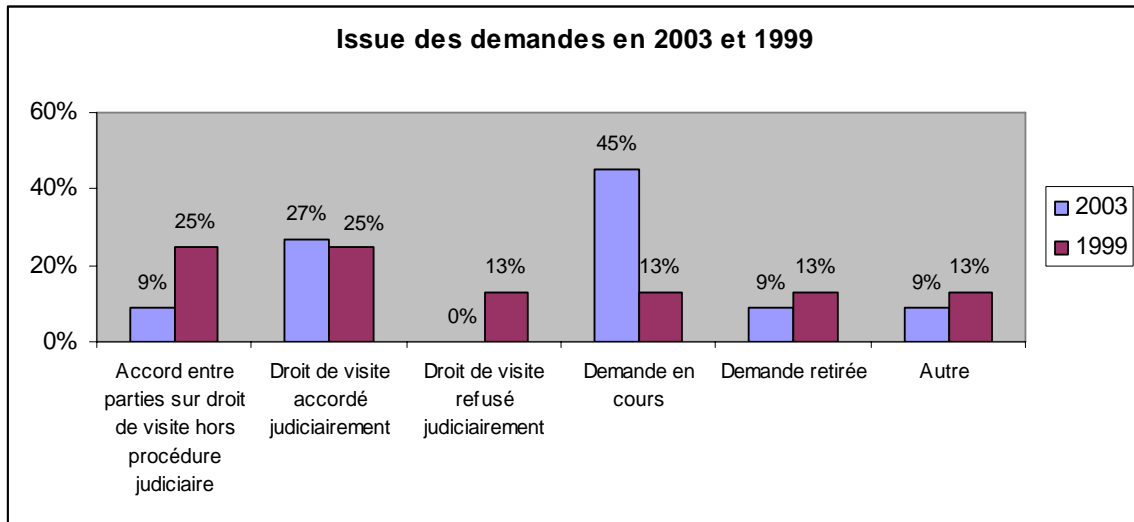
Issue des demandes

	Nombre	Taux
Accord entre parties sur droit de visite hors procédure judiciaire	1	9%
Droit de visite accordé judiciairement	3	27%
Demande en cours	5	45%
Demande retirée	1	9%
Autre	1	9%
Total	11	~100%



On peut tout de suite constater que près de la moitié des demandes (5, soit 45%) était toujours en cours au 30 juin 2005. Cela dépasse la moyenne générale de 22% pour 2003. 3 demandes (27%) ont abouti à un droit de visite accordé judiciairement et une demande (9%) a abouti à un droit de visite par accord des parties, à rapprocher des moyennes générales respectives de 16% et 13%. Toutes les 3 demandes pour lesquelles un droit de visite a été accordé ont été traitées dans le cadre du droit interne. Le taux de demandes retirées de 9% est inférieur à la moyenne générale de 22%.

Une affaire a été classée après transfert de la compétence¹⁸.



Comme indiqué, 36% des demandes ont abouti à un droit de visite par accord des parties ou ordonné, contre 50% en 1999. Le taux de demandes pour lesquelles un droit de visite a été accordé judiciairement (27%) révèle un meilleur résultat que les 25% relevés en 1999. D'autre part, les retours volontaires ont été marqués par une baisse significative de 25% en 1999 à 9% en 2003.

Le taux de demandes retirées a légèrement baissé de 13% en 1999 à 9% en 2003. Par ailleurs, le taux de 45% de demandes en cours est considérablement plus élevé qu'en 1999 (13%). Aucune demande n'a fait l'objet d'un refus judiciaire, contre 13% en 1999.

12. Issues globales par Province et Territoire

(a) Demandes de retour reçues

	Issue par demande								Total
	Rejet	Retour volontaire extrajudiciaire	Retour ordonné judiciairement avec consentement	Retour ordonné judiciairement sans consentement	Refus judiciaire	Demande en cours	Demande retirée	Autre	
Ontario	0	5	0	2	0	5	5	2	19
Colombie britannique	1	3	0	2	0	1	2	0	9
Nouvelle-Ecosse	0	1	0	0	0	0	0	1	2
Québec	3	3	2	4	2	0	4	1	19
Saskatchewan	0	1	0	0	0	0	0	0	1
Alberta	0	0	1	0	1	1	1	2	6
Total	4	13	3	8	3	7	12	6	56

Le tableau ci-dessus montre que 5 demandes sur 9 (56%) reçues par la Colombie-Britannique ont abouti à un retour, soit volontaire soit ordonné judiciairement. Une proportion légèrement plus faible de demandes (47%) a abouti à un retour volontaire ou ordonné judiciairement au Québec. À l'inverse, la Saskatchewan n'a ordonné judiciairement aucun retour d'enfant ; il y avait néanmoins un retour volontaire en 1999 et en 2003. Dans la même lignée, en Nouvelle-Ecosse, un retour volontaire a eu lieu en 1999 et en 2003. En Alberta, une demande seulement sur 6 a abouti à un retour de l'enfant, contre 4 demandes sur 4 en 1999.

¹⁸ Classée dans la catégorie « Autre issue ».

(b) Demandes de droit de visite reçues

	Issue par demande					Total
	Accord entre parties sur droit de visite hors procédure judiciaire	Droit de visite accordé judiciairement – droit interne	Demande en cours	Demande retirée	Autre	
Ontario	1	0	2	1	1	5
Colombie britannique	0	0	1	0	0	1
Saskatchewan	0	1	0	0	0	1
Alberta	0	2	2	0	0	4
Total	1	3	5	1	1	11

L'Ontario et l'Alberta sont deux provinces avec un nombre important de demandes de droit de visite. Néanmoins, une demande seulement sur les 5 reçues par l'Ontario et 2 demandes sur les 4 reçues par l'Alberta ont abouti à un droit de visite, soit par accord des parties, soit ordonné judiciairement. En 1999, l'Alberta était la seule province avec un nombre important de demandes de droit de visite (5), dont 3 d'entre elles ont abouti à un droit de visite par accord des parties ou ordonné judiciairement.

12. Motifs de rejet**(a) Demandes de retour reçues****Motif de rejet par l'Autorité Centrale**

	Nombre	Taux
Enfant plus de 16 ans	1	20%
Enfant localisé dans autre Etat	3	60%
Pas de droit de garde du demandeur	1	20%
Total	5	100%

Le motif de rejet le plus fréquemment invoqué est la localisation de l'enfant dans un autre pays. En effet, 3 rejets sur 5 (60%) ont reposé sur ce motif. Cela diverge de l'étude de 1999, où les deux demandes rejetées l'avaient été car l'enfant n'avait pas été localisé. Le taux de rejet des demandes reçues par le Canada est de 7%, ce qui est légèrement supérieur au taux global pour 2003 de 6%. En 1999, le taux de rejet du Canada était de 6%, contre un taux global de 10%.

(b) Demandes de droit de visite reçues

Pas de données.

13. Motifs du refus judiciaire**(a) Demandes de retour reçues**

Motif du refus judiciaire par demande

	Nombre	Taux
Article 12	1	33%
Article 13 (1) b)	1	33%
Opposition de l'enfant	1	33%
Total	3	~100%

Des 14 demandes qui ont été traitées par voie judiciaire, 3 (21%) ont été refusées, ce qui traduit une baisse par rapport aux 4 demandes sur 12 (33%) en 1999 et reste en deçà de la moyenne générale de 29%. Comme en 1999, les motifs du refus étaient variés et distincts. L'article 12 et l'article 13 1 b) ont aussi été retenus en 1999. En outre, en 1999, un refus était fondé sur le fait que l'enfant n'avait pas sa résidence habituelle dans l'Etat requérant et un autre refus était classé dans la catégorie « Autre issue ».

Les refus n'ont pas été analysés par province et territoire vu leur faible nombre.

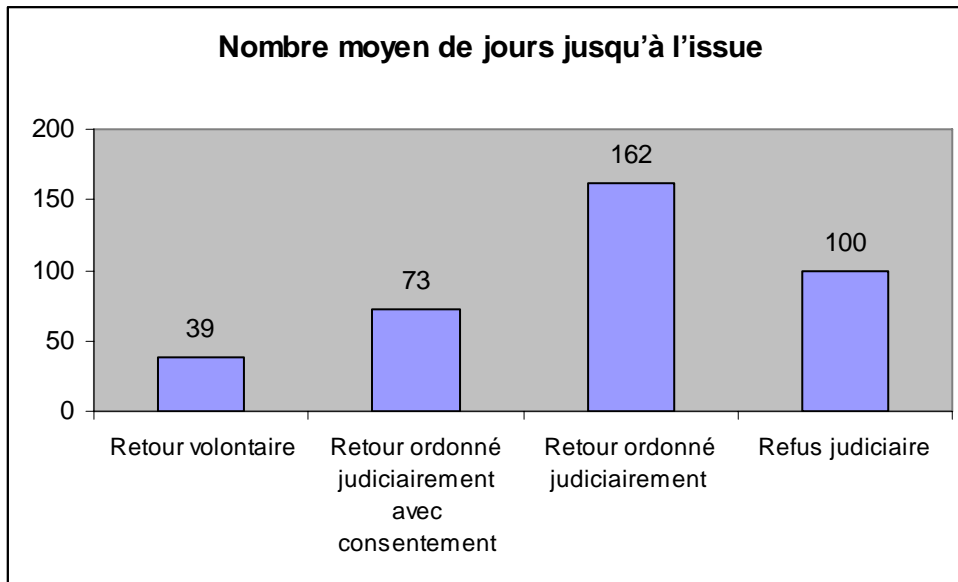
14. Motifs du refus judiciaire et lien de la personne qui a emmené ou retenu l'enfant**(a) Demandes de retour reçues****Lien de la personne qui a emmené ou retenu l'enfant et Motif du refus**

	Mère	Total
Article 12	1	1
Article 13 (1) b)	1	1
Opposition de l'enfant	1	1
Total	3	3

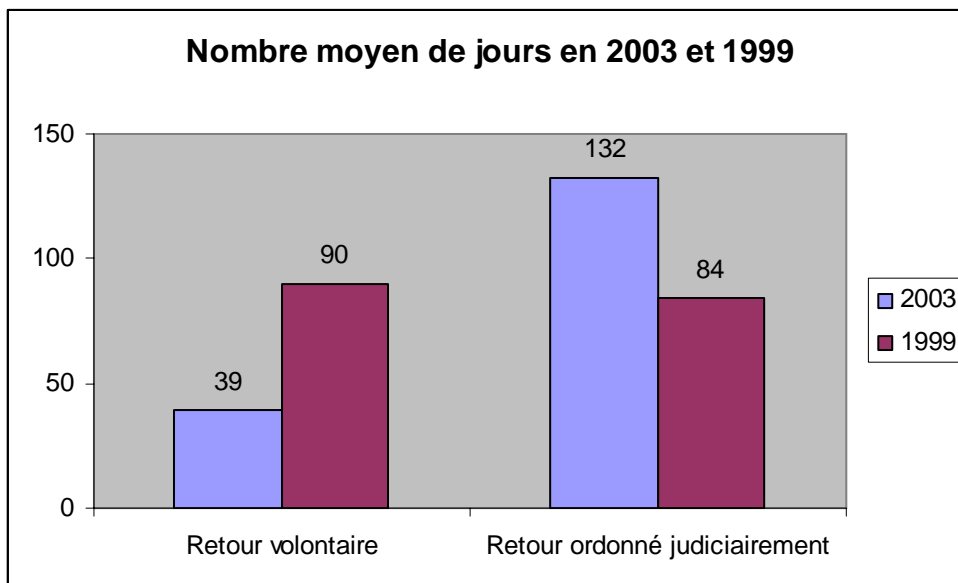
Le tableau ci-dessus montre que pour les 3 demandes qui ont été refusées, la personne qui a emmené ou retenu l'enfant était sa mère. Globalement, en 2003, 77% des refus ont mis en cause la mère alors que globalement, elle est la personne qui a emmené ou retenu l'enfant dans 68% des cas. En 1999, on a relevé que dans 2 demandes refusées sur 4, un homme avait emmené ou retenu l'enfant.

Rapidité de traitement des demandes**15. Délai entre la demande et son aboutissement****(a) Demandes de retour reçues¹⁹**

¹⁹ Cette information n'a pas été communiquée pour 2 retours judiciaires sans consentement et 9 retours volontaires.



Il était prévisible que les retours ordonnés judiciairement avec consentement aient été prononcés plus rapidement que les retours ordonnés judiciairement sans consentement, en l'occurrence 73 jours contre 162 jours. Ceci est à rapprocher des résultats d'ensemble de 85 jours contre 143 jours respectivement. Les retours volontaires ont eu lieu au bout de 39 jours en moyenne, ce qui est plus rapide que la moyenne globale de 98 jours. De même, les refus judiciaires ont été prononcés plus rapidement (100 jours en moyenne) par rapport à la moyenne générale de 233 jours.



Le graphique ci-dessus indique que les retours ordonnés judiciairement ont été prononcés au bout de 132 jours en moyenne, contre 84 jours en 1999. Les retours volontaires ont eu lieu au bout de 39 jours en moyenne, contre 90 jours en 1999. Il n'est pas possible de comparer les taux pour les refus judiciaires, vu qu'en 1999, cette information n'avait pas été communiquée.

**Nombre de jours jusqu'à l'issue définitive en 2003
(y compris les décisions en appel)**

	Retour volontaire extrajudiciaire	Retour ordonné judiciairement avec consentement	Retour ordonné judiciairement	Refus judiciaire
Moyenne	39	73	162	100
Médiane	35	64	134	76
Minimum	1	14	56	14
Maximum	83	142	344	210
Nombre de demandes	4	3	6	3

Le tableau ci-dessus montre les différences de durée jusqu'à l'issue et offre un aperçu plus informatif du système canadien. Le tableau tient compte de toutes les demandes pour lesquelles les durées ont été communiquées, y compris les demandes qui ont fait l'objet d'un recours. Comme indiqué, le délai le plus long pour les décisions judiciaires (un retour ordonné judiciairement sans consentement) était de 344 jours. Le délai le plus long pour prononcer un refus judiciaire était de 210 jours, et le plus bref de 14 jours seulement. Il est intéressant de constater qu'un retour volontaire a eu lieu au bout d'un jour seulement. Le délai le plus long pour les retours volontaires était de 83 jours.

**Nombre de jours jusqu'à l'issue définitive de la procédure en 2003
(à l'exclusion des décisions en appel)**

	Retour ordonné judiciairement	Refus judiciaire
Moyenne	165	45
Médiane	184	45
Minimum	83	14
Maximum	228	76
Nombre de demandes	3	2

Comme l'indique le tableau, pour les retours ordonnés judiciairement, ne pas comptabiliser les affaires traitées en appel n'affecte pas de manière significative la durée moyenne jusqu'à l'issue définitive. Pour les refus judiciaires, on constate un écart moyen de 55 jours, que l'on comptabilise ou non les affaires traitées en appel.

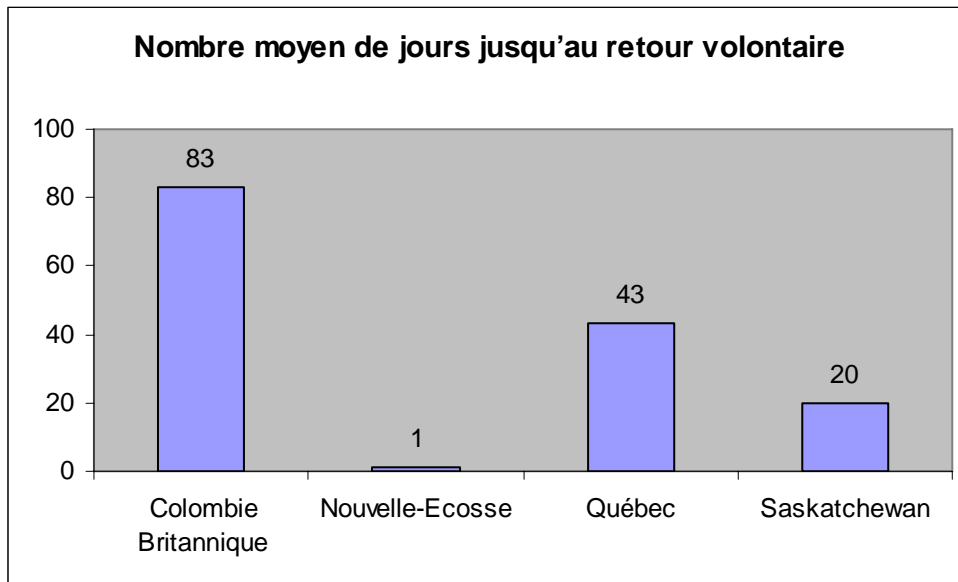
(b) Demandes de droit de visite reçues

Aucune durée n'a été communiquée pour les demandes de droit de visite.

16. Rapidité de traitement des demandes par Province et Territoire

(a) Demandes de retour reçues

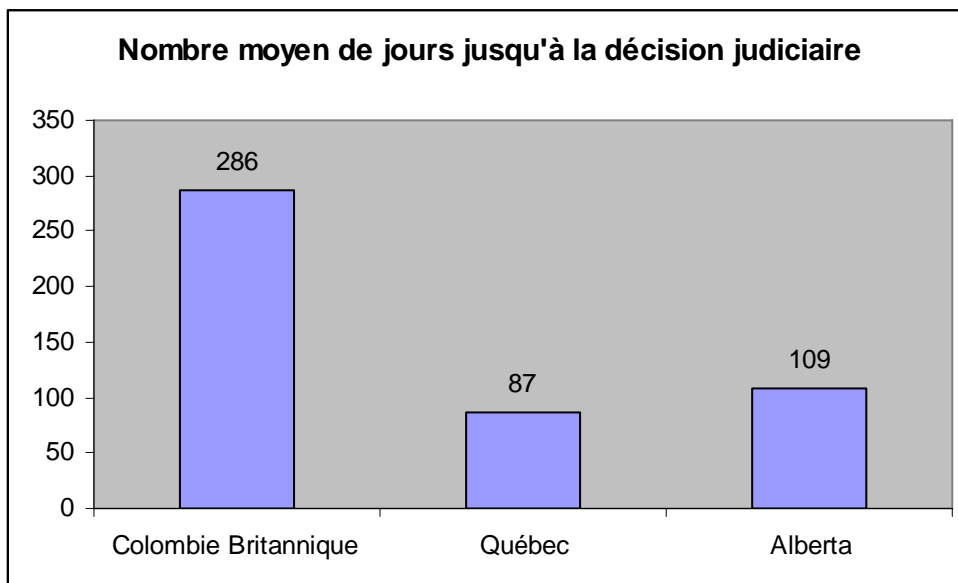
(i) Retours volontaires



Le graphique ci-dessus montre le nombre moyen de jours écoulés pour les retours volontaires dans chaque province concernée. Comme indiqué, les 4 provinces révèlent des délais plus courts que la moyenne générale de 98 jours. Cependant, le nombre de retours volontaires est faible, soit 3 affaires au Québec et une affaire seulement en Colombie-Britannique, en Nouvelle-Ecosse et au Saskatchewan.

En 1999, les retours volontaires ont eu lieu au bout de 106 jours en moyenne au Québec, 44 jours en Nouvelle-Ecosse, 78 jours en Alberta et 61 jours en Ontario.

(ii) Retours ordonnés judiciairement et refus judiciaires



Le graphique ci-dessus classe le nombre moyen de jours pour les décisions judiciaires par province. Comme en 1999, le Québec et l'Alberta ont toutes deux prononcé des décisions judiciaires plus rapidement que la moyenne globale de 179 jours. Le chiffre relevé en Alberta concerne 2 demandes seulement, mais celui relevé au Québec concerne 8 demandes.

17. Appels

(a) Demandes de retour reçues

Des 14 demandes traitées par voie judiciaire, 4 (29%) ont fait l'objet d'un recours. Dans l'ensemble, 22% de toutes les affaires traitées judiciairement ont été frappées d'appel.

3 demandes ont abouti à un retour ordonné judiciairement en appel, l'une en Colombie-Britannique et les 2 autres au Québec. Dans toutes ces décisions, l'instance d'appel a confirmé la décision de première instance. Ces décisions ont été rendues au bout de respectivement 344 jours, 74 jours et 56 jours. Globalement, la durée moyenne pour les retours ordonnés judiciairement prononcés en appel était de 206 jours du jour du dépôt de la demande à l'issue définitive.

En outre, une décision d'appel au Québec a infirmé la décision de première instance ordonnant le retour. Il a fallu 210 jours pour parvenir à l'issue définitive.

En 1999, 2 décisions judiciaires avaient fait l'objet d'un recours, l'une au Manitoba et l'autre en Ontario. Les décisions avaient abouti à un retour ordonné judiciairement, respectivement au bout de 192 jours et 134 jours.

(b) Demandes de droit de visite reçues

Aucune des demandes de droit de visite reçues n'a fait l'objet de recours.

CHILE

The applications

1. The number of applications

Incoming Return Applications	17
Incoming Access Applications	4
Outgoing Return Applications	8
Outgoing Access Applications	5

According to the Central Authority for Chile, they received 17 incoming return and 4 incoming access applications in 2003, making a total of 21 incoming applications. This is an increase on the 11 incoming applications (7 of which were return applications and 4 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 81% to 19% compares with the global average of 84% to 16%.

Additionally, the Central Authority made 8 outgoing return applications¹ and 5 outgoing access applications in 2003. This is an increase on the 5 outgoing return applications and no outgoing access application made in 1999.

Altogether, the Central Authority handled 34 new applications in 2003, compared with 16 new applications in 1999.

The overall ratio of incoming to outgoing applications was 62% to 38%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Argentina	8	47%
Spain	2	12%
Sweden	2	12%
USA	2	12%
Australia	1	6%
Canada	1	6%
Germany	1	6%
Total	17	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Argentina	8 (47%)	3 (43%)
Spain	2 (12%)	0 (0%)
Sweden	2 (12%)	1 (14%)
USA	2 (12%)	2 (29%)
Australia	1 (6%)	0 (0%)
Canada	1 (6%)	0 (0%)
Germany	1 (6%)	0 (0%)
Italy	0 (0%)	1 (14%)
Total	17 (~ 100%)	7 (100%)

Chile received applications for return from 7 Contracting States, which is an increase on the 4 recorded in 1999.

As in 1999, the highest number of applications came from Argentina. Although as a proportion of incoming applications the 2003 and 1999 figures are very similar (47% in 2003 and 43% in 1999) it is notable that there were in fact over twice as many applications received from Argentina in 2003 compared with 1999.

(b) Incoming access applications

Chile received one access application from each of 4 Contracting States, Australia, Germany, the Netherlands and Venezuela. Strikingly, there were no applications from Argentina.

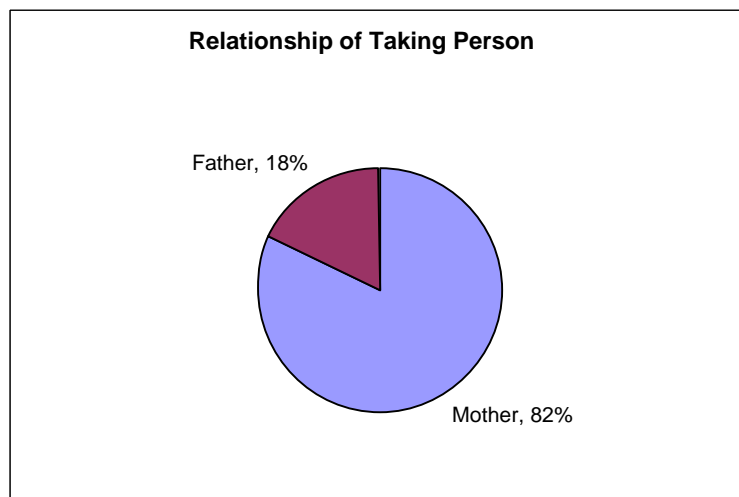
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of Taking Person

	Number	Percent
Mother	14	82%
Father	3	18%
Total	17	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender (*i.e.* simply male/female) of the taking person, as recorded in the 1999 survey. 82% of taking persons were mothers. This is higher than the global average of 68%, and shows an increase in respondent mothers since 1999,² where 71% of taking persons were recorded as female.

(b) Incoming access application

In 3 of the 4 access applications the respondent was the mother which mirrors the 1999 findings where 3 of the 4 respondents were female. Globally in 2003, 79% of respondents in access applications were mothers.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications³

Status of the Taking Person as Carer

	Number	Percent
Primary Carer	4	80%
Non-Primary Carer	1	20%
Total	5	100%

The table above shows that in 80% of cases, the taking person was the primary carer of the child. It must, however, be noted that this information is missing in 12 out of the 17 applications and these 5 cases may not necessarily be representative.

Status as Carer and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary Carer	4	0	4
Non-Primary Carer	0	1	1
Total	4	1	5

The above table shows that where the status as carer and the relationship of the taking person were known, all of the mothers (4 out of 4 cases) were the primary carer of the child. This can be compared to the one father who was not the primary carer.

5. The nationality of the taking person / respondent

(a) Incoming return applications

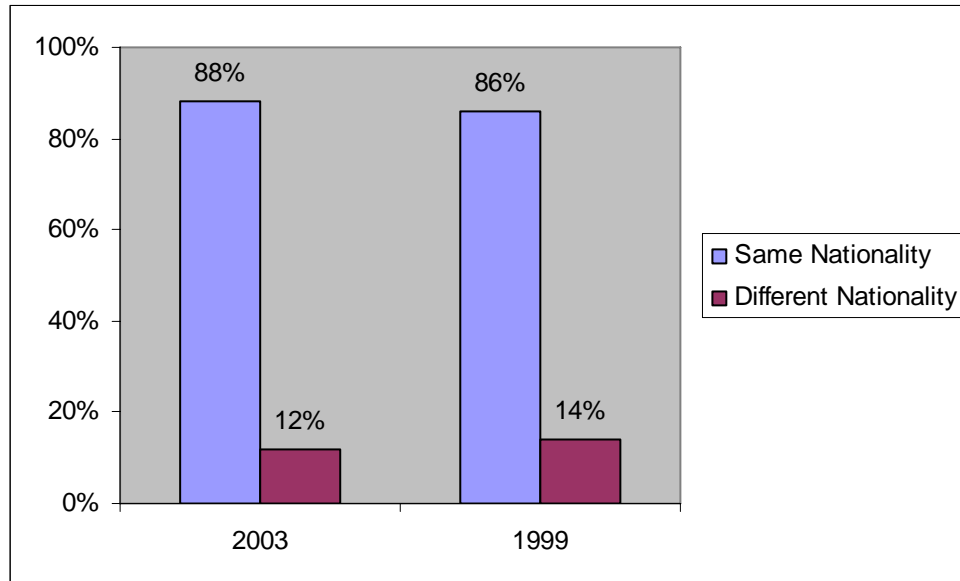
Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	15	88%
Different Nationality	2	12%
Total	17	100%

² Insofar as 'female' can normally be taken to mean 'mother'.

³ In 12 applications the status of the taking person in relation to the child was not stated.

This table shows that in 88% of applications, the taking person was Chilean, with 12% of taking persons having a different nationality. This is markedly different from the global average of 55% of taking persons known to have the same nationality as the requested State and 45% who had a different nationality.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Chilean nationals taking children to Chile differs little in 2003 and 1999, 88% and 86% respectively. In both surveys this proportion was well above the global average of 55% in 2003 and 52% in 1999.

(b) Incoming access applications

In the 4 access applications, all of the respondents were Chilean. This finding is identical to that found in 1999. Globally in 2003, 53% of respondents in access applications had the same nationality as the requested State.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	12	3	15
Different Nationality	2	0	2
Total	14	3	17

In 12 out of the 14 applications (86%) in relation to mothers and in all 3 applications involving fathers, the taking person had the same nationality as the requested State. These findings are similar to those found in 1999 where 4 of the 5 female taking persons (80%) were Chilean. The 2 male taking persons were also Chilean. The 2003 findings can, however, be contrasted with the 2003 global average where 54% of mothers and 55% of fathers had the nationality of the requested State.

(b) Incoming access applications

See 3 (b) and 5 (b) above.

The children**7. The total number of children****(a) Incoming return applications**

There were 29 children involved in the 17 incoming return applications in 2003. This can be compared with the total of 14 children being involved in the 7 return applications in 1999.

In 2003, on average 1.7 children were involved in return applications. Proportionally, this is a decrease in the average number (2.0) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 5 children involved in the 4 access applications in 2003. This is the same as in 1999.

As in 1999, on average 1.25 children were involved in access applications to Chile. Globally in 2003, on average 1.3 children were involved in access applications.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	9	53%
Sibling Group	8	47%
Total	17	100%

Number of Children

	Number	Percent
1 Child	9	53%
2 Children	6	35%
4 Children	2	12%
Total	17	100%

The proportion of single children involved in applications for return, 53%, is below the 2003 global average of 67%. There was a slight decrease in the proportion of applications involving single children from 57% in 1999 to 53% in 2003. As in 1999 there were applications made for both 2 siblings and 4 siblings. The overall number of cases involving one or 2 children increased from 71% in 1999 to 88% in 2003. Globally, in 2003 it was found that 93% of applications involved one or 2 children.

(b) Incoming access applications

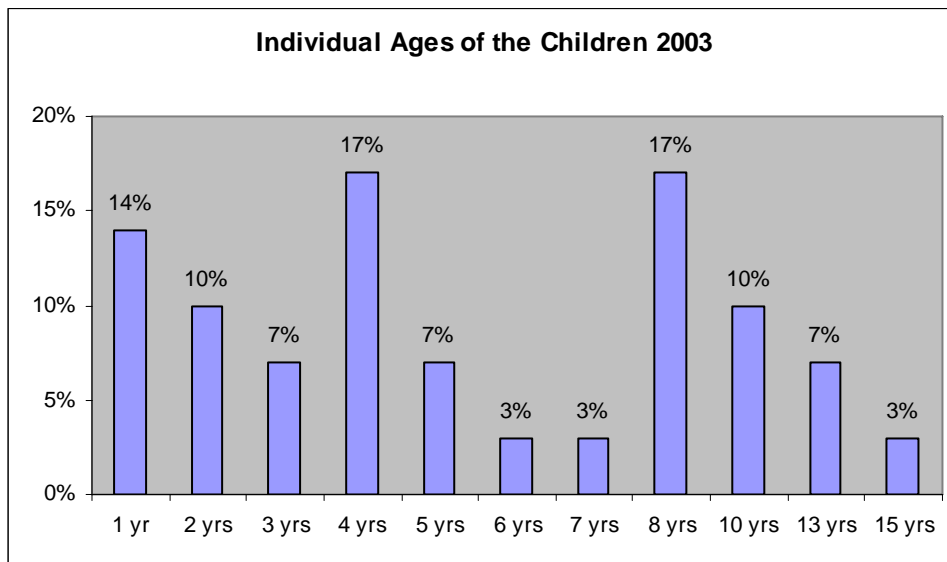
Of the 4 access applications, only one involved a sibling group, comprising 2 children. The same figure was recorded in 1999. Globally in 2003, 29% of access applications involved a sibling group.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	4	14%
2 yrs	3	10%
3 yrs	2	7%
4 yrs	5	17%
5 yrs	2	7%
6 yrs	1	3%
7 yrs	1	3%
8 yrs	5	17%
10 yrs	3	10%
13 yrs	2	7%
15 yrs	1	3%
Total	29	~100%

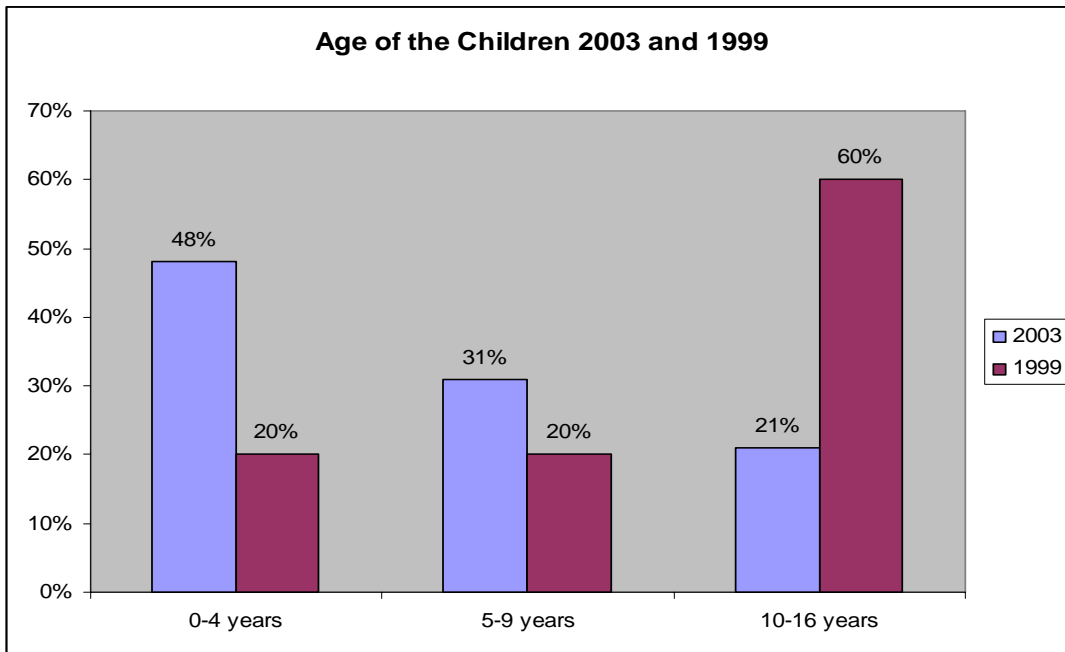


The above table and chart show the ages of the individual children involved. 58% of children were aged between 1 and 6 years, which compares with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	14	48%
5-9 years	9	31%
10-16 years	6	21%
Total	29	100%



Of the 29 children included, 48% were aged between 0-4 years, compared with 20% in 1999. This is above the 2003 global average of 36%. The number of children aged between 10-16 years dropped from 60% to 21%. This can be compared with the global average of 22% in 2003.

(b) Incoming access applications

The children involved in access applications were aged 1, 2, 5, 12 and 13 years. In 1999, 3 of the 5 children involved in access applications were aged between 10 and 16 years. Globally in 2003, 20% of children involved in access applications were aged between 0-4 years, 46% were aged between 5-9 years and 34% were aged between 10-16 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	14	48%
Male	15	52%
Total	29	100%

The proportion of female and male children is similar to the global averages of 51% and 49% respectively. This can be compared with the rather different pattern of 36% female and 64% male in 1999.

(b) Incoming access applications

3 out of the 5 children (60%) were female. This can be compared with the global average of 45%. In 1999 only one out of the 5 children was female.

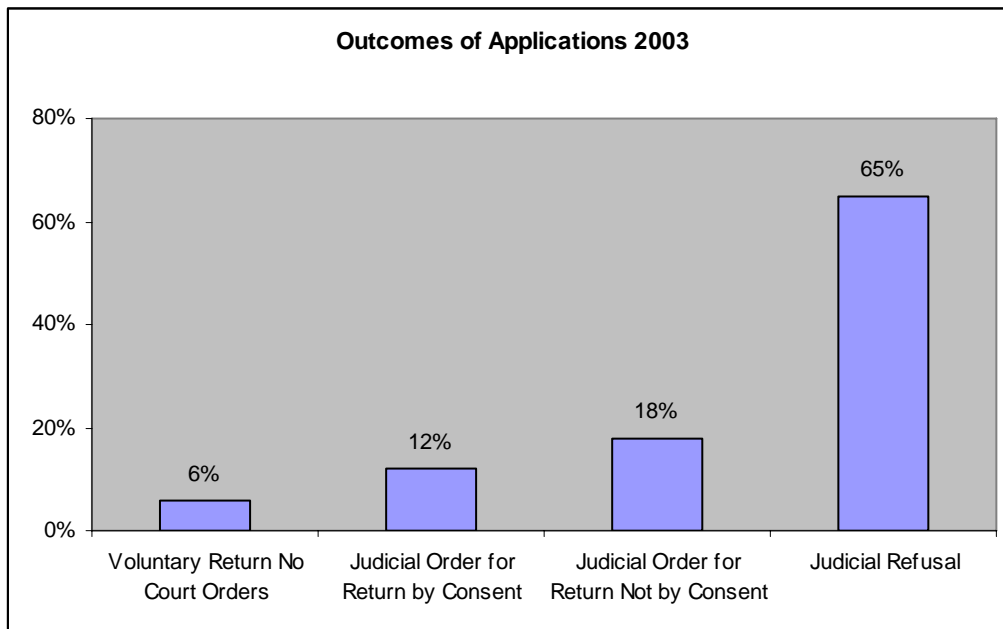
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	1	6%
Judicial Order for Return by Consent	2	12%
Judicial Order for Return Not by Consent	3	18%
Judicial Refusal	11	65%
Total	17	~100%



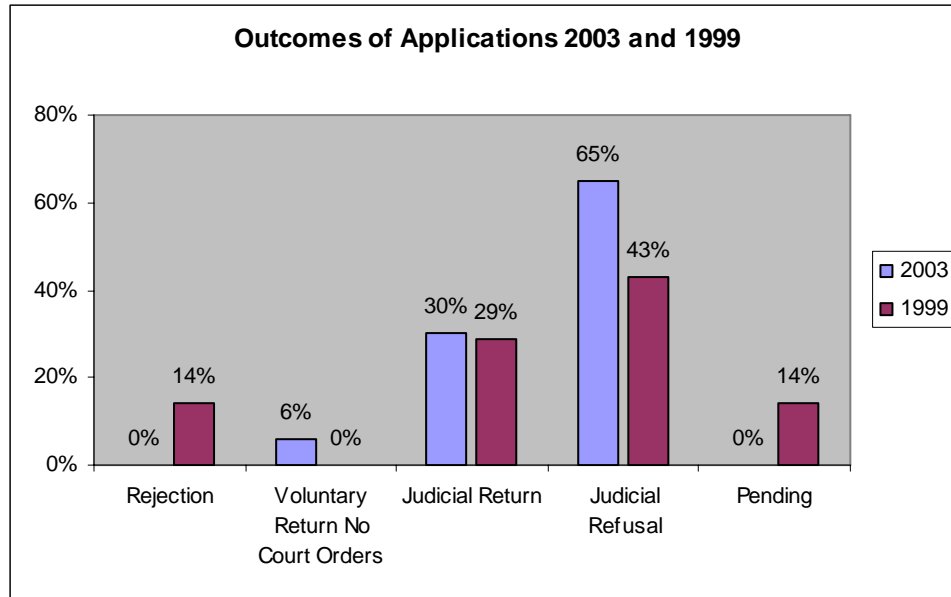
The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Chile, in 2003, 2 (12%) judicial return orders were made with consent and 3 (18%) without consent.

Overall, 36% of applications made to Chile ended in the child being returned either by a court order or voluntarily, which is below the global average return rate of 51%. Similarly, at 6%, the proportion of voluntary returns is well below the global average of 22%. On the other hand, the proportion of judicial returns, 30%, compares with the global average of 29%.

16 applications went to court. Of these cases, only 5 (31%) resulted in a return being ordered and 11 (69%) in a judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁴

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Proportionally, the figures show that a judicial refusal was the most common outcome for an application, with a total of 11 cases (65%). This can be compared with the global average of 13% and the 1999 survey which recorded 3 cases (43%). This is a strikingly high rate. (See section 13 below).

Judicial return orders accounted for 5 cases (30%) compared with 2 cases (29%) in 1999. There was one voluntary return, 6%, as opposed to none in 1999. The overall return rate of 36% can be compared with 29% in 1999.

As in 1999 no cases were withdrawn. No application was rejected and there were no pending cases as of 30th June 2005.

(b) Incoming access applications

As in 1999, access was judicially granted in 2 of the 4 applications and one application was still pending as of the cut-off period for the survey. In both cases access was judicially granted as a Hague application. One access application was withdrawn. Globally in 2003, 16% of access applications ended in access being judicially granted, 22% were still pending as of 30th June 2005 and 22% were withdrawn.

12. The reasons for rejection

(a) Incoming return applications

Not applicable.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications

Multiple Reasons for Judicial Refusal

	Number	Percent
Child Not Habitually Resident in Requesting State	1	3%
Applicant had No Rights of Custody	4	10%
Art 12	7	18%
Art 13a Not Exercising Rights of Custody	5	13%
Article 13 a Consent	5	13%
Art 13a Acquiescence	2	5%
Art 13b	6	15%
Child's Objections	2	5%
Article 20	8	20%
Other	0	0%
Total	40	~100%

Of the 16 applications which went to court, 11 (69%) were refused, which is an increase on the 3 out of 5 (60%) applications refused in 1999 and well above the 2003 global average of 29%. Interestingly, all 11 applications involved multiple reasons for refusal.

The most commonly recorded reason for refusing applications was Article 20. This is notable as unlike any other Contracting State in 2003, Chile relied upon Article 20 on 8 occasions. In the 1999 survey no Contracting State applied Article 20. The other most commonly relied upon exceptions were Article 12 (7, 18%) and Article 13 *b*) (6, 15%).

14. The reasons for judicial refusal and the relationship of the taking person

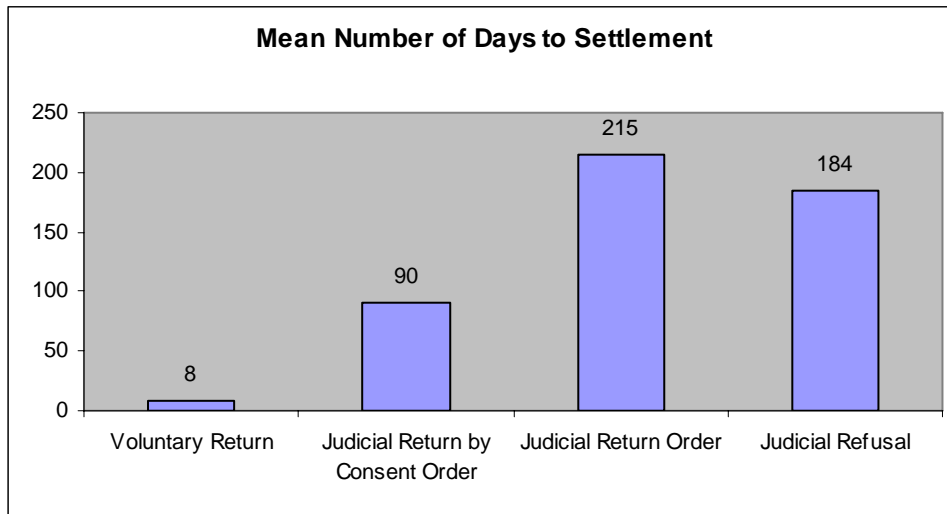
(a) Incoming return applications

In all 11 refusals the taking person was the mother of the child. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall.

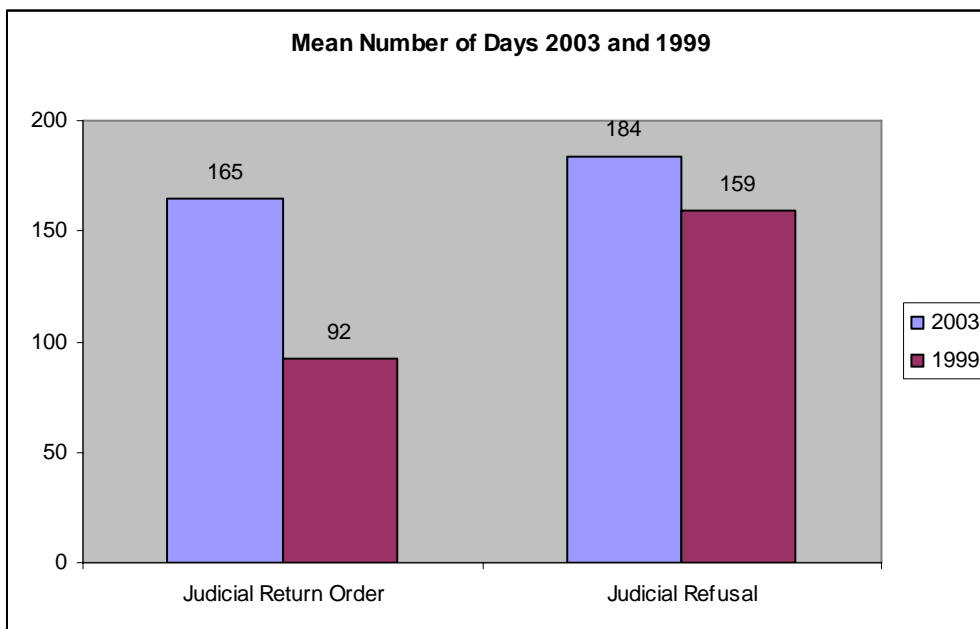
Speed

15. The time between application and outcome

(a) Incoming return applications



Predictably, return orders by consent were resolved quicker than return orders without consent, in 90 days compared with 215 days. This can be compared with the global averages of 85 days and 143 days respectively. The one voluntary return took 8 days to reach a final outcome, which was significantly quicker than the global average of 98 days. In ironic contrast to return orders without consent judicial refusals were disposed of relatively quickly – in an average of 184 days as compared with the global average of 233 days.



The chart above shows that judicial returns were resolved in a combined average of 165 days compared with 92 days in 1999. Judicial refusals took a mean average of 184 days as against 159 days in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	8	90	215	184
Median	8	90	220	150
Minimum	8	84	159	89
Maximum	8	95	266	408
Number of cases	1	2	3	11

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Chile. It must be noted that no applications were pending. The slowest judicial decision (a judicial refusal) was reached in 408 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Refusal
Mean	101
Median	101
Minimum	89
Maximum	113
Number of cases	2

As can be seen, in relation to judicial refusals, there is a difference of 83 days in the mean average before and after the exclusion of appealed cases.

(b) Incoming access applications

The 2 applications in which access was judicially ordered as a Hague application took 158 and 244 days. Globally in 2003, applications in which access was judicially granted took a mean average of 266 days.

16. Appeals

(a) Incoming return applications

Appeals

	Appellate Final Judicial Decision		Total
	Return	Refusal	
Return	3	2	5
Refusal	0	7	7
Total	3	9	12

Of the 16 applications which went to court, 12 (75%) were appealed. This is markedly above the global average of 22%. Indeed, Chile accounted for 12 of the 118 (10%) cases appealed globally. This can be compared with only 3 appealed applications in 1999.

The majority of decisions on appeal upheld first instance decisions, 10 of the 12 appeal decisions (83%). Of the remaining 2 decisions, in both applications a return was ordered at first instance but was refused on appeal.

The cases that resulted in a judicial refusal took an average of 203 days to reach a final outcome, compared with an average of 296 days globally. Cases that resulted in a judicial return took an average of 215 days compared with 206 days globally.

2 of the judicial refusals, those taking 101 and 150 days, were also followed by 'complaint appeals' after 154 and 195 days respectively. According to the Central Authority of Chile, this is 'a motion to protest a lower court's actions and decisions that are not adjusted to law in the appellant criteria'. Most of the time this does not change the lower court's decision.

(b) Incoming access applications

Both cases in which access was judicially granted were appealed. Access was granted at both first instance and appellate level.

CHILE

Las solicitudes

1. El número de solicitudes

Solicitudes de restitución recibidas	17
Solicitudes de derecho de visita recibidas	4
Solicitudes de restitución efectuadas	8
Solicitudes de derecho de visita efectuadas	5

De acuerdo a la Autoridad Central de Chile, ésta recibió 17 solicitudes de restitución y 4 solicitudes de derecho de visita en el 2003, lo que hace un total de 21 solicitudes recibidas. Este es un incremento en las 11 solicitudes (7 de las cuales fueron solicitudes de restitución y 4 de derecho de de visita) recibidas en 1999. El ratio de solicitudes de restitución frente a solicitudes de derecho de visita fue de 81% a 19%, en comparación con el promedio global de 84% a 16%.

Asimismo, la Autoridad Central efectuó 8 solicitudes de restitución¹ y 5 solicitudes de derecho de visita en el 2003. Este es un incremento de las 5 solicitudes de restitución y de las 0 solicitudes de derecho de visita efectuadas en 1999.

En conjunto, la Autoridad Central tramitó 34 solicitudes nuevas en el 2003, en comparación con las 16 solicitudes nuevas de 1999.

El ratio general de solicitudes efectuadas y recibidas fue de 62% a 38%.

2. Los Estados contratantes que efectuaron la solicitud

(a) Solicitudes de restitución recibidas

Estados requirentes 2003

	Número	Porcentaje
Argentina	8	47%
España	2	12%
Suecia	2	12%
EE.UU.	2	12%
Australia	1	6%
Canadá	1	6%
Alemania	1	6%
Total	17	100%

¹ Este es el número total de solicitudes basándonos en lo informado por la Autoridad Central, i.e.; el número de solicitudes que efectuaron. Estos casos pueden no haber sido remitidos a las Autoridades Centrales extranjeras en el 2003, i.e.; algunos pudieron haber sido retirados antes de la remisión, o no remitidos a (o recibidos por) la Autoridad Central extranjera al 31 de diciembre de 2003.

Estados requirentes comparados con las cifras de 1999

	Número de solicitudes 2003	Número de solicitudes 1999
Argentina	8 (47%)	3 (43%)
España	2 (12%)	0 (0%)
Suecia	2 (12%)	1 (14%)
EE.UU.	2 (12%)	2 (29%)
Australia	1 (6%)	0 (0%)
Canadá	1 (6%)	0 (0%)
Alemania	1 (6%)	0 (0%)
Italia	0 (0%)	1 (14%)
Total	17 (~100%)	7 (100%)

Chile recibió solicitudes de restitución de 7 Estados contratantes, lo cual constituye un incremento en la cifra de 4 Estados registrada en 1999.

Tal como en 1999, el mayor número de solicitudes provenían de Argentina. Aunque en términos porcentuales las cifras de las solicitudes de restitución recibidas en el 2003 y 1999 son muy similares (47% en el 2003 y 43% en 1999) cabe destacar que de hecho en el 2003, las solicitudes recibidas de Argentina fueron más del doble de las recibidas en 1999.

(b) Solicitudes de derecho de visita recibidas

Chile recibió una solicitud de derecho de visita de cada uno de los siguientes cuatro Estados contratantes: Australia, Alemania, Países Bajos y Venezuela. Sorprende que no hubiera solicitudes de Argentina.

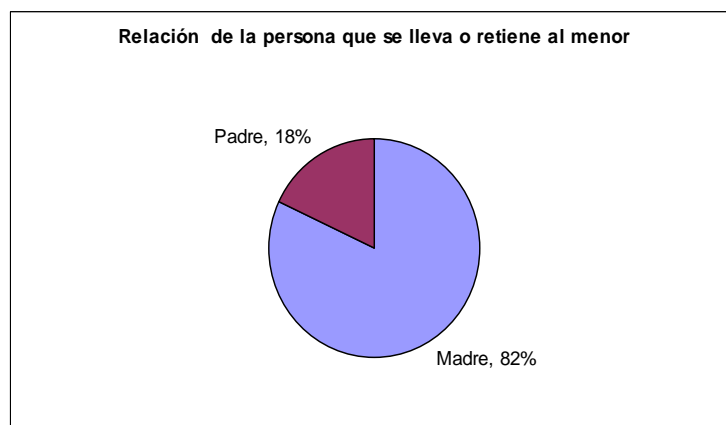
La persona que se lleva o retiene al menor / demandado

3. La relación entre el menor y la persona que se lo lleva o lo retiene / demandado

(a) Solicitudes de restitución recibidas

Relación de la persona que se lleva o retiene al menor

	Número	Porcentaje
Madre	14	82%
Padre	3	18%
Total	17	100%



El estudio de 2003 obtuvo datos de la relación entre el menor y la persona que se lo llevó o lo retuvo, en vez del sexo (i.e.; simplemente masculino/femenino) de ésta última, como se registró en el estudio de 1999. El 82% de las personas que se llevaron o retuvieron menores eran madres. Esto es más alto que el promedio global de 68%, y muestra un incremento en el número de madres demandadas desde 1999,¹ en donde el 71% de las personas que se llevaron o retuvieron menores fueron registradas como mujeres.

(b) Solicitudes de derecho de visita recibidas

En 3 de 4 solicitudes de derecho de visita el demandado era la madre, lo cual refleja los hallazgos de 1999 en donde 3 de 4 demandados eran mujeres. A nivel global en el 2003, el 79% de los demandados en solicitudes de derecho de visita eran madres.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

(a) Solicitudes de restitución recibidas ²

Situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

	Número	Porcentaje
Ejerce el cuidado primordial	4	80%
No ejerce el cuidado primordial	1	20%
Total	5	100%

La tabla de arriba muestra que en el 80% de casos, la persona que se llevó o retuvo al menor ejercía su cuidado primordial. Sin embargo debe notarse que esta información no estuvo disponible para 12 de 17 solicitudes y, estos 5 casos no necesariamente pueden ser representativos.

Situación en el ejercicio del cuidado y la relación entre el menor y la persona que se lo lleva o lo retiene

	Relación entre el menor y la persona que se lo lleva o lo retiene		Total
	Madre	Padre	
Ejerce el cuidado primordial	4	0	4
No ejerce el cuidado primordial	0	1	1
Total	4	1	5

La tabla anterior muestra, en la medida en que se conoció la situación como cuidador y la relación entre el menor y la persona que lo se llevó o retuvo, que todas las madres (en los 4 casos) ejercían el cuidado primordial del menor, frente a un caso en el que el padre no ejercía el cuidado primario.

5. La nacionalidad de la persona que se lleva o retiene al menor / demandado

(a) Solicitudes de restitución recibidas

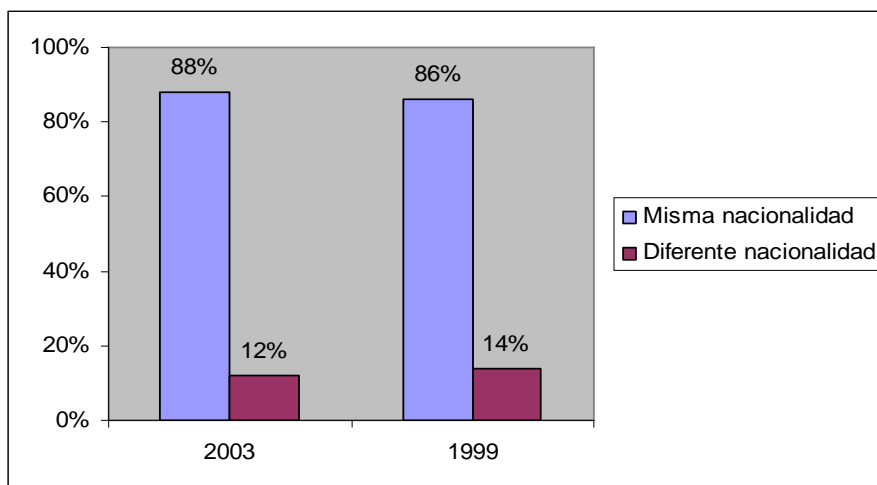
La persona que se lleva o retiene al menor tiene la nacionalidad del Estado requerido

	Número	Porcentaje
Misma nacionalidad	15	88%
Diferente nacionalidad	2	12%
Total	17	100%

¹ En la medida que 'femenino' puede usualmente significar 'madre'.

² En 12 solicitudes no se indicó la situación de la persona que sustrajo al menor.

Esta tabla muestra que en el 88% de solicitudes las personas que se llevaron o retuvieron menores eran nacionales de Chile y en el 12% de solicitudes aquellas tenían diferente nacionalidad. Esto es marcadamente diferente de los promedios globales, conforme a los cuales el 55% de personas que se llevaron o retuvieron menores tenían la misma nacionalidad del Estado requerido y el 45% tenían diferente nacionalidad.



El gráfico anterior compara los hallazgos sobre nacionalidad de 2003 con aquellos del estudio de 1999. Tal como lo muestra el gráfico, el porcentaje de chilenos que sustrajeron menores hacia Chile difiere poco en el 2003 y en 1999, 88% y 86% respectivamente. En ambos estudios este porcentaje se situó por encima del promedio global de 55% en el 2003 y 52% en 1999.

(b) Solicitudes de derecho de visita recibidas

En 4 solicitudes de derecho de visita todos los demandados eran chilenos. Este hallazgo es idéntico al encontrado en 1999. A nivel global en el 2003, 53% de los demandados en solicitudes de derecho de visita tenían la nacionalidad del Estado requerido.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor /demandado combinadas

(a) Solicitudes de restitución recibidas

Nacionalidad y relación entre el menor y la persona que se lo lleva o lo retiene

	Relación entre el menor y la persona que se lo lleva o lo retiene		Total
	Madre	Padre	
Misma nacionalidad	12	3	15
Diferente nacionalidad	2	0	2
Total	14	3	17

En 12 de 14 solicitudes (86%) que comprendían madres y en las 3 solicitudes que comprendían padres, la persona que se llevo o retuvo al menor tenía la nacionalidad del Estado requerido. Estos hallazgos son similares a aquellos encontrados en 1999 en donde 4 de 5 mujeres que se llevaron o retuvieron menores (80%) eran chilenas. Los 2 varones que se llevaron o retuvieron menores también eran chilenos. Los hallazgos de 2003 pueden compararse con el promedio global de 2003 conforme al cual el 54% de madres y el 55% padres tenían la nacionalidad del Estado requerido.

(b) Solicitudes de derecho de visita recibidas

Véase 3(b) y 5(b) arriba.

Los menores**7. El número total de menores****(a) Solicitudes de restitución recibidas**

Hubo 29 menores comprendidos en 17 solicitudes de restitución recibidas en el 2003. Esto puede compararse con el total de 14 menores comprendidos en 7 solicitudes de restitución en 1999.

En el 2003, en promedio 1.7 menores fueron comprendidos en solicitudes de restitución. En términos porcentuales esto representa una disminución del número promedio (2.0) de menores por solicitud de restitución recibida en 1999. A nivel global, en promedio 1.4 menores fueron comprendidos en solicitudes de restitución en el 2003.

(b) Solicitudes de derecho de visita recibidas

Hubo 5 menores comprendidos en las 4 solicitudes de derecho de visita en el 2003. Esto es similar a 1999.

Tal como en 1999, en promedio 1.25 menores fueron comprendidos en solicitudes de derecho de visita efectuadas a Chile. A nivel global, en promedio 1.3 menores fueron comprendidos en solicitudes de derecho de visita en el 2003.

8. Un menor o grupo de hermanos**(a) Solicitudes de restitución recibidas****Un menor o grupo de hermanos**

	Número	Porcentaje
Un menor	9	53%
Grupo de hermanos	8	47%
Total	17	100%

El porcentaje de 53% que corresponde a un solo menor comprendido en una solicitud de restitución es menor que el promedio global de 67% de 2003. Hubo una ligera disminución en el número de solicitudes que comprendían a un solo menor, de 57% en 1999 bajó a 53% en el 2003. Tal como en 1999, hubo solicitudes efectuadas para 2 y 4 menores. El número total de casos que comprendían uno o 2 menores se incremento de 71% en 1999 a 88% en el 2003. A nivel global se encontró que en el 2003, el 93% de solicitudes comprendían uno o 2 menores.

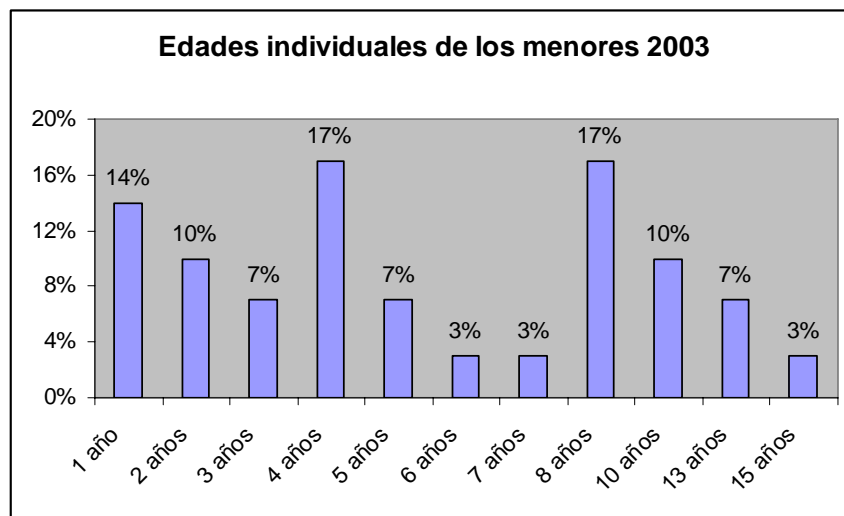
(b) Solicitudes de derecho de visita recibidas

De las 4 solicitudes de derecho de visita solamente una comprendió a un grupo de hermanos compuesta por 2 menores. La misma cifra fue registrada en 1999. A nivel global en el 2003, el 29% de solicitudes de derecho de visita comprendieron grupos de hermanos.

9. La edad de los menores**(a) Solicitudes de restitución recibidas**

Edades individuales 2003

	Número	Porcentaje
1 año	4	14%
2 años	3	10%
3 años	2	7%
4 años	5	17%
5 años	2	7%
6 años	1	3%
7 años	1	3%
8 años	5	17%
10 años	3	10%
13 años	2	7%
15 años	1	3%
Total	29	~100%

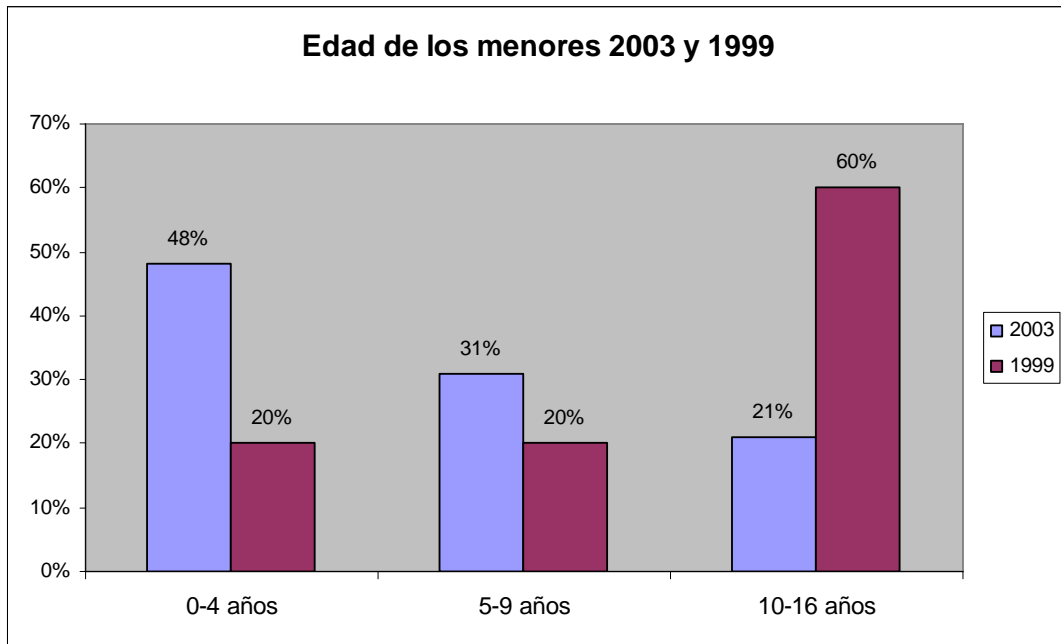


La tabla y gráfico anteriores muestran las edades individuales de los menores comprendidos en las solicitudes. El 58% de menores tenían entre 1 y 6 años, lo que se compara con el promedio global de 55%.

No contamos con este mismo nivel de detalle en el estudio de 1999 para poder comparar resultados. Sin embargo, sí contamos información comparable respecto de los rangos de edad de los menores.

Rango de edad de los menores 2003

	Número	Porcentaje
0-4 años	14	48%
5-9 años	9	31%
10-16 años	6	21%
Total	29	100%



De los 28 menores comprendidos, 48% tenían entre 0 y 4 años, en comparación con el 20% de 1999. Esto es mayor que el promedio global de 2003 de 36%. El número de menores entre 10 y 16 descendió de 60% a 21%. Esto puede compararse con el promedio global de 22% de 2003.

(b) Solicitudes de derecho de visita recibidas

Los menores comprendidos en solicitudes de derecho de visita tenían entre 1, 2, 5, 12 y 13 años. En 1999, 3 de 5 menores comprendidos en solicitudes de derecho de visita tenían entre 10 y 16 años. A nivel global en el 2003, 20% de menores comprendidos en solicitudes de derecho de visita tenían entre 0 y 4 años, 46% tenían entre 5 y 9 años y 34% tenían entre 10 y 16 años.

10. El sexo de los menores

(a) Solicitudes de restitución recibidas

Sexo de los menores

	Número	Porcentaje
Femenino	14	48%
Masculino	15	52%
Total	29	100%

El porcentaje de varones y mujeres es similar al promedio global de 51% y 49% respectivamente. Esto puede compararse con el patrón ligeramente distinto de 1999; 36% de mujeres y 64% de varones.

(b) Solicitudes de derecho de visita recibidas

Tres de 5 menores (60%) eran mujeres. Esto puede compararse con el promedio global de 45%. En 1999 solamente uno de 5 menores era mujer.

Los resultados

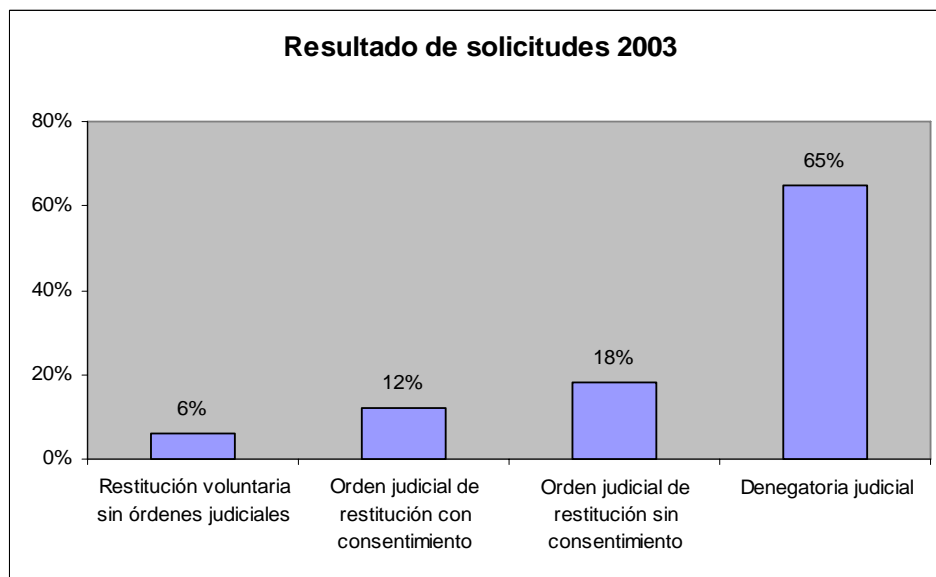
11. Los resultados totales

(a) Solicitudes de restitución recibidas

Resultado de la solicitud

	Número	Porcentaje
Restitución voluntaria sin órdenes judiciales	1	6%
Orden judicial de restitución con consentimiento	2	12%
Orden judicial de restitución sin consentimiento	3	18%
Denegatoria judicial	11	65%
Total	17	100%

Resultado de solicitudes 2003



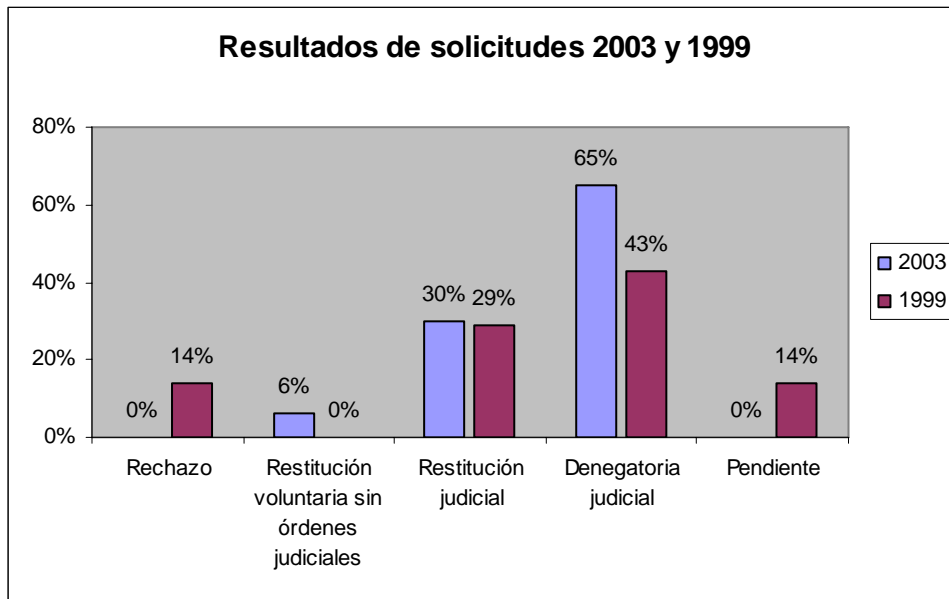
La tabla y gráfico de arriba muestran los resultados de todas las solicitudes de 2003.

A diferencia del estudio de 1999, el estudio de 2003 muestra la distinción entre órdenes judiciales de restitución efectuadas con y sin consentimiento. En Chile, en el 2003, 2 (12%) órdenes judiciales de restitución fueron efectuadas con consentimiento y 3 (18%) sin consentimiento.

En total, 36% de solicitudes efectuadas a Chile concluyeron con la restitución del menor mediante una orden judicial o de manera voluntaria, lo cual se encuentra por debajo del índice global de 51%. Igualmente, el porcentaje de restituciones voluntarias, 6%, se encuentra por debajo del promedio global de 22%. De otro lado, el porcentaje de 30% de restituciones judiciales, se compara con el promedio global de 29%.

Dieciséis solicitudes se ventilaron judicialmente. De estos casos, solamente 5 (31%) concluyeron con una orden de restitución y 69% con una denegatoria judicial. Esto puede compararse con los promedios globales de 2003 de 66% y 29%, respectivamente.¹

¹ A nivel global, el 66% terminó con una restitución, el 5% con un derecho de visita y, el 29% con una denegatoria judicial. Véase la Parte I del Informe de 2003, p. 32.



El gráfico anterior clasifica los resultados de manera que sean comparables con los de 1999. Así las 'restituciones judiciales' incluyen a las órdenes efectuadas con o sin consentimiento.

En términos porcentuales, las cifras muestran que la denegatoria judicial fue el resultado más común de una solicitud, con un total de 11 casos (65%). Esto puede compararse con el promedio global de 13% y con el estudio de 1999 que registró 3 casos (43%). Notablemente este es un índice alto. (Véase la sección 13 más abajo).

Las órdenes judiciales de restitución ascendieron a 5 (30%) frente a las dos (29%) de 1999. Solamente hubo una restitución voluntaria, 6%, en cambio en 1999 no hubo ninguna. El índice total de 36% puede compararse con el 29% de 1999.

Tal como en 1999, ningún caso fue retirado. Ninguna aplicación fue rechazada y no hubo casos pendientes al 30 de junio de 2005.

(b) Solicitudes de derecho de visita recibidas

Tal como en 1999, el derecho de visita fue otorgado en 2 de 4 solicitudes y una solicitud se encontraba pendiente al momento de la fecha de corte del estudio. En los dos casos el derecho de visita fue otorgado judicialmente conforme al Convenio de La Haya. Una solicitud de derecho de visita fue retirada. A nivel global en el 2003, el 16% de solicitudes de derecho de visita concluyeron con el otorgamiento del derecho de visita, 22% se encontraban pendientes al 30 de junio de 2005 y 22% fueron retiradas.

12. Las razones de rechazo

(a) Solicitudes de restitución recibidas

No aplicable.

(b) Solicitudes de derecho de visita recibidas

No aplicable.

13. Las razones de denegatoria judicial

(a) Solicitudes de restitución recibidas**Razones múltiples de denegatoria judicial**

	Número	Porcentaje
El menor no era residente habitual del Estado requirente	1	3%
El solicitante no tenía el derecho de custodia	4	10%
Art. 12	7	18%
Art. 13a no se ejercía el derecho de custodia	5	13%
Artículo 13a consentimiento	5	13%
Art. 13a aceptación	2	5%
Art. 13b	6	15%
Objeciones del menor	2	5%
Art. 20	8	20%
Otra	0	0%
Total	40	~100%

De las 16 solicitudes que se ventilaron judicialmente, 11 (69%) fueron denegadas, lo cual constituye un aumento de las 3 de 5 (60%) solicitudes denegadas en 1999 y está por encima del promedio global de 2003 de 29%. De manera interesante, las 11 solicitudes incluían razones múltiples de denegatoria.

La razón más común para la denegatoria de solicitudes fue el artículo 20. Cabe destacar este punto ya que en el 2003 y, a diferencia de todos los Estado contratantes, Chile sustentó 8 denegatorias en el artículo 20. En el estudio de 1999 ningún Estado contratante aplicó el artículo 20. Las otras excepciones comunes en las que se sustentaron las denegatorias fueron el artículo 12 (7, 18%) y el artículo 13b (6, 15%).

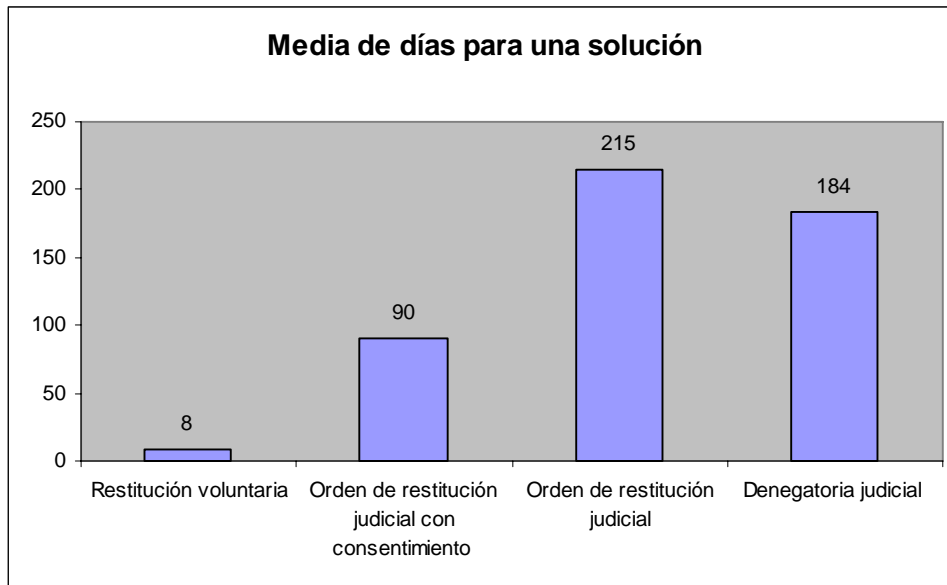
14. Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene**(a) Solicitudes de restitución recibidas**

En las 11 denegatorias la persona que se llevo o retuvo al menor era la madre. A nivel global en el 2003, 77% de las denegatorias comprendieron a madres en tanto que éstas constituyeron el 68% de las personas que se llevaron o retuvieron menores.

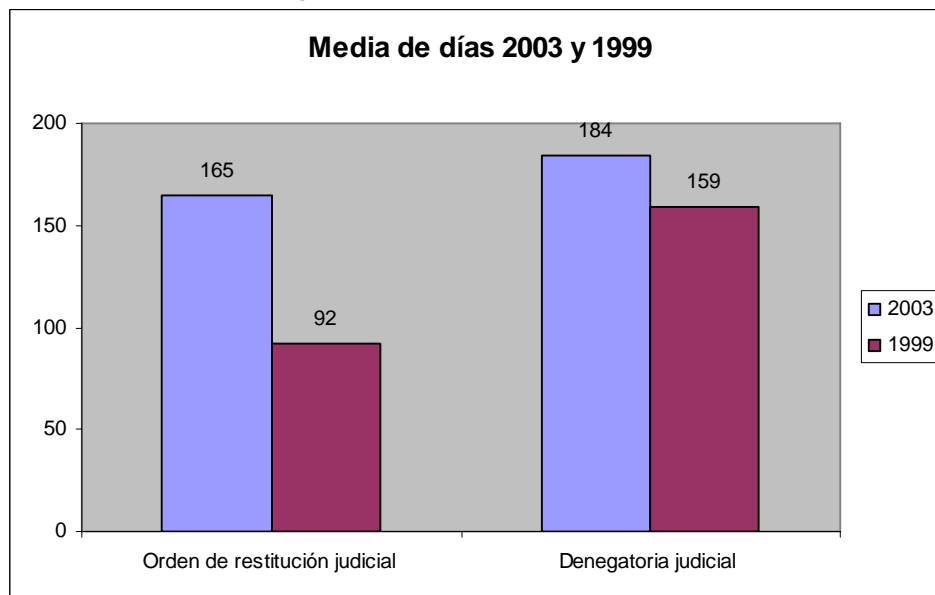
Celeridad

15. El tiempo entre la solicitud y el resultado

(a) Solicitudes de restitución recibidas



De manera predecible, las órdenes de restitución con consentimiento fueron resueltas más rápido que las órdenes de restitución sin consentimiento; 90 días frente a 215 días. Esto puede compararse con los promedios globales de 85 días y 143 días, respectivamente. La única restitución voluntaria tomó 8 días en alcanzar un resultado final, lo cual fue significativamente más rápido que el promedio global de 98 días. De otro lado, el tiempo que tomaron las denegatorias judiciales, en promedio de 184 días, fue más lento que el promedio global de 233 días.



El gráfico anterior muestra que las restituciones judiciales fueron resueltas en un promedio combinado de 165 días en comparación con los 92 días de 1999. Las denegatorias judiciales tomaron una media de 184 días frente a 159 días en 1999.

**Número de días para alcanzar un resultado final: 2003
(incluye casos en apelación)**

	Restitución voluntaria sin órdenes judiciales	Órdenes judiciales de restitución con consentimiento	Orden judicial de restitución	Denegatoria judicial
Media	8	90	215	184
Mediana	8	90	220	150
Mínimo	8	84	159	89
Máximo	8	95	266	408
Número de casos	1	2	3	11

La tabla de arriba demuestra la variación en el tiempo empleado para un resultado y proporciona un cuadro más informativo del sistema en Chile. Debe notarse que ninguna solicitud se encontraba pendiente, por lo tanto lo más lento que se alcanzó una decisión judicial fue de 408 días.

**Número de días para alcanzar un resultado final: 2003
(excluye casos en apelación)**

	Denegatoria judicial
Media	101
Mediana	101
Mínimo	89
Máximo	113
Número de casos	2

Como puede observarse, con respecto a las denegatorias judiciales hay una diferencia de 83 días en la media de días antes y después de la exclusión de los casos en apelación.

(b) Solicitudes de derecho de visita recibidas

Las 2 solicitudes en las que se ordenó judicialmente el derecho de visita conforme al Convenio de La Haya tomaron 158 y 244 días. A nivel global, las solicitudes en las que se otorgó judicialmente el derecho de visita tomaron una media de 266 días en el 2003.

16. Apelaciones

(a) Solicitudes de restitución recibidas

Apelaciones

	Decisión judicial final de segunda instancia		Total
	Restitución	Denegatoria	
Restitución	3	2	5
Denegatoria	0	7	7
Total	3	9	12

De las 16 solicitudes que se ventilaron judicialmente, 12 (75%) fueron apeladas. Esto evidentemente se encuentra por encima del promedio global de 22%. En efecto, a nivel global, 12 de los 118 (10%) casos apelados correspondieron a Chile. Esto puede compararse con los 3 casos apelados en 1999.

Las mayoría de las decisiones emitidas en segunda instancia confirman las decisiones de primera instancia, 10 de las 12 decisiones de segunda instancia (83%). En las 2 solicitudes adicionales, la restitución fue ordenada en primera instancia pero luego revocada a nivel de apelación.

Los casos que concluyeron con denegatorias judiciales tomaron un promedio de 203 días para alcanzar la decisión final, frente al promedio global de 296 días. Los casos que concluyeron con restituciones voluntarias tomaron un promedio 215 días frente a los 206 días a nivel global.

A dos de las denegatorias judiciales, aquellas que tomaron 101 y 150 días, siguieron 'recursos de queja' luego de 154 y 195 días, respectivamente. De acuerdo a la Autoridad Central de Chile, este es un 'recurso para protestar sobre las acciones y decisiones de un tribunal inferior que, a criterio del apelante, no se ajustan a la ley'. En la mayoría de casos, esto no cambia la decisión del tribunal inferior.

(b) Solicitudes de derecho de visita recibidas

Los dos casos en los que se otorgó judicialmente el derecho de visita fueron apelados. El derecho de visita fue otorgado tanto en primera como en segunda instancia.

CROATIA

The applications

1. The number of applications

Incoming Return Applications	3
Incoming Access Applications	0
Outgoing Return Applications	1
Outgoing Access Applications	1

According to the Central Authority for Croatia, they received 3 incoming return applications but no incoming access applications in 2003. This compares with 8 incoming applications (7 of which were return applications and 1 of which were for access) received in 1999. The overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

Additionally, they made one outgoing return application and one outgoing access application in that year. This can be compared with 2 return applications and no access application made in 1999.

Altogether the Central Authority for Croatia handled 5 new applications in 2003, compared with 10 new applications in 1999.

The overall ratio of incoming to outgoing applications was 60% to 40%.

Beyond giving the number of applications Croatia did not participate in the 1999 survey so comparisons cannot further be made.

2. The Contracting States which made the application

2 applications (67%) came from Austria and one (33%) from Australia.

The taking person

3. The relationship of the taking person

Two of the 3 (67%) taking persons were fathers. The other (33%) taking person was the mother. This can be compared with the 2003 global averages of 29% and 68% respectively.

4. The status of the taking person as carer in relation to the child

Croatia did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

All taking persons (100%) were Croatian nationals, compared with the 2003 global average of 55% of taking persons having the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 54% of taking persons recorded as the mother of the child and 55% of taking persons recorded as the father of the child had the nationality of the requested State.

The children

7. The total number of children

There were 4 children involved in the 3 incoming return applications in 2003. In 2003, on average 1.3 children were involved in return applications. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

2 (67%) applications involved a single child compared with the global proportion of 67%. Additionally, there was one sibling group of 2 children. Globally in 2003, 93% of applications concerned one or 2 children.

9. The age of the children

Contrary to the global average of 42%, all 4 children involved were aged between 5 and 9 years (5, 6, 8 and 9 years).

10. The gender of the children

The proportion of female (2, 50%) and male (2, 50%) children compares with the 2003 global averages of 51% and 49% respectively.

The outcomes

11. Overall outcomes

One (33%) application resulted in a voluntary return of the child and one (33%) application in a judicial order for return by consent. The remaining application (33%) ended in the child being 're-abducted' by the applicant to the requesting State.¹ Globally in 2003, 22% of applications resulted in a voluntary return and 9% applications in a judicial order for return by consent. Overall 2 of the 3 return applications (67%) resulted in the child's return, which is above the 2003 global average of 51%.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome

No information was available.

16. Appeals

The one judicial decision was not appealed.

¹ Recorded as 'other' outcome.

CYPRUS

Incoming Return Applications	8
Incoming Access Applications	1
Outgoing Return Applications	6
Outgoing Access Applications	4

1. The number of applications

According to the Central Authority for Cyprus, they received 8 incoming return applications and one incoming access application in 2003, making a total of 9 incoming applications. At 89% to 11%, the overall ratio of incoming return applications to access applications was slightly above the global average of 84% to 16%.

Additionally, they made 6 outgoing return applications¹ and 4 outgoing access applications in 2003.

Altogether, the Central Authority for Cyprus handled 19 new applications in 2003.

The overall ratio of incoming to outgoing applications was 47% to 53%.

Cyprus did not participate in the 1999 statistical survey and we cannot therefore compare the number of applications received in that year.

2. The Contracting States which made the application**(a) Incoming return applications****Requesting States 2003**

	Number	Percent
UK - England & Wales	4	50%
Australia	1	13%
France	1	13%
Portugal	1	13%
Spain	1	13%
Total	8	~100%

Interestingly, 4 out of 8 (50%) applications were made by England & Wales. One (13%) application came from each of Australia, France, Portugal and Spain.

Requesting States within the EU 2003

	Number	Percent
UK - England & Wales	4	57%
France	1	14%
Portugal	1	14%
Spain	1	14%
Total	7	~100%

The chart above shows the number of applications received from countries that are now part of the European Union.² These States account for 7 out of the 8 applications

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

received by Cyprus, a total of 89% of all applications. The only application received from outside the EU was from Australia.

(b) Incoming access applications

The one incoming access application came from England & Wales. Given the high proportion of return applications made by England & Wales, it is not surprising that the one access application was received from this jurisdiction.

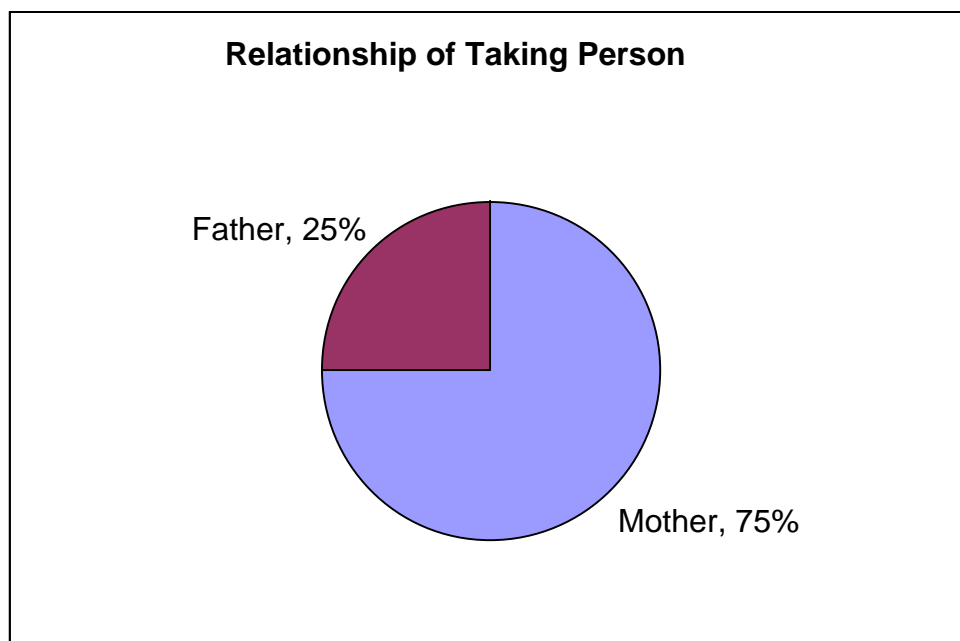
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	6	75%
Father	2	25%
Total	8	100%



The above table and chart show that 75% of taking persons were mothers and 25% were fathers. Globally in 2003, 68% of taking persons were recorded as the mother of the child and 29% of taking persons were recorded as the father.

(b) Incoming access applications

The respondent in the one access application was the mother of the child. Globally in 2003, 79% of respondents in access applications were recorded as the mother of the child.

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

4. The status of the taking person as carer in relation to the child

Cyprus did not provide information on the status of the taking person as carer.

5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	5	63%
Different Nationality	3	38%
Total	8	~100%

The above chart shows that 63% of taking persons had a Cypriot nationality. This is above the 2003 global average of 55% of taking persons having the nationality of the requested State.

(b) Incoming access applications

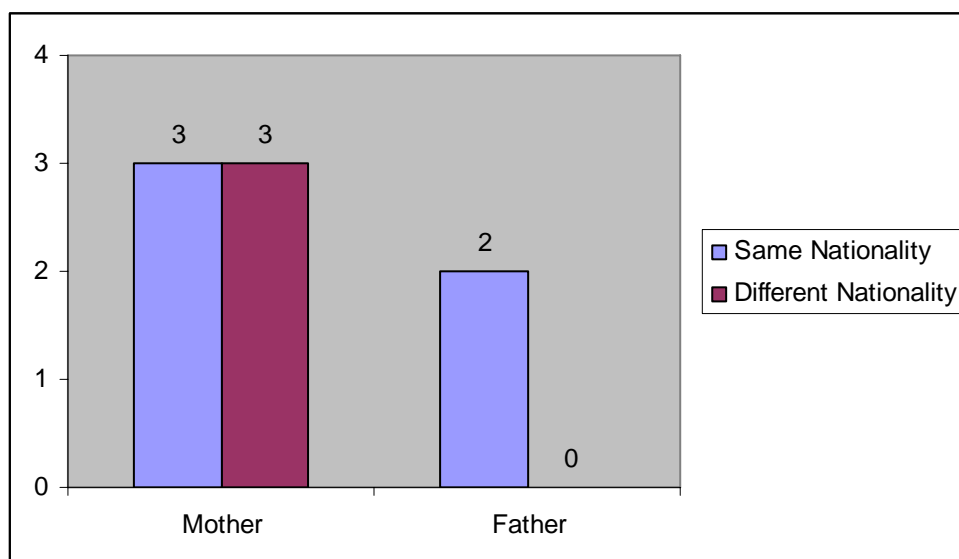
The respondent involved in the access application did not have a Cypriot nationality. Globally, 47% of respondents in access applications had a different nationality from the requested State.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	3	2	5
Different Nationality	3	0	3
Total	6	2	8



As can be seen, in relation to mothers, 3 out of 6 (50%) taking persons were Cypriot nationals whereas in relation to fathers, both taking persons (100%) had Cypriot nationality. This can be compared with the 2003 global average where 54% of mothers and 55% of fathers had the nationality of the requested State.

(b) Incoming access applications

See 3(b) and 5(b) above. Globally, 51% of respondent mothers in access applications had a different nationality from the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 8 children involved in the 8 incoming return applications in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 3 children involved in the one incoming access application in 2003. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	8	100%
Total	8	100%

Number of Children

	Number	Percent
1 Child	8	100%
Total	8	100%

Interestingly, there were no sibling groups involved in the incoming return applications to Cyprus. Globally, it was found that 33% of all applications involved a sibling group.

(b) Incoming access applications

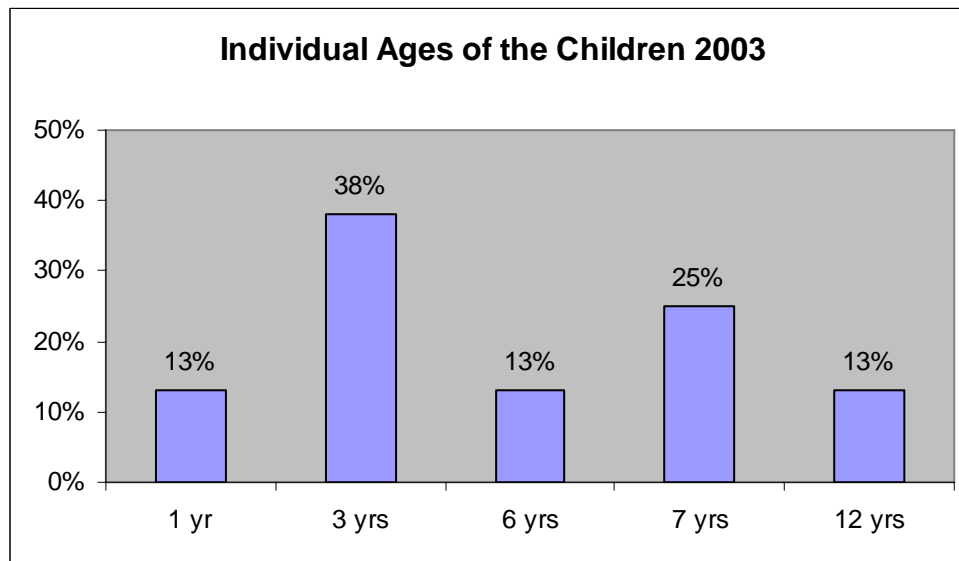
In contrast to the return applications, the one access application involved a sibling group of 3 children. Globally, only 7% of access applications involved a sibling group of more than 2 children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	1	13%
3 yrs	3	38%
6 yrs	1	13%
7 yrs	2	25%
12yrs	1	13%
Total	8	~100%



The above table and chart show the ages of the individual children involved. As can be seen, more than half of the children involved were aged between 1 and 6 years, 64%, as opposed to the global average of 55%.

(b) Incoming access applications

The 3 children involved in the one access application were 10, 12 and 15 years old. Globally in 2003, 34% of access applications involved children aged between 10 and 16 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	3	38%
Male	5	63%
Total	8	~100%

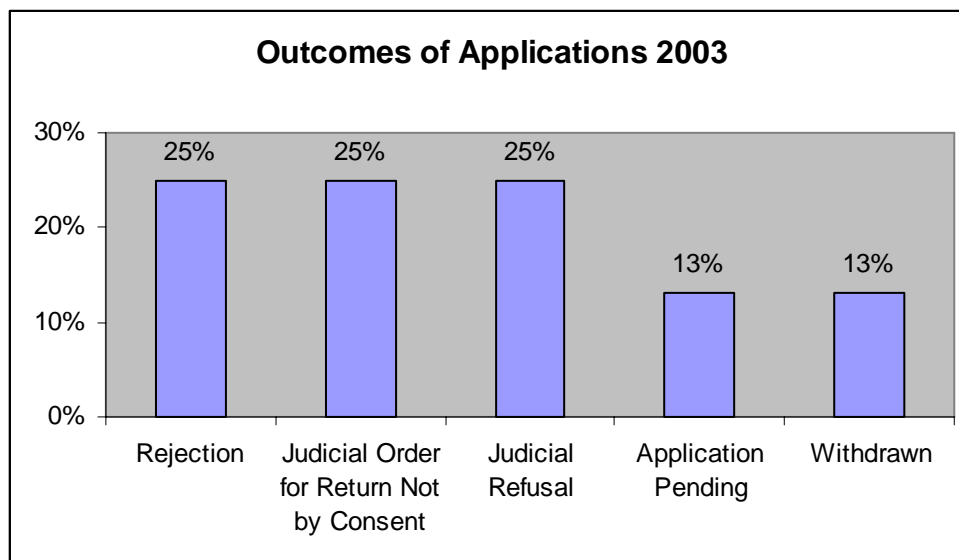
At 38%, the proportion of female children differs from the 2003 global average of 51%.

(b) Incoming access applications

One of the 3 children involved in the access application was female. Globally in 2003, 45% of children involved in access applications were recorded as female.

The outcomes**11. Overall outcomes****(a) Incoming return applications****Outcome of Application**

	Number	Percent
Rejection	2	25%
Judicial Order for Return Not by Consent	2	25%
Judicial Refusal	2	25%
Application Pending	1	13%
Withdrawn	1	13%
Total	8	~100%



The above table and chart show the outcome of all applications in 2003.

2 out of 8 (25%) applications ended in judicial return not by consent, which compares with the global average of 20%. On the other hand, no child was returned voluntarily or by judicial consent order and the overall return rate (25%), thus remained well below the global average of 51%.

2 (25%) of applications were judicially refused, which is above the global average of 13%.

4 (50%) applications went to court. Of these, 2 (50%) ended in return being ordered and the remaining 2 (50%) applications were judicially refused. Globally, 66% of applications which went to court resulted in judicial order for return not by consent and 29% resulted in return being judicially refused.³

³ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

At 13%, the withdrawal rate was in line with the 2003 global average of 15%. As of 30th June 2003, one (13%) application was still pending, as opposed to 9% globally.

(b) Incoming access applications

The one access application was still pending as of 30th June 2005. Globally, 22% of access applications were still pending as of the cut-off period for the survey.

12. The reasons for rejection

(a) Incoming return applications

2 out of 8 (25%) return applications were rejected by the Central Authority. This can be compared with 6% globally. In both cases the rejection was based on the fact that the child was not located. Globally, 27% of return applications were rejected on this ground.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications⁴

In the one application where the reason for refusal was known, the decision was based on Art 13a acquiescence. Globally in 2003, 5% of judicial refusals were based on this ground.

14. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

In the one application where the reason for refusal was known (Article 13 a) acquiescence), the taking person was recorded as the mother of the child. Globally, 77% of refusals involved mothers as taking persons.

Speed

15. The time between application and outcome

(a) Incoming return applications⁵

The judicial order for return not by consent (for which we had information) was made in 30 days. This is significantly faster than the 2003 global average of 143 days. The judicial refusal (for which we had information) was made in 265 days, as opposed to 233 days globally.

(b) Incoming access applications

Not applicable.

⁴ In one application the reason for judicial refusal was not stated.

⁵ The information on speed was not available in relation to one judicial return order and one judicial refusal.

16. Appeals**(a) Incoming return applications**

One of the 2 judicial refusals was an appealed case. It is, however, not known, whether the appellate court upheld or overruled a first instance decision. The timing for this case was not available.

(b) Incoming access applications

Not applicable.

CZECH REPUBLIC

The applications

1. The number of applications

Incoming Return Applications	11
Incoming Access Applications	0
Outgoing Return Applications	7
Outgoing Access Applications	0

According to the Central Authority for the Czech Republic, they received 11 incoming return applications but no incoming access applications in 2003. This is an increase on the 8 incoming applications (of which 5 were for return and 3 for access) made in 1999. It is to be noted that the ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made 7 outgoing return applications¹ but no outgoing access applications in 2003. This is a decrease on 8 outgoing applications (comprising 3 return applications and 5 access applications) made in 1999.

Altogether, the Central Authority handled 18 new applications in 2003, compared with 16 new applications in 1999.

The overall ratio of incoming to outgoing applications was 61% to 39%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
Germany	2	18%
Spain	2	18%
Italy	1	9%
Poland	1	9%
Portugal	1	9%
Serbia & Montenegro	1	9%
Slovakia	1	9%
Switzerland	1	9%
UK - England & Wales	1	9%
Total	11	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Germany	2 (18%)	2 (40%)
Spain	2 (18%)	0 (0%)
Poland	1 (9%)	0 (0%)
Portugal	1 (9%)	0 (0%)
Serbia & Montenegro	1 (9%)	0 (0%)
Slovakia	1 (9%)	0 (0%)
Italy	1 (9%)	0 (0%)
Switzerland	1 (9%)	0 (0%)
UK - England & Wales	1 (9%)	0 (0%)
Denmark	0 (0%)	1 (20%)
Israel	0 (0%)	1 (20%)
USA	0 (0%)	1 (20%)
Total	11 (~ 100%)	5 (100%)

The Czech Republic received applications from 9 Contracting States, compared with only 4 in 1999.

As in 1999, neighbouring Germany made 2 applications to the Czech Republic. Interestingly, 2 applications (18%) came also from Spain, compared with none in 1999. No other Contracting State made more than one application to the Czech Republic in 2003.

Requesting States within the EU 2003

	Number	Percent
Germany	2	22%
Spain	2	22%
Italy	1	11%
Poland	1	11%
Portugal	1	11%
Slovakia	1	11%
UK - England & Wales	1	11%
Total	9	~100%

The above chart shows the number of applications received from countries that are now part of the European Union.² As can be seen, these countries account for 9 of the 11 applications received by the Czech Republic, a total of 81% of all applications.

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

The taking person

3. The relationship of the taking person

Relationship of Taking Person

	Number	Percent
Mother	11	100%
Total	11	100%

The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. All 11 of the taking persons in applications to the Czech Republic were mothers of the child. This differs from the 2003 global average of 68% but is the same as the 1999 findings, where all taking persons were females.

Interestingly, the same pattern was recorded also in the neighbouring Slovakia, where all taking persons involved in the 8 incoming return applications were mothers.

4. The status of the taking person as carer in relation to the child

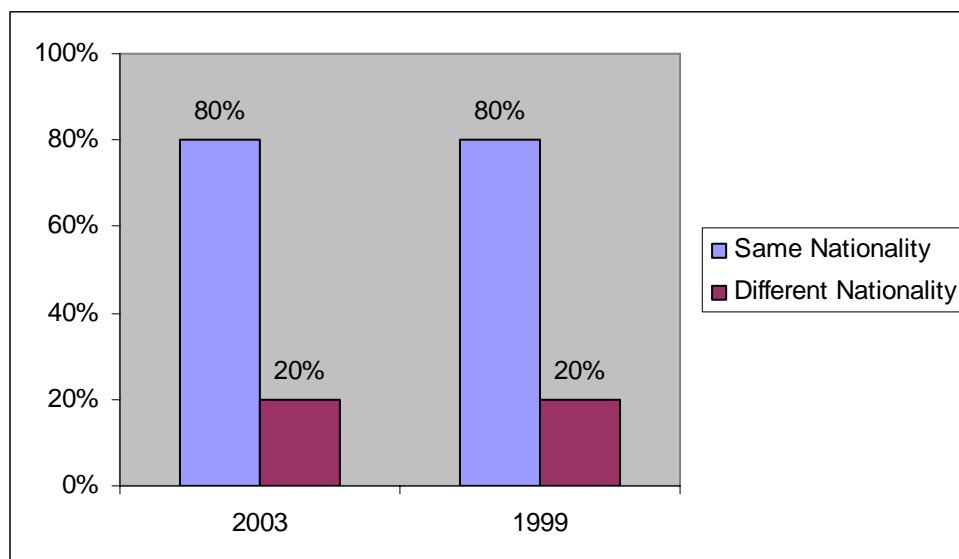
The Czech Republic did not provide information on the status of the taking person as carer.

5. The nationality of the taking person³

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	8	80%
Different Nationality	2	20%
Total	10	100%

This table shows that 8 of the 10 taking persons, 80%, had Czech nationality (including one taking person with dual nationality). Globally, 55% of taking persons had the nationality of the requested State.



³ In relation to one taking person this information was not stated.

The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the 2003 findings reflect the pattern recorded in the 1999 survey.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. The 2003 findings are identical with the 1999 survey where all taking persons were female and of these 80% had Czech nationality. Globally in 2003, 54% of taking persons recorded as the mother of the child had the nationality of the requested State.

The children

7. The total number of children

There were 12 children involved in the 11 incoming return applications in 2003. This compares with a total of 5 children being involved in 5 return applications in 1999.

In 2003, on average 1.09 children were involved in return applications. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	10	91%
Sibling Group	1	9%
Total	11	100%

Number of Children

	Number	Percent
1 Child	10	91%
2 Children	1	9%
Total	11	100%

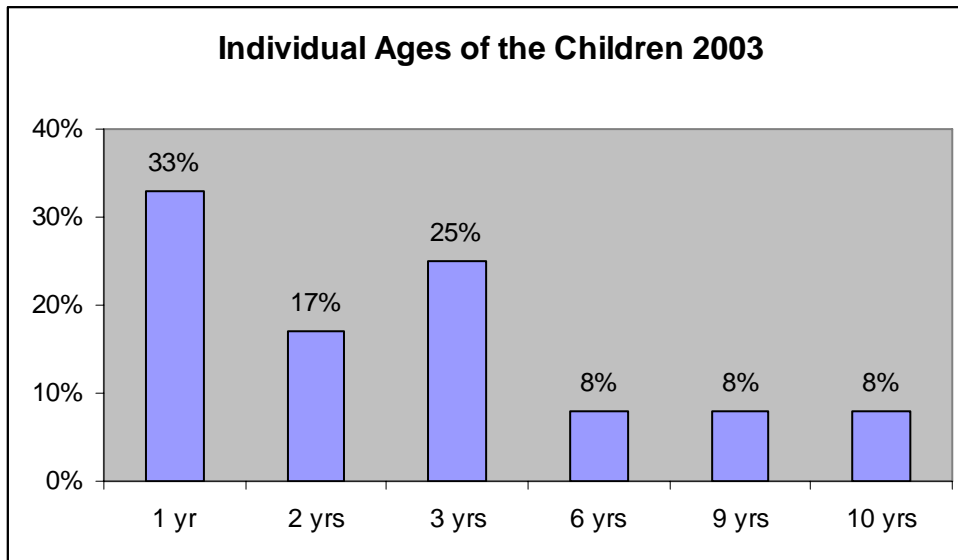
The above tables show that all but one (91%) applications involved single child. This is similar to the 1999 findings, where all applications involved single child. Globally in 2003, 67% of applications involved single children.

No application concerned more than 2 children, which is in line with the 2003 global average of 93% of applications concerning one or 2 children.

9. The age of the children

Individual Ages 2003

	Number	Percent
1 yr	4	33%
2 yrs	2	17%
3 yrs	3	25%
6 yrs	1	8%
9 yrs	1	8%
10 yrs	1	8%
Total	12	~100%

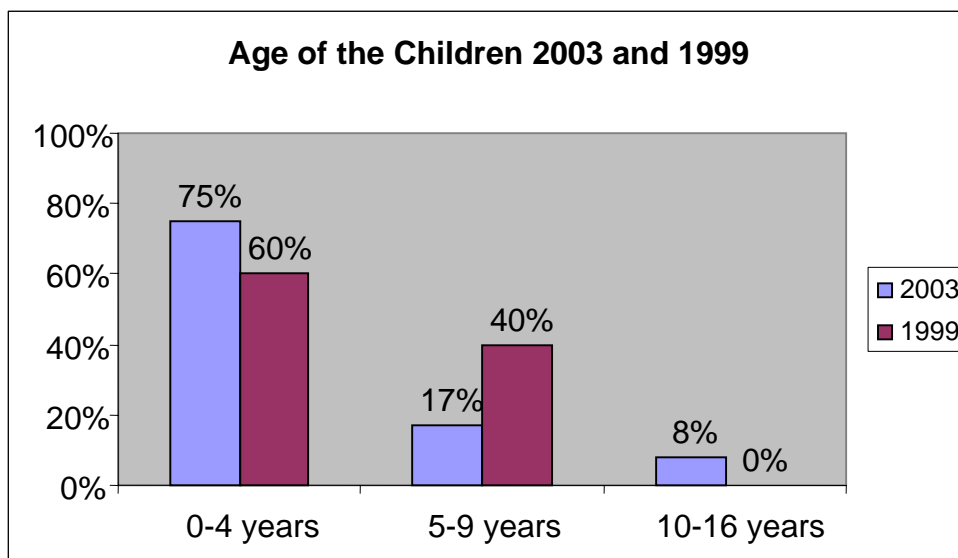


The above table and chart show the ages of the individual children involved. Interestingly, 4 children (33%) were aged one. A relatively high proportion of children, 83%, were aged between 1 and 6 compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	9	75%
5-9 years	2	17%
10-16 years	1	8%
Total	12	100%



As in 1999, the vast majority of children were aged between 0-4 years old. Indeed, of the 12 children included, 9 (75%) were aged between 0-4 years, compared with 3 (60%) in 1999. This is markedly higher than the 2003 global average of 36%. The number of children aged between 5-9 years dropped from 40% in 1999 to 17% in 2003. Globally, 42% of children were aged 5-9 years. One child (8%) was in 10-16 years age group, as opposed to none in 1999 and 22% globally.

10. The gender of the children

Gender of the Children

	Number	Percent
Female	8	67%
Male	4	33%
Total	12	100%

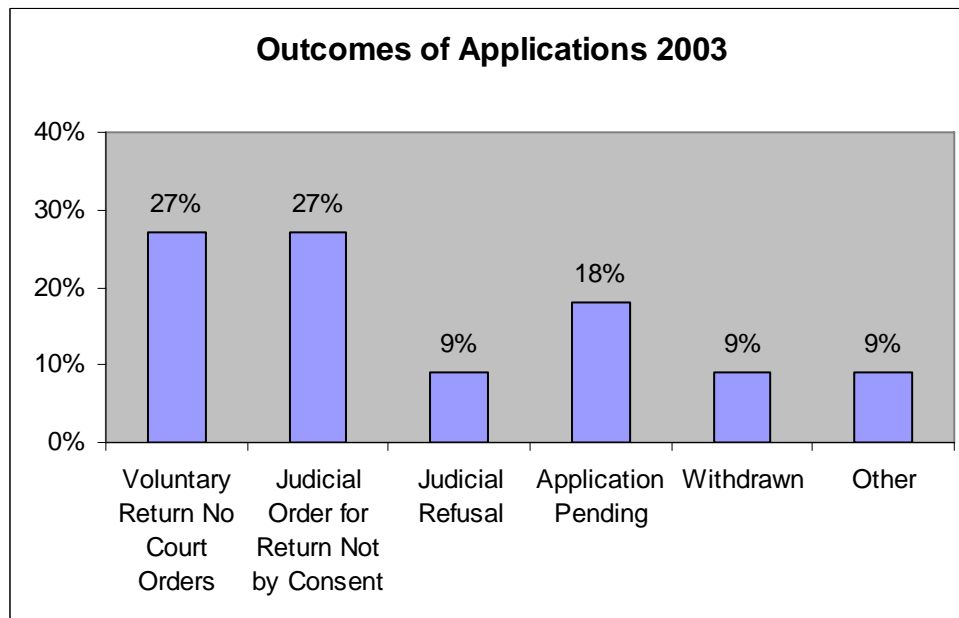
The majority (67%) of children involved in return applications were female which is higher than the 2003 global average of 51%. In 1999, the proportion of female children involved in the applications to the Czech Republic was even higher, at 80%.

The outcomes

11. Overall outcomes

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	3	27%
Judicial Order for Return Not by Consent	3	27%
Judicial Refusal	1	9%
Application Pending	2	18%
Withdrawn	1	9%
Other	1	9%
Total	11	~100%



The above table and chart show the outcome of all applications in 2003.

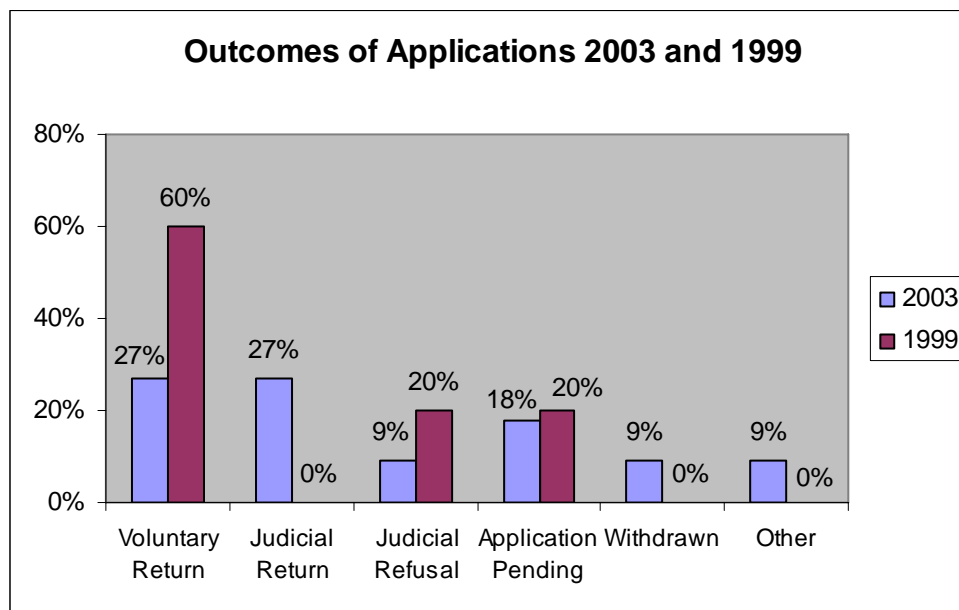
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In the Czech Republic, however, in 2003 no judicial return orders were made with consent.

Combining voluntary and judicial returns the overall return rate was 54%, which is above the 2003 global average of 51%. Similarly, the proportion of voluntary returns (3, 27%) is higher than the 2003 global average of 22%.

Of the 4 cases going to court, 3 (75%) resulted in a judicial return compared with the global average of 66%, while one (9%) application was judicially refused as opposed to 29% globally.⁴

It is to be noticed that 2 (18%) applications were still pending as of 30th June 2005, compared with 9% globally. On the other hand, the withdrawal rate at 9% was below the 2003 global mean of 15%.

In one application, a sole custody order in favour of the abductor was made in the requesting State.⁵



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Interestingly, in 1999 no cases resulted in a judicial order for return, compared with 3 (27%) in 2003. Nevertheless, the proportion of voluntary returns was markedly higher in 1999, 60% compared with 27% in 2003. Similarly, the overall return rate was higher in 1999 than in 2003, 60% as opposed to 54% respectively.

The proportion of judicial refusals decreased from 20% in 1999 to only 9% in 2003. Globally in 2003, 13% of all applications were judicially refused.

2 (18%) applications were still pending, compared with one (20%) in 1999. There was one withdrawal and one outcome classified as 'other', as opposed to none in 1999.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁵ Recorded as 'other'.

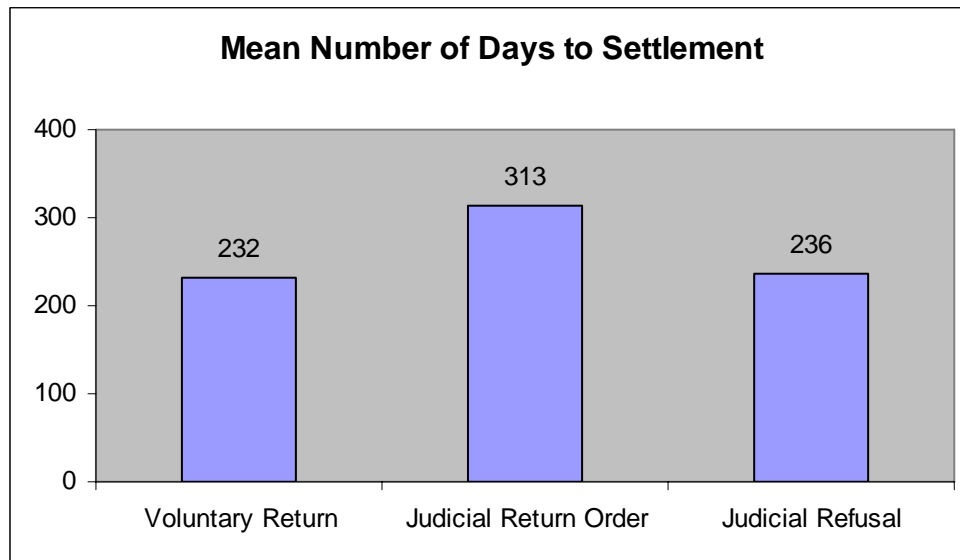
As in 1999, one application was refused by a Czech court. The refusal was based on Article 13 *b*). Globally in 2003, 18% of applications were refused on the ground of Article 13 *b*).

14. The reasons for judicial refusal and the relationship of the taking person

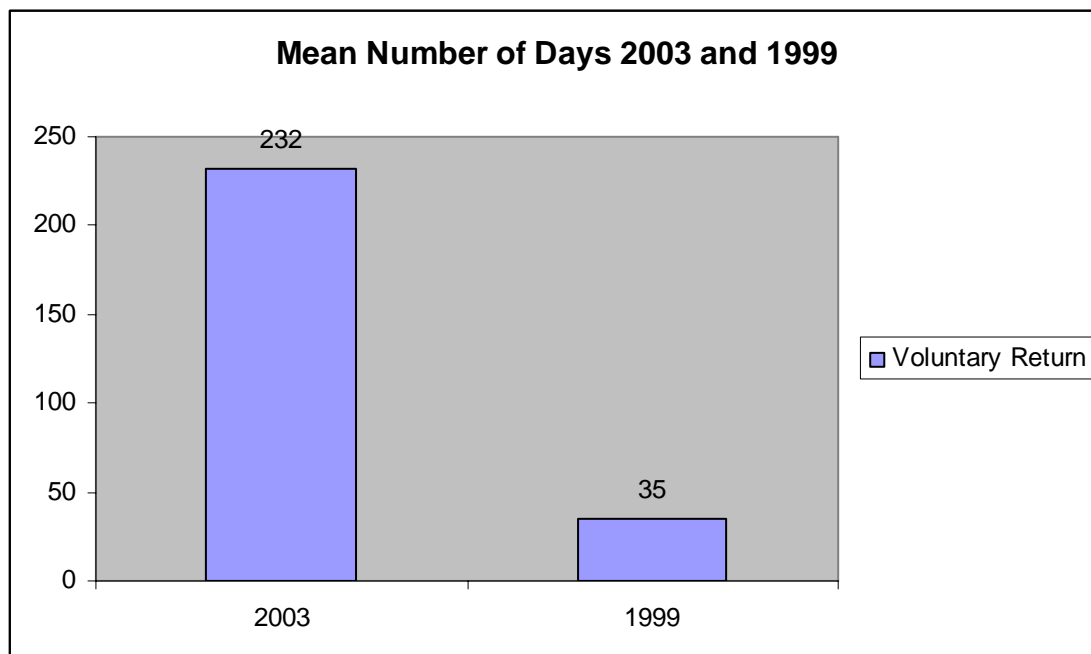
See 3 and 13 above.

Speed

15. The time between application and outcome⁶



The applications which resulted in a voluntary resolution took on average 232 days which is considerably slower than the 2003 global average of 98 days. Judicial returns took an average of 313 days to reach final outcome, which was more than 2 times longer than the global average of 143 days. Similarly, judicial refusals were concluded slightly slower than the global average, in 236 days compared with 233 days.



⁶ This information was not available in relation to one voluntary return.

In 1999, voluntary returns took on average 35 days to reach final outcome, which was considerably quicker than the average of 232 days in 2003. Speed of judicial refusals cannot be compared with the 1999 findings, as in 1999 timing was not available for the one case which resulted in a judicial refusal.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return Order	Judicial Refusal
Mean	232	313	236
Median	232	352	236
Minimum	229	209	236
Maximum	234	379	236
Number of cases	2	3	1

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in the Czech Republic. The one judicial return order which was not appealed took 209 days to reach a final outcome. One voluntary return took 229 days, while the other took 234 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order
Mean	209
Median	209
Minimum	209
Maximum	209
Number of cases	1

As can be seen, the exclusion of appealed cases affects the overall mean average taken to make return orders. There is a difference of 104 days before and after the exclusion.

16. Appeals

3 out of 4 (75%) cases which went to court were appealed, as opposed to none in 1999. This proportion can be compared with the 2003 global average of 22%. In all 3 applications the appellate court upheld the first instance decision. 2 applications resulted in a judicial return and the remaining one in a judicial refusal. The applications which resulted in a judicial return took on average one year (365 days) to reach final outcome. The remaining application took 236 days.

DENMARK

The applications

1. The number of applications

Incoming Return Applications	12
Incoming Access Applications	4
Outgoing Return Applications	6
Outgoing Access Applications	10

According to the Central Authority for Denmark, they received 12 incoming return and 4 incoming access applications in 2003, making a total of 16 incoming applications. This is a slight increase on 13 incoming applications (11 of which were return applications and 2 of which were for access) made in 1999. The ratio of incoming return applications to access applications, 75% to 25%, can be compared with the global average of 84% to 16%.

Additionally, the Central Authority made 10 outgoing return applications¹ and 6 outgoing access applications in 2003. Unlike incoming applications, this is an overall decrease on the 10 outgoing return and 10 outgoing access applications made in 1999.

Altogether, the Central Authority handled 32 new applications in 2003, compared with 33 new applications in 1999.

The overall ratio of incoming to outgoing applications was 50% to 50%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Germany	5	42%
Australia	2	17%
Iceland	1	8%
Nicaragua	1	8%
Norway	1	8%
Spain	1	8%
Turkey	1	8%
Total	12	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 findings

	Number of Applications 2003	Number of Applications 1999
Germany	5 (42%)	0 (0%)
Australia	2 (17%)	0 (0%)
Iceland	1 (8%)	0 (0%)
Nicaragua	1 (8%)	0 (0%)
Norway	1 (8%)	3 (27%)
Spain	1 (8%)	0 (0%)
Turkey	1 (8%)	0 (0%)
USA	0 (0%)	2 (18%)
Israel	0 (0%)	1 (9%)
Netherlands	0 (0%)	1 (9%)
Portugal	0 (0%)	1 (9%)
Sweden	0 (0%)	1 (9%)
UK - England and Wales	0 (0%)	1 (9%)
Cyprus	0 (0%)	1 (9%)
Total	12 (~100%)	11 (~100%)

Denmark received applications for return from 7 Contracting States, compared with 8 in 1999.

Neighbouring Germany made 5 of the 12 applications. This is notable considering that Germany made no applications in 1999. In fact, the requesting States overall have changed since 1999. Norway is the only country to have made an application in both 2003 and 1999. Norway was also the only Scandinavian country to make an application to Denmark in 2003.

Requesting States within the EU 2003

	Number	Percent
Germany	5	83%
Spain	1	17%
Total	6	100%

The above chart shows the number of applications received from countries that are now part of the EU. These countries account for 6 of the 12 applications received by Denmark, primarily because of the fact that 5 of the applications are from Germany. Applications from EU countries account for 50% of all cases, which roughly corresponds to the 1999 finding of 45% (5 of the 11 applications).²

(b) Incoming access applications

Denmark received one access application from each of the 4 Contracting States, Australia, Germany, Greece and New Zealand. In 1999, the 2 Contracting States making access applications were the USA and Switzerland.

² Both of these figures are based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

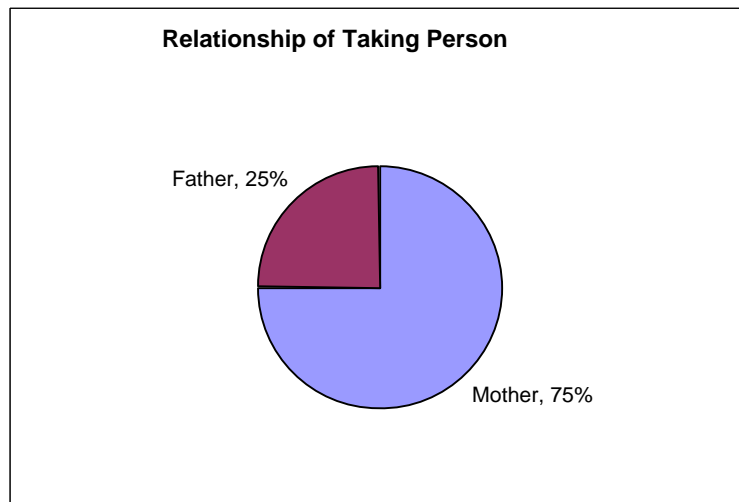
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	9	75%
Father	3	25%
Total	12	100%



The 2003 statistics show the relationship of the taking person to the child, as opposed to the gender (*i.e.* simply male/female) of the taking person, as in the 1999 survey. 75% of taking persons in the survey were the mother of the child. This compares with the global average of 68%, but shows a marked decrease in respondent mothers since 1999³ when 91% of taking persons were recorded as female.

(b) Incoming access applications

In all 4 of the access applications the respondent was the mother. This compares with the global average of 79%. In 1999, there was one female respondent and one set of joint respondents who were known to be the grandparents of the child.

4. The status of the taking person as carer in relation to the child

Denmark did not provide information on the status of the taking person as carer.

³ Insofar as 'female' can normally be taken to mean 'mother'.

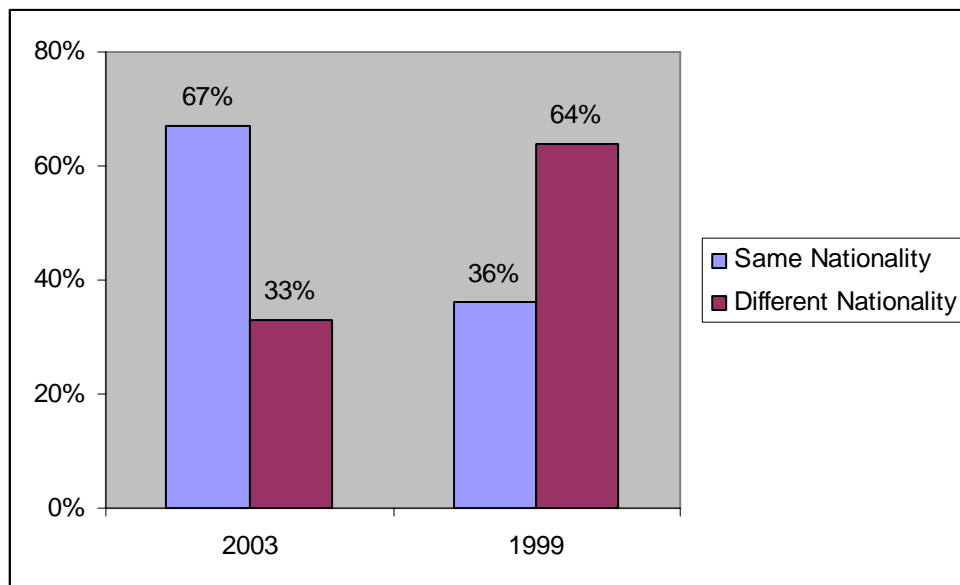
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	8	67%
Different Nationality	4	33%
Total	12	100%

This table shows that in 67% of applications, the taking person was Danish. This compares with the global average of 55% of taking persons having the same nationality as the requested State.



The chart above compares the 2003 findings with those of the 1999 survey and shows that the results differ. In 1999, considerably fewer respondents (only 36%) were Danish nationals, compared with 67% in 2003. This is almost a direct reversal.

(b) Incoming access applications

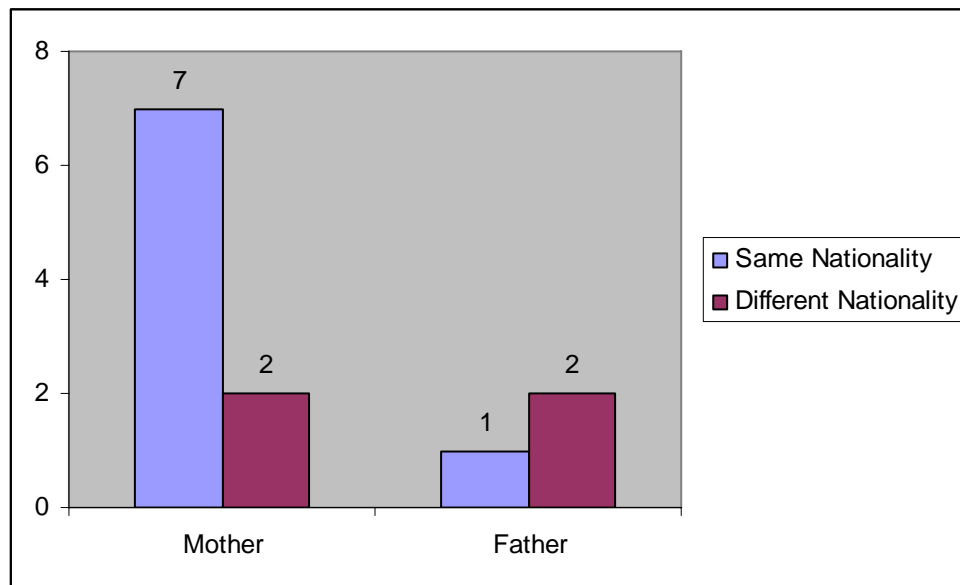
In the 3 of the 4 access applications the respondents had the same nationality as the requested State. This can be compared with the 1999 findings in which both of the access applications were made by Danish nationals. Globally in 2003, 53% of respondents in access applications had the same nationality as the requested State.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	7	1	8
Different Nationality	2	2	4
Total	9	3	12



In 7 out of 8 applications (88%) in relation to mothers, the taking person had the same nationality as the requested State. Only one third of fathers were Danish, although it must be noted that there were only 3 cases. In relation to mothers, this is very different to the pattern found in 1999 where only 4 out of 10 taking persons (40%) were Danish. In relation to fathers, the one application involved a non-Danish national. The 2003 findings can, however, be contrasted with the global averages of 54% and 55% of taking persons being nationals of the requested State, in relation to mothers and fathers respectively.

(b) Incoming access applications

See 3(b) and 5(b) above.

The children

7. The total number of children

(a) Incoming return applications

There were 21 children involved in the 12 incoming return applications in 2003. This can be compared with the total of 18 children being involved in the 11 return applications in 1999. In 2003, on average 1.37 children were involved in return applications. Proportionally, this is a decrease on the average number (1.64) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 6 children involved in the 4 incoming access applications in 2003. This can be compared with the total of 3 children being involved in the 2 access applications in 1999. In 2003, on average 1.5 children were involved in access applications. Proportionally, this is the same as in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	8	67%
Sibling Group	4	33%
Total	12	100%

Number of Children

	Number	Percent
1 Child	8	67%
2 Children	2	17%
3 Children	1	8%
6 Children	1	8%
Total	12	100%

The proportion of single children involved in applications for return, 67%, is the same as the 2003 the global average but differs from the 1999 proportion of 45%. The overall number of cases involving one or 2 children was 83%, compared with 90% in 1999. Globally in 2003, it was found that 93% of applications involved one or 2 children. In Denmark there was one exceptional case involving 6 children.

(b) Incoming access applications

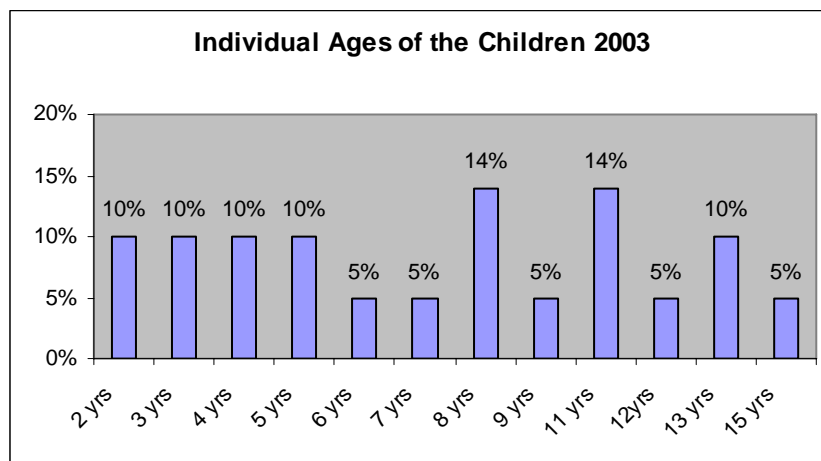
Of the 4 access applications, only one involved a sibling group, comprising 3 children. In 1999 one case involved a single child, the other involved a sibling group. Globally in 2003, 29% of access applications involved sibling groups.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
2 yrs	2	10%
3 yrs	2	10%
4 yrs	2	10%
5 yrs	2	10%
6 yrs	1	5%
7 yrs	1	5%
8 yrs	3	14%
9 yrs	1	5%
11 yrs	3	14%
12 yrs	1	5%
13 yrs	2	10%
15 yrs	1	5%
Total	21	~100%

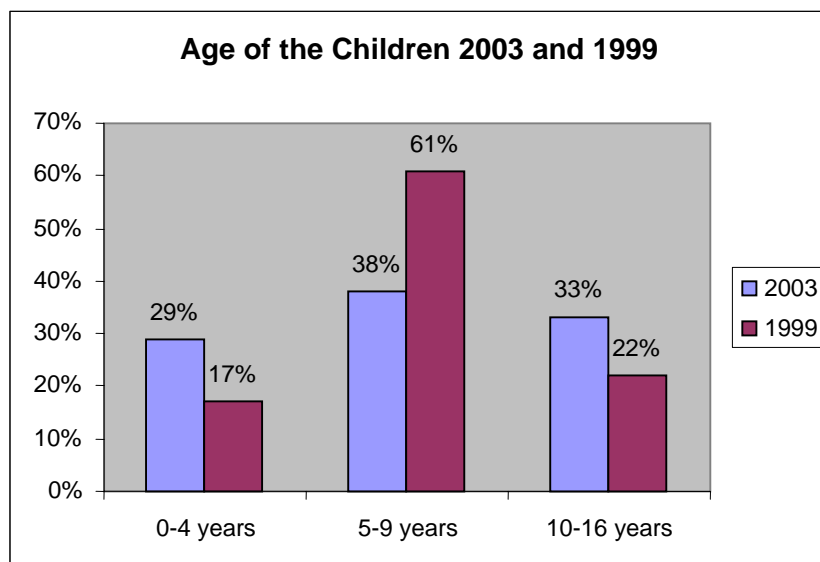


The above table and chart show the ages of the individual children involved. 43% of applications concerned children aged between 1 - 6 years. This compares with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	6	29%
5-9 years	8	38%
10-16 years	7	33%
Total	21	100%



Of the 21 children included, 38% were aged between 5-9 years, compared with 61% in 1999. This is below the 2003 global average of 42%. The number of children aged between 0-4 years and 10-16 years both increased from 17% to 29% and 22% to 33% respectively. This can be compared with the 2003 global averages of 36% and 22% respectively.

(b) Incoming access applications

2 of the 6 children involved in access applications were aged 4 years. The remaining 4 children were aged 5, 6, 8 and 14 years. In 1999, the 2 access applications involved 2 children aged between 5 and 9 years old and one child who was aged between 10 and 16 years old. Globally in 2003, 20% of children involved in access applications were aged between 0 and 4 years, 46% were aged between 5 and 9 years and 34% were aged between 10 and 16 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	11	52%
Male	10	48%
Total	21	100%

The proportion of female and male children is similar to the global averages of 51% and 49% respectively but can be contrasted with 44% and 56% respectively recorded in the 1999 survey.

(b) Incoming access applications

One out of the 6 children (17%) were female. This can be compared with the global average of 45%. In 1999 one child was female; the other child was male.

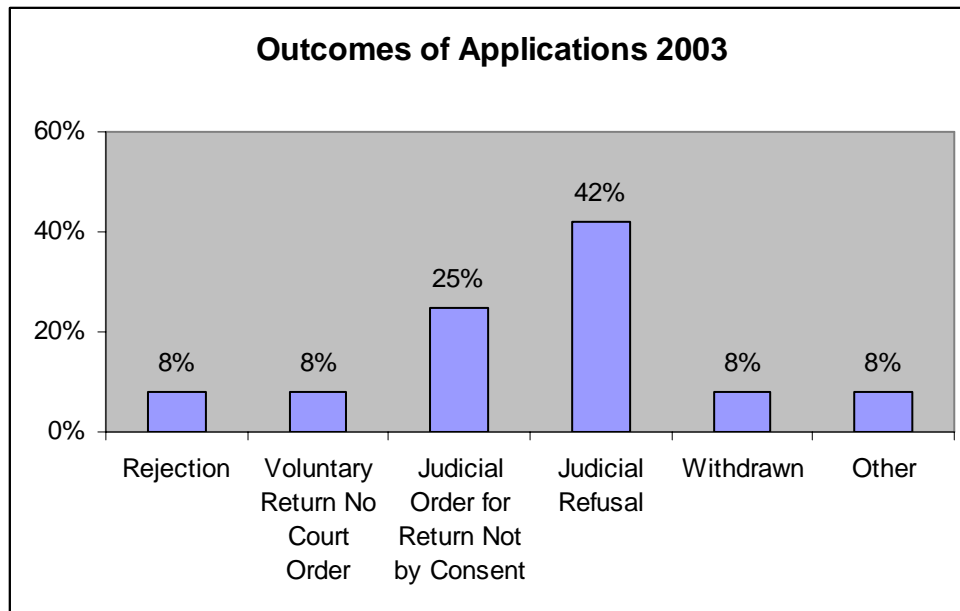
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	1	8%
Voluntary Return No Court Orders	1	8%
Judicial Order for Return Not by Consent	3	25%
Judicial Refusal	5	42%
Withdrawn	1	8%
Other	1	8%
Total	12	~100%



The above table and chart show the outcome of all applications in 2003.

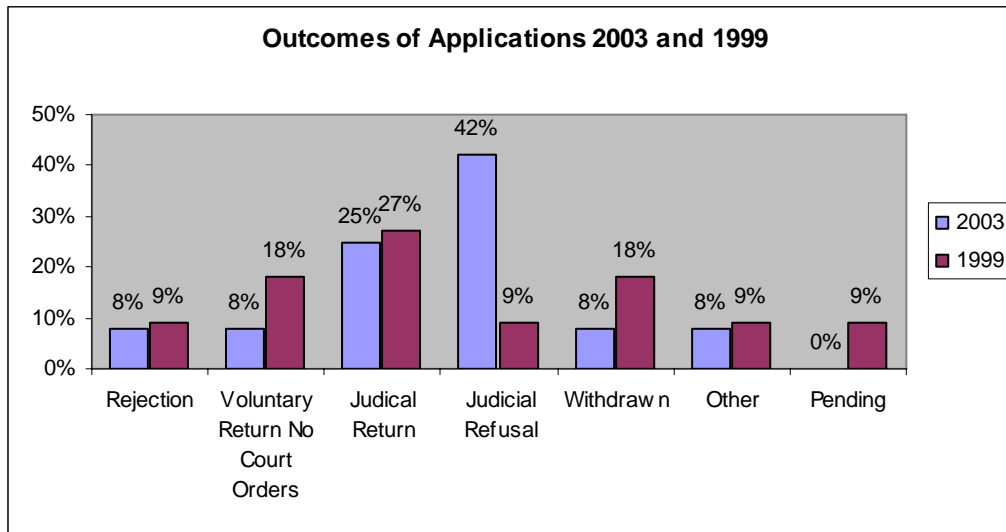
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Denmark in 2003, however, no judicial return order was made with consent. 3(25%) judicial returns orders were made without consent.

Overall, 33% of applications made to Denmark ended in the child being returned either by a court order or voluntarily, which is below the global average return rate of 51%. Similarly, at 8%, the proportion of voluntary returns is well below the global average of 22%. On the other hand, the proportion of judicial returns, 25%, compares with the global average of 29%.

8 applications (67%) went to court. Of these cases, only 3 (38%) resulted in return being ordered and 63% in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁴

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

At 8%, the withdrawal rate is below the global average of 15%. In one application involving 6 children there were different outcomes for different children.⁵ 4 of the 6 children were returned but the other 2 children did not, following a judicial refusal based on their objections.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Proportionally, the findings show that a judicial refusal was the most common outcome for an application, with a total of 5 cases, 42%. This high rate can be compared with the global average of 13% and the 1999 survey which recorded only one refusal (9%).

Judicial return orders accounted for 3 cases (25%) compared with 3 cases (27%) in 1999. The proportion of voluntary returns decreased from 18% in 1999 to 8% in 2003. On the other hand, the proportion of judicial refusals markedly increased, from 9% in 1999 to 42% in 2003. Consequently, the overall return rate decreased from 45% in 1999 to 33% in 2003.

The rejection rate in Denmark fell from 9% in 1999 to 8% in 2003. This is a little closer, though still above, the 2003 global average for rejections of 6%.

The withdrawal rate (8%) can be compared with 18% found in the 1999 survey. In 2003 there were no pending cases, compared with one case (9%) in 1999.

(b) Incoming access applications

One of the access applications was rejected. Another was withdrawn. In the third case access was granted under domestic law. In the final case, access was judicially refused under domestic law. Globally in 2003, 13% of access applications were rejected, 22% were withdrawn, 16% resulted in access being judicially granted and 3% ended in a judicial refusal. In 1999, in both access applications, access was refused.

12. The reasons for rejection

(a) Incoming return applications

The one case rejected by Denmark was an application from Nicaragua. The application was rejected as the Convention was not in force at the time. Globally in 2003, 8% of rejections were based on this reason.

⁵ Recorded as 'other'.

(b) Incoming access applications

The one access application was rejected because the applicant father had no rights of custody. Globally in 2003, 33% of access applications were rejected because of this reason.

13. The reasons for judicial refusal**(a) Incoming return applications****Overall Reason for Judicial Refusal per Application**

	Number	Percent
Applicant had No Rights of Custody	1	17%
Art 12	2	33%
Art 13b	1	17%
Child's Objections	1	17%
More than one reason	1	17%
Total	6	~100%

Of the 8 applications which went to court, 5 (63%) were refused, which is an increase on the one out of 4 (25%) applications refused in 1999 and well above the 2003 global average of 29%. 2 applications were refused under Article 12. Globally in 2003, 12% of refusals were based on this reason. The other 2 applications were refused as follows: lack of the rights of custody and Article 13 *b*). In another application different outcomes were reached for different children. The return of 2 children was refused following their objections (aged 13 and 11). One refusal (17%) was based on multiple reasons – Article 13 *b*) and child's objections (child aged 12).

When both sole and multiple grounds for refusal are taken into account, Article 13 *b*) and child's objections were relied upon in whole or in part in 2 cases each.

In 1999, the basis for the one judicial refusal was Article 12.

14. The reasons for judicial refusals and the relationship of the taking person**(a) Incoming return applications****The Relationship of the Taking Person and the Reason for Refusal**

	Relationship of Taking Person to Child		Total
	Mother	Father	
Applicant had No Rights of Custody	1	0	1
Art 12	2	0	2
Art 13b	0	1	1
Child's Objections	1	0	1
More than one reason	0	1	1
Total	4	2	6

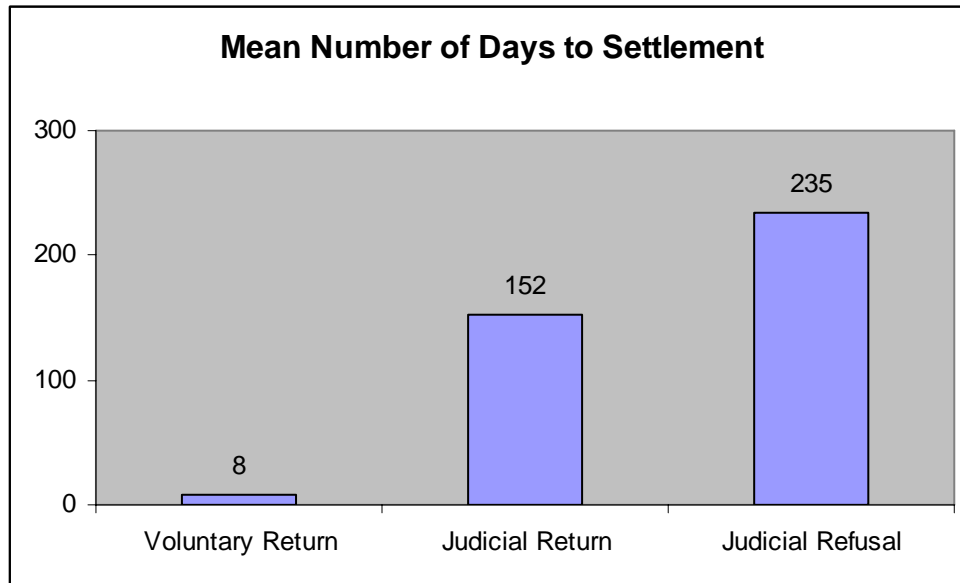
Overall, in 4 of the 6 refusals, 67%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall.

Conversely, in the 2 out of 6 refusals, 33%, the taking person was father. Globally in 2003, 21% of refusals involved fathers.

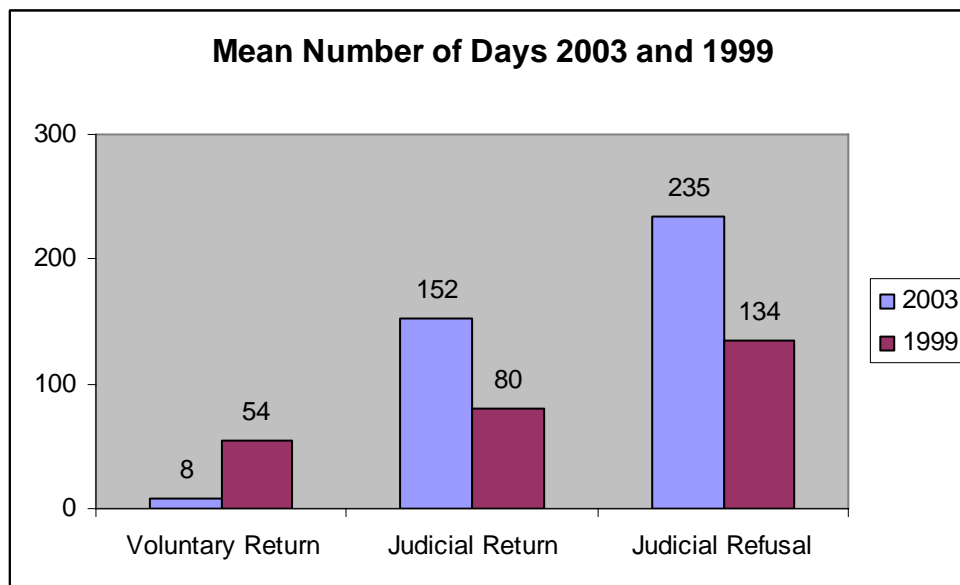
Speed

15. The time between application and outcome

(a) Incoming return applications



As can be seen, judicial returns were handled in an average of 152 days compared with the global average of 143 days. The one voluntary return took 8 days to reach final outcome, which was significantly quicker than the global average of 98 days. The speed of judicial refusals, averaging 235 days, compares with the global average of 233 days.



Judicial returns took considerably longer to resolve than in 1999 taking an average of 152 days compared with 80 days in 1999. Similarly, judicial refusals were resolved slower than in 1999, in 235 days as opposed to 134 days in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return Order	Judicial Refusal
Mean	8	152	235
Median	8	157	245
Minimum	8	131	33
Maximum	8	168	510
Number of cases	1	3	5

The table above gives a more informative picture of the system in Denmark. It must be noted that as in 1999, no applications were pending, therefore the slowest judicial decision was reached within 18 months which is quicker than many other Contracting States in this survey.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Refusal
Mean	276
Median	276
Minimum	276
Maximum	276
Number of cases	1

As can be seen, the one judicial refusal which was not appealed took 276 days to reach the outcome. There is a difference of 41 days in the mean average before and after the exclusion of appealed cases.

b) Incoming access applications

Globally, access applications tend to take longer. The one case in which this information was available showed that it took over a year (446 days) for access to be granted under domestic law. This can be compared with 266 days globally. No cases were pending as at 30th June 2005. In 1999, one of the access applications took over 6 months to be resolved; the other took between 6 and 12 weeks.

16. Appeals

(a) Incoming return applications

Appeals

	Appellate Final Judicial Decision		Total
	Return	Refusal	
Return	2	1	3
Refusal	1	3	4
Total	3	4	7

Of the 8 applications which went to court, 7 (88%) were appealed. Globally, just 22% of all cases which went to court were appealed. This can be compared with only 2 appealed applications in 1999.

The majority of decisions on appeal upheld first instance decisions, 5 of the 7 appeal decisions (71%). Of the remaining 2 decisions, one application in which a return was ordered at first instance was refused on appeal. Another case was refused at first instance but ended in a return order.

The cases that resulted in a judicial refusal took 33, 112, 245, and 510 days to reach a final outcome, compared with 296 days globally. The cases that resulted in a judicial return took 131, 157 and 168 days compared with an average of 206 days globally.

(b) Incoming access applications

None of the judicial decisions was appealed.

ESTONIA

The applications

1. The number of applications

Incoming Return Applications	1
Incoming Access Applications	0
Outgoing Return Applications	2
Outgoing Access Applications	0

According to the Central Authority for Estonia, they received one incoming return application but no incoming access applications in 2003. The overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

Additionally, they made 2 outgoing return applications but no outgoing access application in that year.

Altogether, the Central Authority for Estonia handled 3 new applications in 2003.

The overall ratio of incoming to outgoing applications was 33% to 67%.

Estonia did not participate in the 1999 statistical survey as it was not then a Contracting State.

2. The Contracting States which made the application

The one return application came from Germany.

The taking person

3. The relationship of the taking person

The taking person was recorded as the father of the child. Globally, 29% of taking persons were fathers.

4. The status of the taking person as carer in relation to the child

Estonia did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

The taking person had Estonian nationality. Globally, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 55% of taking persons recorded as the father of the child had the nationality of the requested State.

The children

7. The total number of children

There was one child involved in the one incoming return application in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

The one return application involved a single child. Globally in 2003, 67% of applications involved a single child.

9. The age of the children

The child involved was 3 years old. Globally, 36% of children were aged between 0 and 4 years.

10. The gender of the children

The one application involved a female child. Globally, 51% of children were female.

The outcomes**11. Overall outcomes**

The one application resulted in a judicial return by consent. Globally, 9% of applications ended in a judicial return by consent.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed**15. The time between application and outcome**

The return order by consent was made in 82 days from the receipt of the application, which was similar to the global average of 85 days.

16. Appeals

The judicial decision was not appealed.

FINLAND

The applications

1. The number of applications

Incoming Return Applications	6
Incoming Access Applications	2
Outgoing Return Applications	10
Outgoing Access Applications	6

According to the Central Authority for Finland, they received 6 incoming return applications and 2 incoming access applications in 2003, making a total of 8 incoming applications. This is an increase on the 4 incoming applications (2 of which were return applications and 2 of which were for access) made in 1999. The ratio of return applications to access applications was 75% to 25% which compares with the global average of 84% to 16%.

Additionally, the Central Authority made 10 outgoing return applications¹ and 6 outgoing access applications in 2003. This is an increase on the 5 outgoing return applications and 4 outgoing access applications made in 1999.

Altogether, the Central Authority handled 24 new applications in 2003, compared with 13 new applications in 1999.

The overall ratio of incoming to outgoing applications was 33% to 67%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Estonia	2	33%
Sweden	2	33%
Switzerland	1	17%
USA	1	17%
Total	6	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Estonia	2 (33%)	0 (0%)
Sweden	2 (33%)	1 (50%)
Switzerland	1 (17%)	0 (0%)
USA	1 (17%)	0 (0%)
Israel	0 (0%)	1 (50%)
Total	6 (100%)	2 (100%)

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Finland received applications for return from 4 Contracting States, compared with 2 in 1999. 4 of the 6 applications came from the fellow Baltic States, Estonia and Sweden (2, 33% from each). In 1999, Sweden made one return application. In 2003, there was also one application both from Switzerland and USA compared with none in 1999.

Requesting States within the EU 2003

	Number	Percent
Estonia	2	50%
Sweden	2	50%
Total	4	100%

The above chart shows the number of applications received from countries that are now part of the EU.² It is notable that these countries account for 4 of the 6 applications received by Finland, a total of 66% of all applications. In the 1999 survey, 1 of the 2 applications (50%) came from an EU Member State.

(b) Incoming access applications

As in 1999, the Central Authority for Finland received 2 access applications. However, the requesting States were different. In 2003, both access applications came from England & Wales and Belgium, whereas in 1999 they came from France and Norway.

The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	6	100%
Total	6	100%

The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. In 2003, all of the 6 taking persons (100%) were the mother of the child. This is significantly higher than the global average of 68% and shows an increase in respondent mothers since 1999 when 1 of the 2 taking persons (50%) were female.

(b) Incoming access application

As in both 1999 access applications, the respondent in each of the 2 applications in 2003 was recorded as the mother of the child. Globally, 79% of respondents in access applications were mothers.

4. The status of the taking person as carer in relation to the child

Finland did not provide information on the status of the taking person/respondent as carer in relation to the child.

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

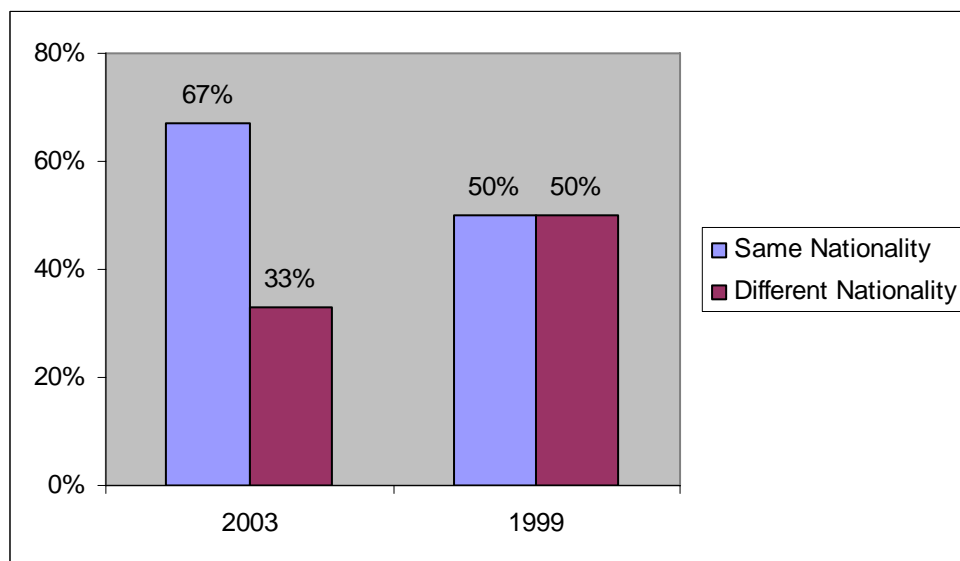
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as the Requested State

	Number	Percent
Same Nationality	4	67%
Different Nationality	2	33%
Total	6	100%

This table shows that in 4 of the 6 applications (67%) the taking person was Finnish and in 2 (33%) they were not. This is different from the global averages of 55% and 45% respectively.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Finnish nationals taking children to Finland has risen from 50% in 1999 to 67% in 2003.

These figures can be compared with the 2003 global average of 55% of taking persons having the same nationality as the requested State.

(b) Incoming access applications

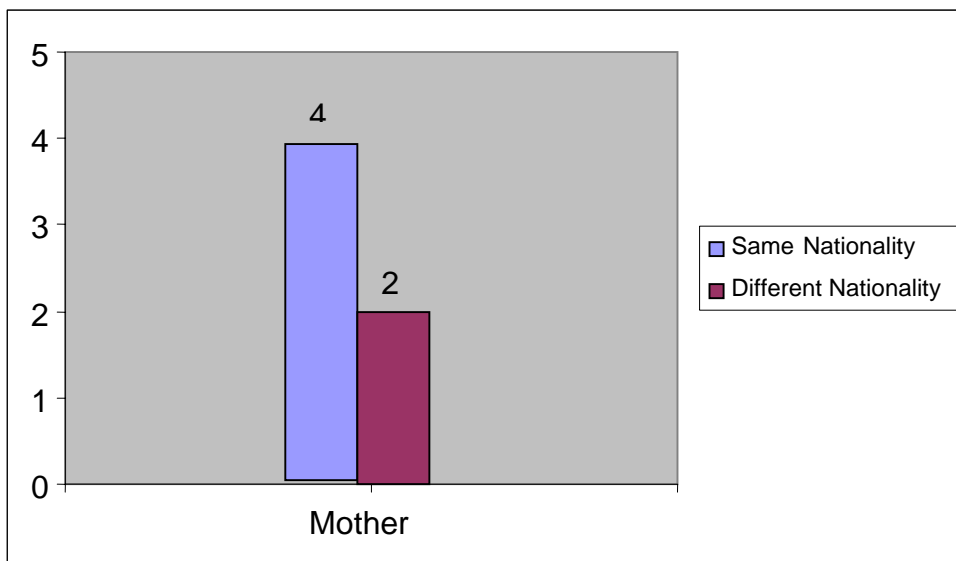
One of the respondents in the access applications was Finnish, while in 1999, both respondents had Finnish nationality. Globally, in access applications 53% of respondents had the nationality of the requested State.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of the Taking Person to Child

	Mother	Total
Same Nationality	4	4
Different Nationality	2	2
Total	6	6



As can be seen, all of the 6 taking persons were mothers. 4 of them (67%) were Finnish whereas 2 were not. These figures can be compared with the 2003 global average where 54% of mothers were nationals of the requested State.

Similarly, in 1999, the one female taking person was Finnish. However, the other taking person – a male – had a different nationality than the requested State.

(b) Incoming access applications

One of the 2 respondent mothers was Finnish. Globally, 49% of respondent mothers in access applications had the nationality of the requested State. In 1999, both female respondents were Finnish nationals.

The children

7. The total number of children

(a) Incoming return applications

There were 8 children involved in the 6 incoming return applications in 2003. This can be compared with the total of 4 children being involved in the 2 return applications in 1999.

In 2003, on average 1.33 children were involved in return applications. Proportionally, this represents a decrease in the number of children per return application, compared with 2 children per application in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 3 children involved in the 2 incoming access applications in 2003. This can be compared with the total of 2 children being involved in the 2 access applications in 1999. In 2003, on average 1.5 children were involved in access applications. Proportionally, this represents an increase in the number of children per access application, compared with one child per application in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	4	67%
Sibling Group	2	33%
Total	6	100%

Number of Children

	Number	Percent
1 Child	4	67%
2 Children	2	33%
Total	6	100%

The above table shows that 4 of the 6 (67%) applications involved a single child, while 2 (33%) involved a sibling group. These figures represent a decrease on 75% of applications concerning one child and an increase on the 25% of applications concerning a sibling group recorded in 1999. Nevertheless, the numbers involved in the applications are too small to enable meaningful conclusions to be drawn. The 2003 findings are identical with the global average of 67% of applications involving a single child. The overall number of cases concerning one or 2 children (100%) is in line with the global average of 93%.

(b) Incoming access applications

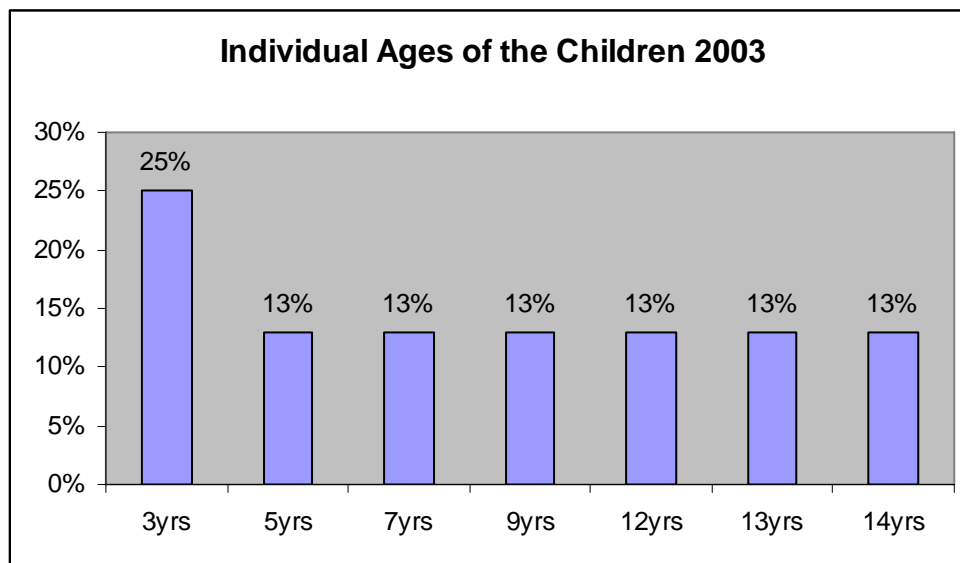
One of the 2 access applications involved a single child whereas the other involved a sibling group of 2 children. In contrast, in 1999, both access applications involved a single child. Globally in 2003, 71% of access applications involved single children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
3 yrs	2	25%
5 yrs	1	13%
7 yrs	1	13%
9 yrs	1	13%
12yrs	1	13%
13 yrs	1	13%
14 yrs	1	13%
Total	8	~100%

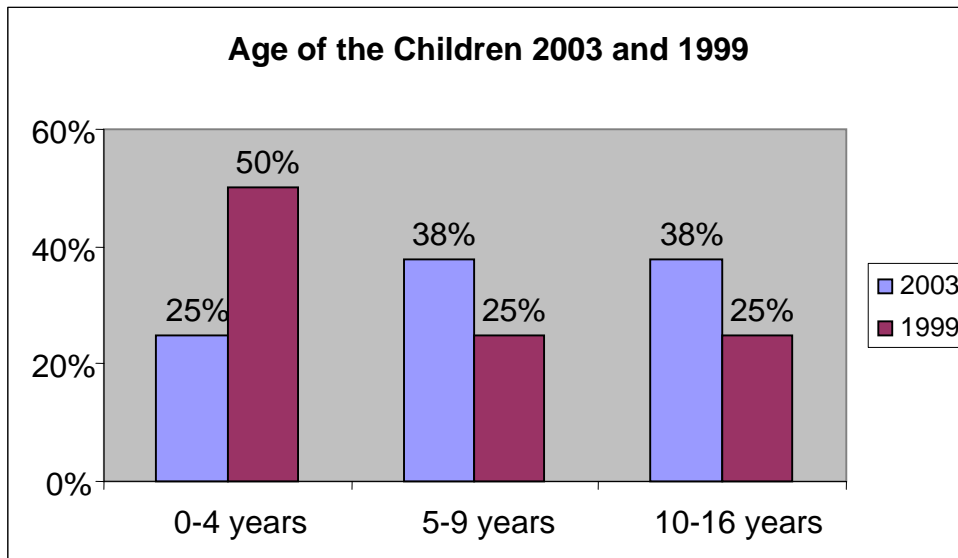


The above table and chart show the ages of the individual children involved. Interestingly, there were no applications involving children younger than 3 years. The abduction of children aged 1 - 6 years accounts for 38% of applications compared with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	2	25%
5-9 years	3	38%
10-16 years	3	38%
Total	8	~100%



Of the 8 children included, 3 (38%) were aged between 5-9 years which is an increase on the one (25%) recorded in 1999. This can be compared with the 2003 global average of 42%. Similarly, an increase was recorded in relation to the number of children aged between 10-16 years (3, 38% compared with 1, 25% in 1999). On the other hand, the proportion of children aged between 0-4 years decreased from 50% in 1999 to 25% in 2003. This is below the global average of 36%.

(b) Incoming access applications

The children involved in the 2 incoming access applications were 11, 9 and 5 years old. In contrast, both 1999 access applications involved children aged between 0 and 4 years old. Globally in 2003, 20% of children involved in access applications were aged 0-4 years, 46% were aged 5-9 years and 34% were older than 10 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	5	63%
Male	3	38%
Total	8	~100%

At 38%, the proportion of male children differs from the 2003 global average of 49%. Unlike in 1999 where only 25% were female, in 2003 the majority (63%) of abducted children were female.

(b) Incoming access applications

The access applications involved 2 females and one male. In contrast, in the 1999 applications the children concerned were both male. Globally in 2003, 45% of children involved in access applications were females.

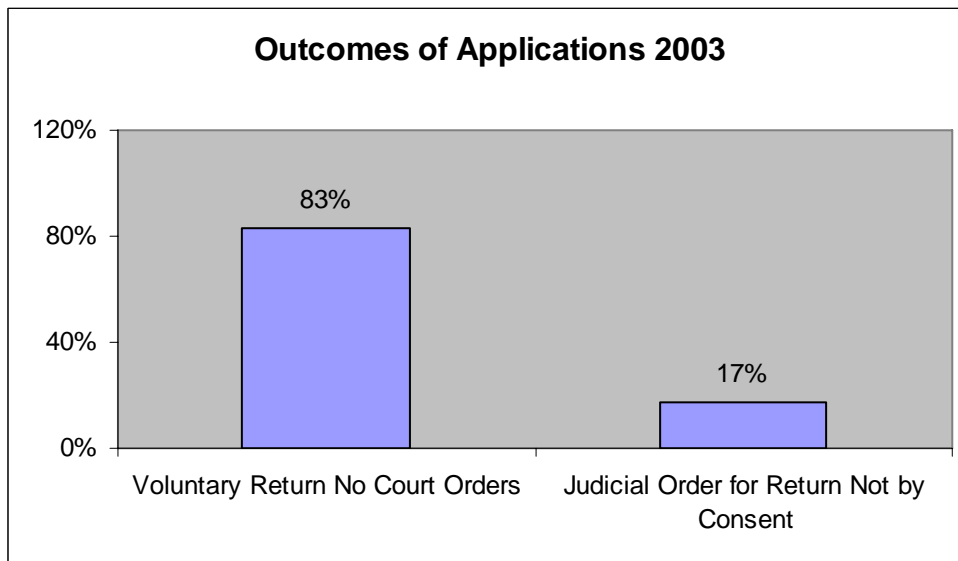
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

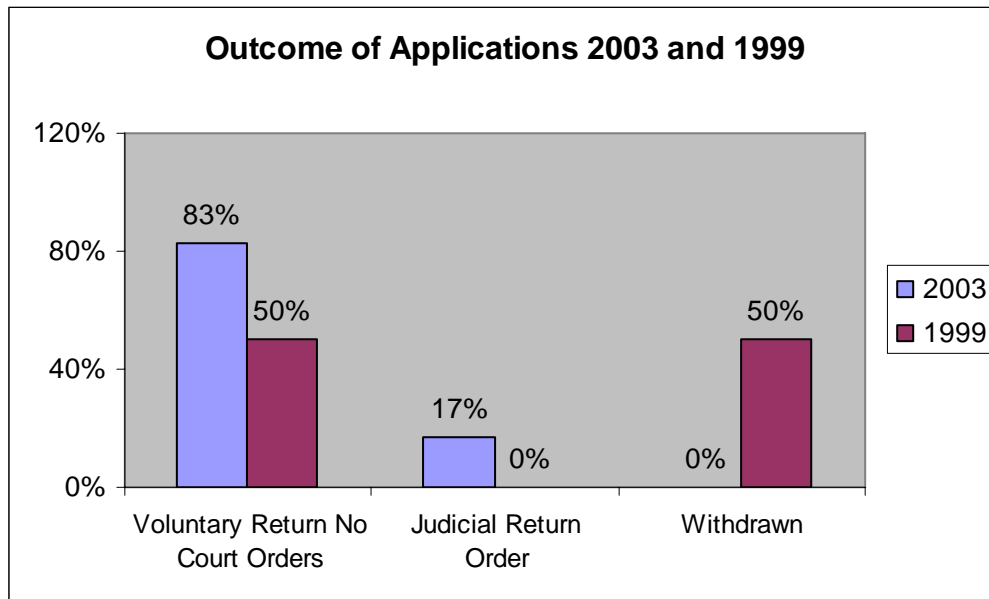
	Number	Percent
Voluntary Return No Court Orders	5	83%
Judicial Order for Return Not by Consent	1	17%
Total	6	100%



The above chart shows the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. However, in Finland in 2003, only one judicial return order was made and this was without consent.

Proportionally, the figures show that voluntary return was the most common outcome for an application, with a total of 5 (83%) applications. The one application which went to court resulted in a return order. Combining judicial and voluntary returns the overall return rate was 100%, which is significantly higher than the global average of 51%. As of 30th June 2005, no application was pending, as opposed to 9% globally.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

The figures show that a voluntary return was the most common outcome for an application (5, 83%). This can be compared with the 1999 survey where one (50%) application was resolved voluntarily and one (50%) was withdrawn. In contrast, in 2003, there were no withdrawals. Unlike in 1999, one application (17%) went to court. This application ended in judicial return.

(b) Incoming access applications

As in 1999, one access application was still pending as of a cut-off period for the survey (in 2003 survey it was 30th June 2005). The other 2003 access application was withdrawn whereas in the other 1999 application, access was judicially granted. Globally in 2003, 22% of access applications were still pending as of the cut-off period for the survey and 22% were withdrawn.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

Not applicable.

14. The reasons for judicial refusals and the relationship of the taking person

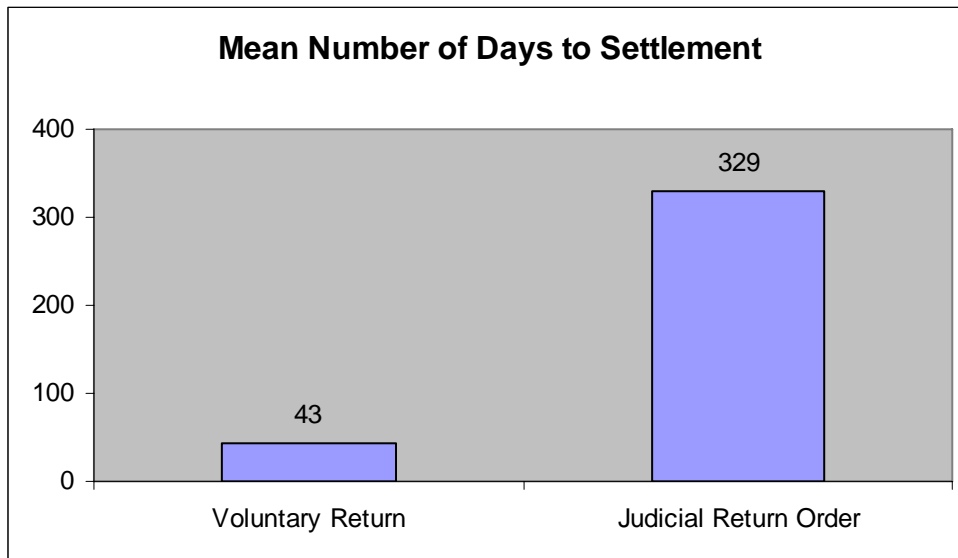
Not applicable.

Speed

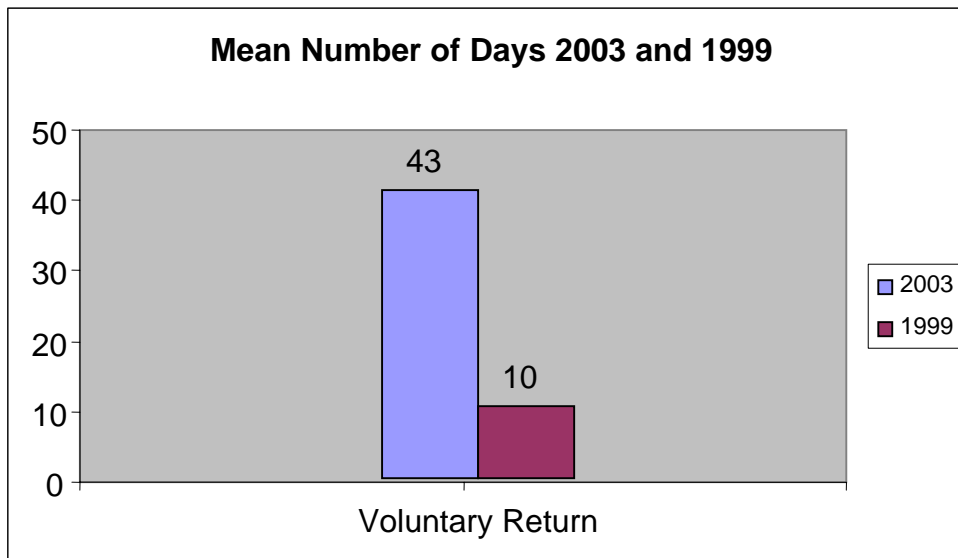
15. The time between application and outcome

(a) Incoming return applications³

³ This information was not available in relation to one voluntary return.



Voluntary returns were resolved more quickly than the 2003 global average, 43 days compared with 98 days. On the other hand, the one judicial return was resolved in 329 days, which is significantly longer than the global average of 143 days.



The chart above shows that the 1999 voluntary return application was resolved more quickly than the 2003 average, in 10 days compared with 43 in 2003.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return Order
Mean	43	329
Median	25	329
Minimum	5	329
Maximum	115	329
Number of cases	4	1

The table above gives a more informative picture of the system in Finland. The one return order was made in 329 days, which as we have said compares badly with global average. The quickest voluntary return was resolved in 5 days. In contrast, the slowest took 115 days.

(b) Incoming access applications

Not applicable.

16. Appeals

(a) Incoming return applications

The case that resulted in judicial return was an appealed case. This application was refused at first instance and took 329 days to reach final outcome which compares rather better with the global average of 206 days.

(b) Incoming access applications

Not applicable.

FRANCE

The applications

1. The number of applications

Incoming Return Applications	42
Incoming Access Applications	13
Outgoing Return Applications	57
Outgoing Access Applications	15

According to the Central Authority for France, they received 42 incoming return applications and 13 incoming access applications in 2003, making a total of 55 incoming applications. This is a slight decrease on the 57 incoming applications (of which 42 were for return and 15 for access) made in 1999. The ratio of incoming return applications to access applications, 76% to 24%, can be compared with the global average of 84% to 16%.

Additionally, the Central Authority made 57 outgoing return applications¹ and 15 outgoing access applications in 2003. This is an increase on the 43 outgoing return applications and 7 outgoing access applications made in 1999.

Altogether, therefore, the Central Authority handled 127 new applications in 2003, compared with 107 new applications in 1999.

The overall ratio of incoming to outgoing applications was 43% to 57%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
USA	9	21%
Canada	5	12%
UK - England & Wales	5	12%
Switzerland	4	10%
Belgium	3	7%
Germany	3	7%
Italy	2	5%
Sweden	2	5%
Argentina	1	2%
Czech Republic	1	2%
Finland	1	2%
Greece	1	2%
Israel	1	2%
Luxembourg	1	2%
Mexico	1	2%
Spain	1	2%
Turkey	1	2%
Total	42	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
USA	9 (21%)	5 (12%)
Canada	5 (12%)	4 (10%)
UK - England & Wales	5 (12%)	6 (14%)
Switzerland	4 (10%)	3 (7%)
Belgium	3 (7%)	0 (0%)
Germany	3 (7%)	6 (14%)
Italy	2 (5%)	4 (10%)
Sweden	2 (5%)	1 (2%)
Argentina	1 (2%)	0 (0%)
Czech Republic	1 (2%)	0 (0%)
Finland	1 (2%)	1 (2%)
Greece	1 (2%)	0 (0%)
Israel	1 (2%)	1 (2%)
Luxembourg	1 (2%)	0 (0%)
Mexico	1 (2%)	1 (2%)
Spain	1 (2%)	3 (7%)
Turkey	1 (2%)	0 (0%)
Australia	0 (0%)	2 (5%)
Netherlands	0 (0%)	2 (5%)
Norway	0 (0%)	1 (2%)
UK - Scotland	0 (0%)	1 (2%)
Mauritius	0 (%)	1 (2%)
Total	42 (~ 100%)	42 (~ 100%)

France received applications for return from 17 Contracting States, compared with 16 in 1999. The highest number of applications, 9 (21%), came from the USA. This was an increase on the 5 applications made in 1999. The number of applications from England & Wales and Germany decreased from 6 (14% each) in 1999 compared with 5 (12%) and 3 (7%) respectively in 2003. Interestingly, in 1999, there were applications both from Australia and the Netherlands compared with none in 2003.

Requesting States within the EU 2003

	Number	Percent
UK - England & Wales	5	25%
Belgium	3	15%
Germany	3	15%
Italy	2	10%
Sweden	2	10%
Czech Republic	1	5%
Finland	1	5%
Greece	1	5%
Luxembourg	1	5%
Spain	1	5%
Total	20	100%

The above chart shows the number of applications received from countries that are now part of the EU.² These countries accounted for 20 out of 42 applications received by France, a total of 48% of all cases.

(b) Incoming access applications

Requesting States 2003

	Number	Percent
Italy	2	15%
Switzerland	2	15%
UK - England & Wales	2	15%
USA	2	15%
Belgium	1	8%
Finland	1	8%
Mexico	1	8%
Netherlands	1	8%
Sweden	1	8%
Total	13	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Italy	2 (15%)	3 (20%)
Switzerland	2 (15%)	0 (0%)
UK - England & Wales	2 (15%)	0 (0%)
USA	2 (15%)	1 (7%)
Belgium	1 (8%)	0 (0%)
Finland	1 (8%)	0 (0%)
Mexico	1 (8%)	0 (0%)
Netherlands	1 (8%)	1 (7%)
Sweden	1 (8%)	0 (0%)
Germany	0 (0%)	3 (20%)
Denmark	0 (0%)	2 (13%)
Australia	0 (0%)	1 (7%)
Poland	0 (0%)	1 (7%)
Spain	0 (0%)	1 (7%)
Israel	0 (0%)	1 (7%)
Canada	0 (0%)	1 (7%)
Total	13 (100%)	15 (~ 100%)

France received 13 access applications, from various Contracting States. Strikingly, there were no applications from Canada, in contrast with the high proportion of return applications made by that country. Italy made 2 (15%) applications, compared with 3 (20%) in 1999. Surprisingly, no applications came from Germany, which made 3 (20%) applications in 1999. On the other hand, there were 2 (15%) applications both from Switzerland and England and Wales, whereas in 1999 these Contracting State made no

² This figure is based on Membership of the European Union of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

access applications. More than half, 8 (62%), of the applications were made by States that are now Member States of the European Union.

Combining return and access applications, the top 5 Contracting States which made applications to France were:

1. USA 11
2. England and Wales 7
3. Switzerland 6
4. Canada 5
5. Belgium, Italy 4 each.

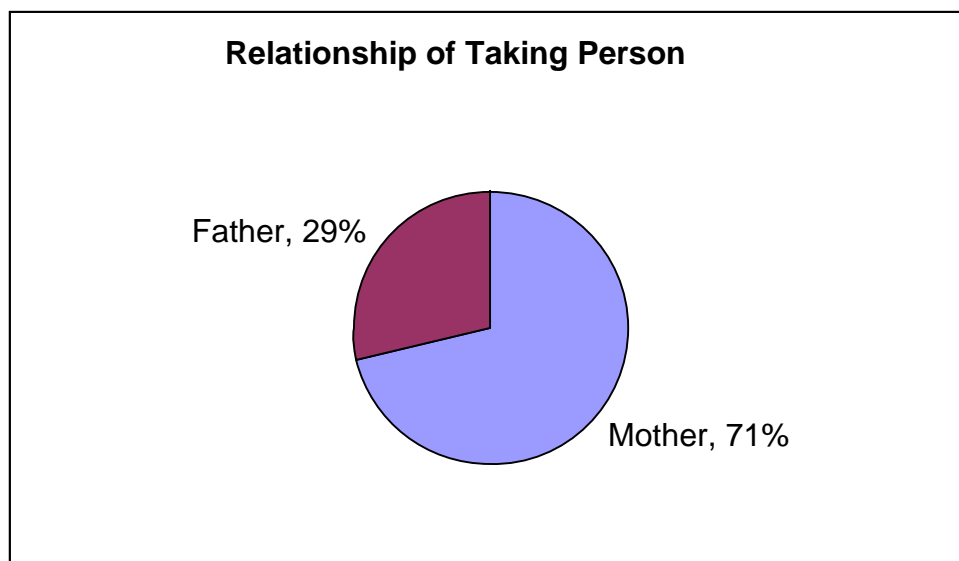
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

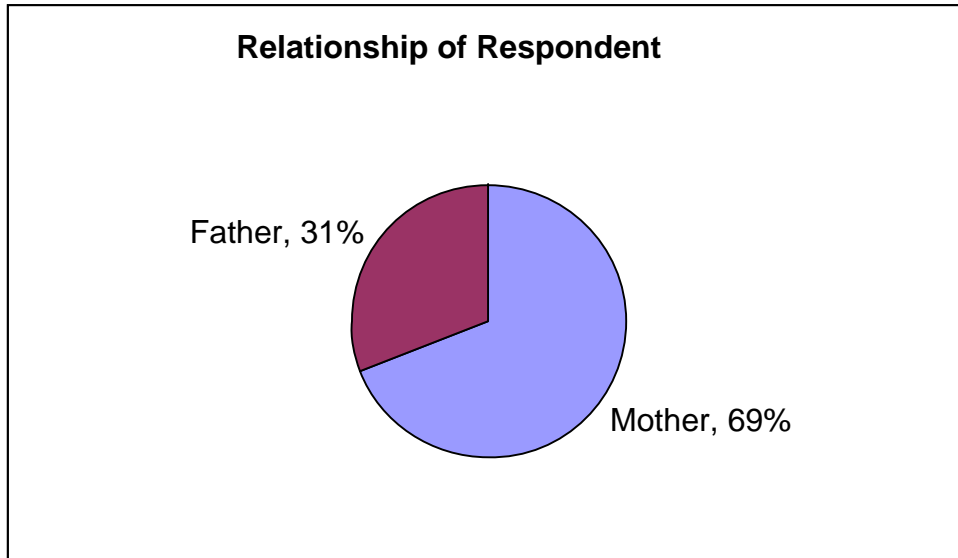
	Number	Percent
Mother	30	71%
Father	12	29%
Total	42	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 71% of taking persons were mothers. This is slightly higher than the global average of 68% and can be compared with the 1999 survey, where 64% of taking persons were recorded as female.

(b) Incoming access applications**Relationship of the Respondent**

	Number	Percent
Mother	9	69%
Father	4	31%
Total	13	100%



In 9 access applications (69%) the respondent was the mother. This is below both the 2003 global average of 79% and the 1999 survey where 87% of respondents were female.

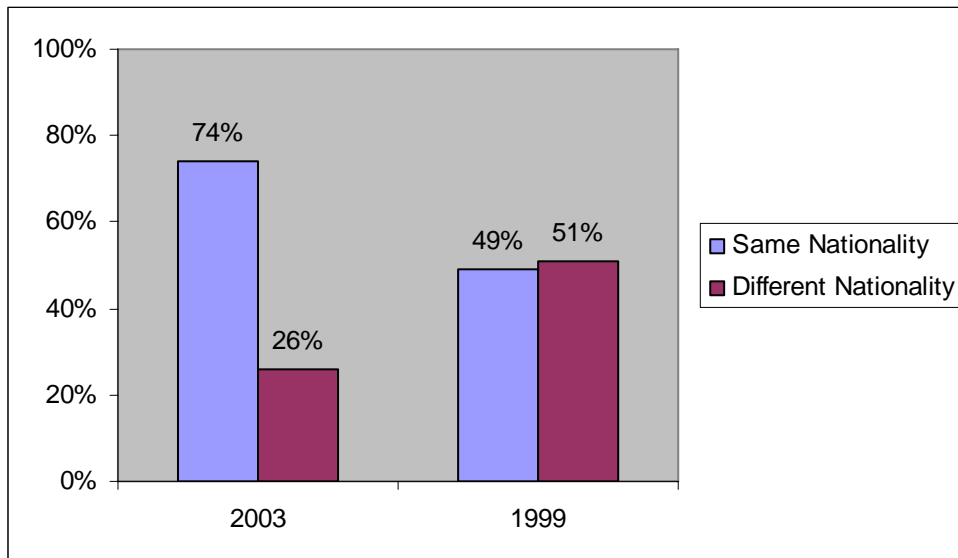
4. The status of the taking person as carer in relation to the child**(a) Incoming return applications**

France did not provide information on the status of the taking person as carer.

5. The nationality of the taking person / respondent**(a) Incoming return applications****Taking Person Same Nationality as Requested State**

	Number	Percent
Same Nationality	31	74%
Different Nationality	11	26%
Total	42	100%

This table shows that in 74% of applications, the taking person was French (including 3 taking persons with dual nationality) and in 26% of applications they were not. This is different from the global averages of 55% and 45% respectively.

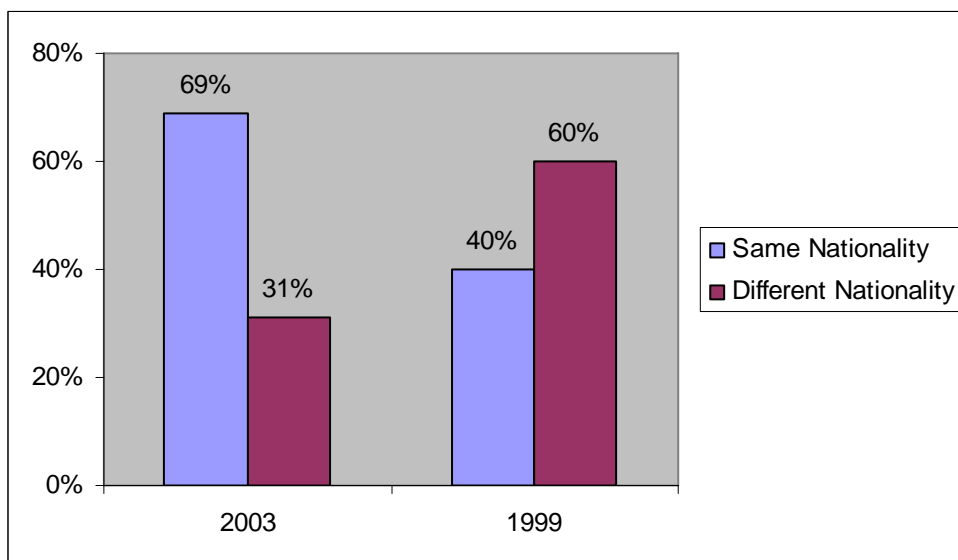


The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of French persons taking children to France rose from 49% in 1999 to 74% in 2003.

(b) Incoming access applications

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	9	69%
Different Nationality	4	31%
Total	13	100%



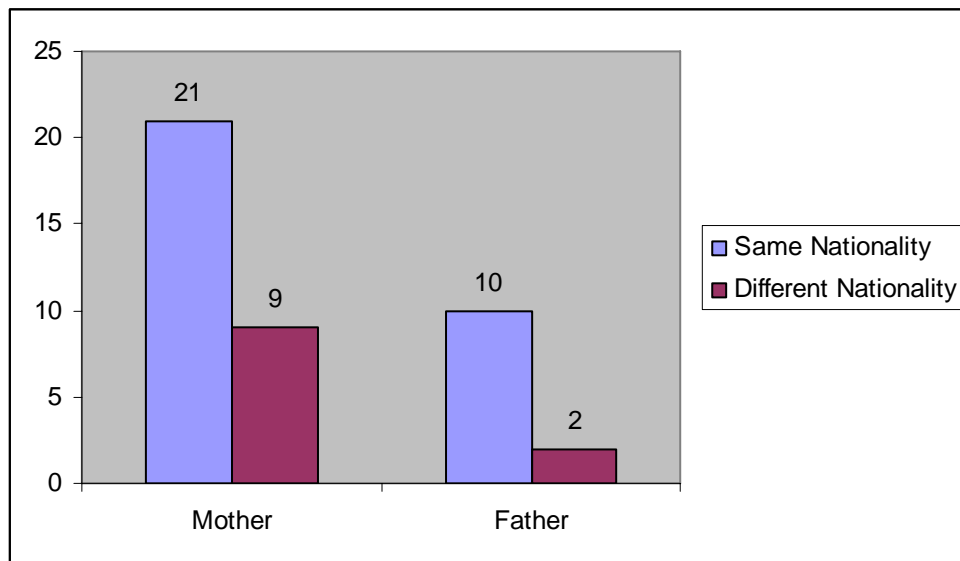
In 9 access applications (69%) the respondents were French. This proportion is higher than the 2003 global average of 53% and is a considerable increase on the 40% of respondents who were recorded as French in the 1999 survey.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	21	10	31
Different Nationality	9	2	11
Total	30	12	42



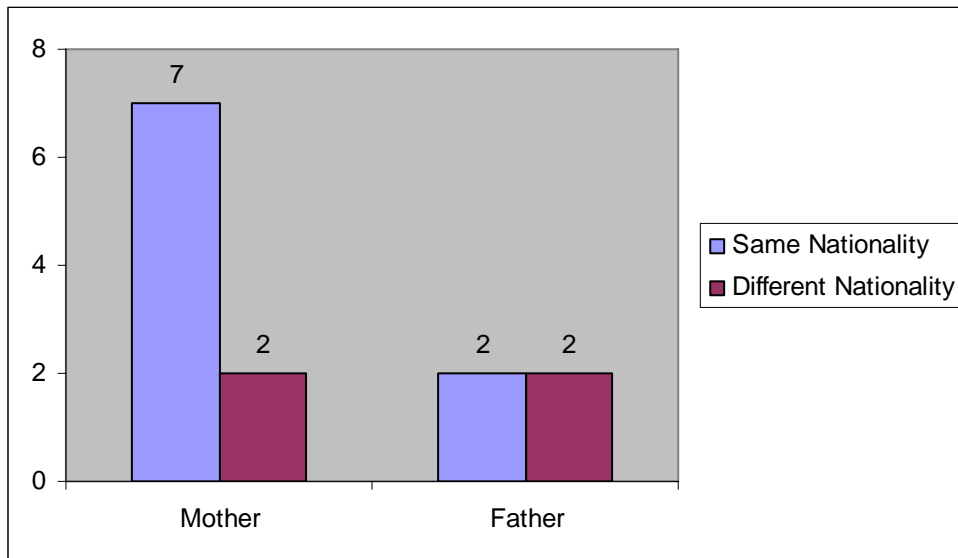
Unlike in 1999, in relation to both mothers and fathers, the taking person was more often recorded as having the same nationality as the requested State. Indeed, 21 out of 30 (70%) mothers and 10 out of 12 (83%) fathers were French. This may indicate that they were attempting to take the child 'home' when they took the child from their country of habitual residence.

These figures are higher than the 2003 global average where 54% of mothers and 55% of fathers were nationals of the requested State. The 1999 survey recorded that 46% of females and 53% of males were French.

(b) Incoming access applications

Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	7	2	9
Different Nationality	2	2	4
Total	9	4	13



In access applications received by France, 7 out of 9 (78%) respondent mothers and 2 out of 4 (50%) respondent fathers were French nationals. This can be compared with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State. In 1999, 39% of female respondents and 50% of male respondents were French.

The children

7. The total number of children

(a) Incoming return applications

There were 60 children involved in the 42 incoming return applications in 2003. This can be compared with the total of 57 children being involved in the 42 return applications in 1999. In 2003, on average 1.43 children were involved in return applications. Proportionally, this represents an increase in the average number (1.36) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 15 children involved in the 13 incoming access applications in 2003. This can be compared with the total of 20 children involved in the 15 access applications in 1999. In 2003, on average 1.15 children were involved in access applications. Proportionally, this is a decrease in the average number (1.33) of children per return application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	27	64%
Sibling Group	15	36%
Total	42	100%

Number of Children

	Number	Percent
1 Child	26	62%
2 Children	14	33%
3 Children	2	5%
Total	42	100%

The proportion of single children involved in applications for return, 64%, compares with the global average of 67%. In 1999, 71% of return applications to France involved single children. As in 1999, there was one case involving 3 children. However, unlike in 1999, there was no application concerning a sibling group of 4 or more children.

As in 1999, the proportion of applications involving one or 2 children was 95%. Globally in 2003, it was found that 93% of applications involved one or 2 children.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	11	85%
Sibling Group	2	15%
Total	13	100%

Number of Children

	Number	Percent
1 Child	11	85%
2 Children	2	15%
Total	13	100%

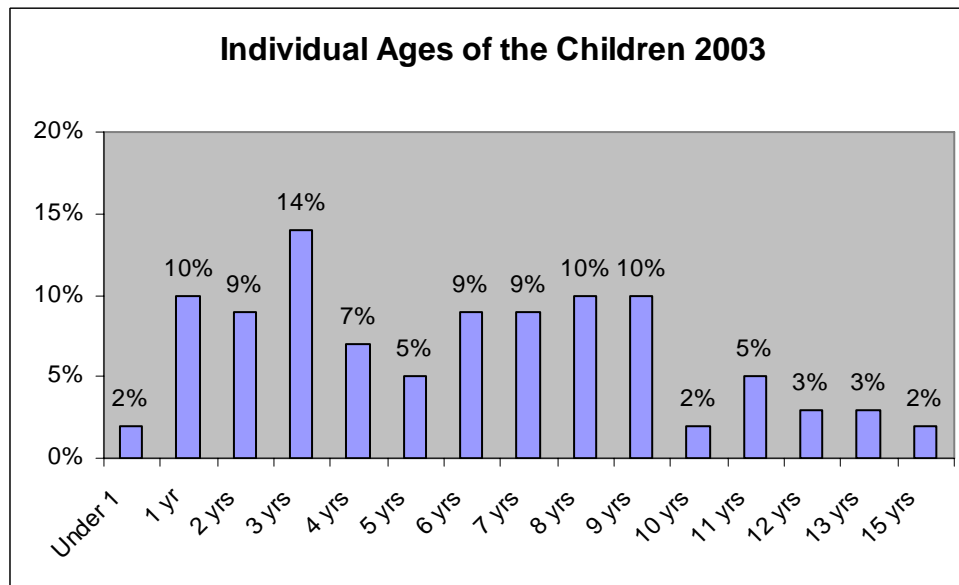
For access applications the proportion of single children, 85%, is above the global average of 71%. In 1999, the proportion of single children involved in access applications to France was 67%.

9. The age of the children

(a) Incoming return applications³

Individual Ages 2003

	Number	Percent
Under 1	1	2%
1 yr	6	10%
2 yrs	5	9%
3 yrs	8	14%
4 yrs	4	7%
5 yrs	3	5%
6 yrs	5	9%
7 yrs	5	9%
8 yrs	6	10%
9 yrs	6	10%
10 yrs	1	2%
11 yrs	3	5%
12 yrs	2	3%
13 yrs	2	3%
15 yrs	1	2%
Total	58	100%



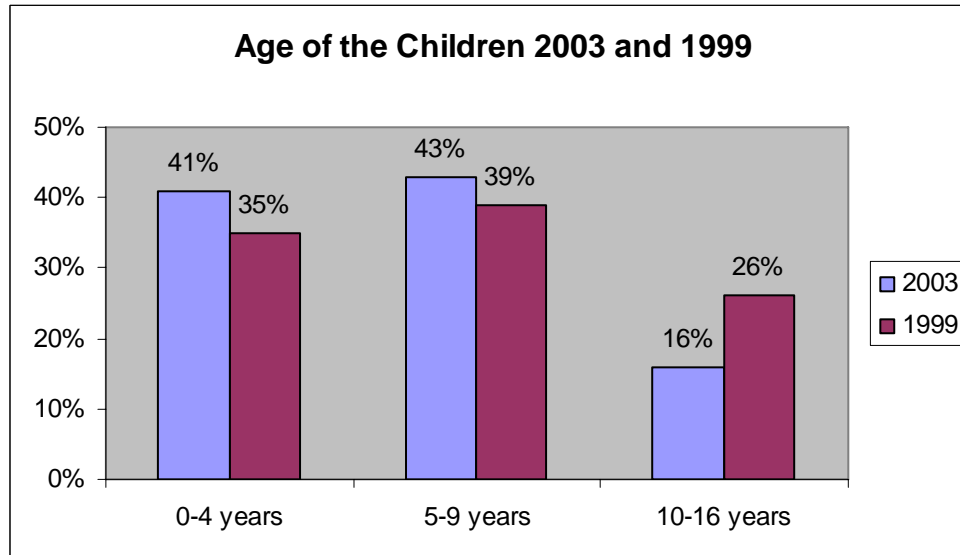
The above table and chart show the ages of the individual children involved. 54% of children were between ages 1 and 6, which is in line the 2003 global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

³ This information was not available in relation to 2 children.

Age Band of the Children 2003

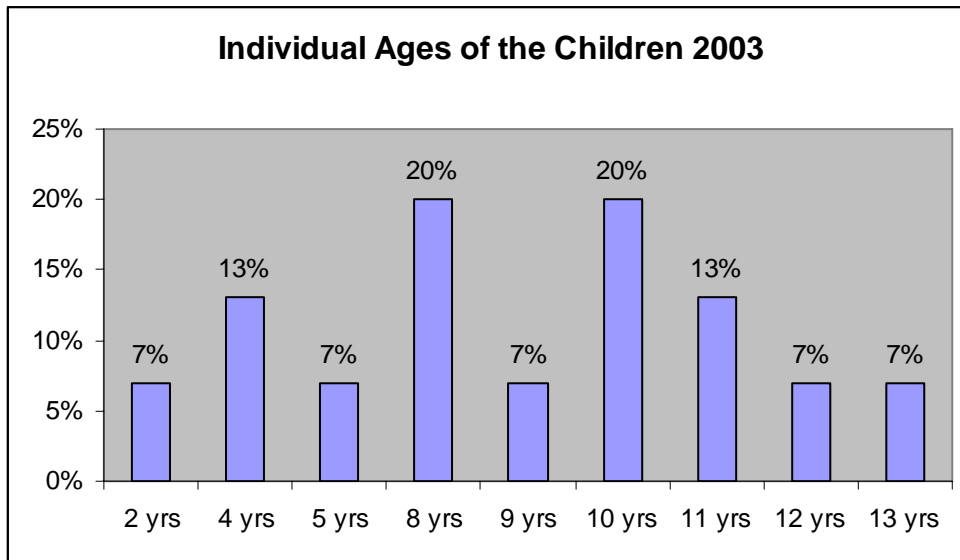
	Number	Percent
0-4 years	24	41%
5-9 years	25	43%
10-16 years	9	16%
Total	58	100%



Of the 58 children included, 43% were aged between 5-9 years, compared with 39% in 1999. This compares with the 2003 global average of 42%. The number of children aged between 0-4 years rose from 35% in 1999 to 41% in 2003 which is above the global average of 36%. On the other hand, the proportion of children aged between 10-16 years dropped from 26% to 16% which is below the global average of 22%.

(b) Incoming access applications**Individual Ages 2003**

	Number	Percent
2 yrs	1	7%
4 yrs	2	13%
5 yrs	1	7%
8 yrs	3	20%
9 yrs	1	7%
10 yrs	3	20%
11 yrs	2	13%
12 yrs	1	7%
13 yrs	1	7%
Total	15	~100%

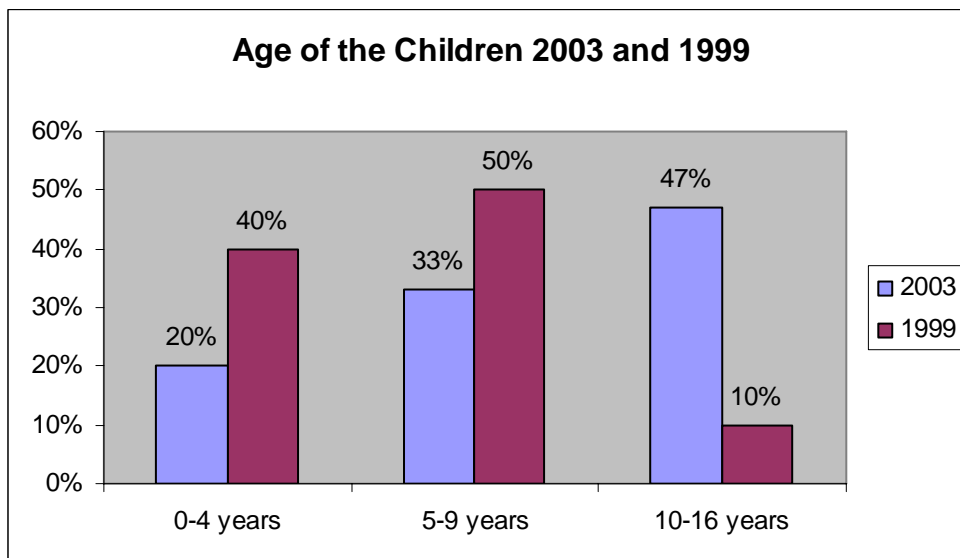


The above table and chart show the ages of the individual children involved. Only 27% of access applications involved 1 - 6 year olds compared with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	3	20%
5-9 years	5	33%
10-16 years	7	47%
Total	15	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 33% of children were aged between 5 and 9 years old compared with 50% in 1999. Globally in 2003, 46% of children were aged between 5 and 9 years. The number of children aged between 0 and 4 years decreased from 40% in 1999 to 20% in

2003. Conversely, the proportion of older children, aged between 10 and 16, increased markedly, from 10% in 1999 to 47% in 2003. This can be compared with 34% globally.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	30	50%
Male	30	50%
Total	60	100%

The proportion of female (50%) and male (50%) children is in line with the global averages of 51% and 49% respectively. This can be compared with the 1999 survey where only 33% were female and 67% were male.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	9	60%
Male	6	40%
Total	15	100%

60% of children were female. This can be compared with the global average of 45%. In 1999, 55% were female.

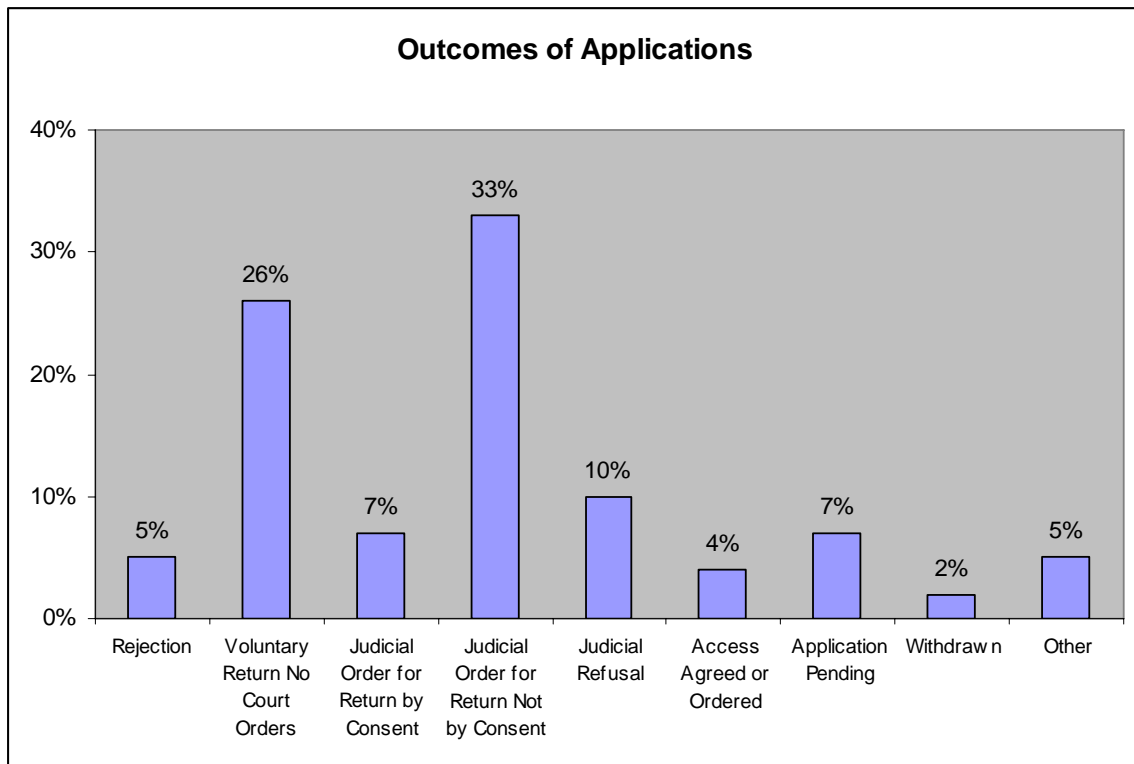
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	2	5%
Voluntary Return No Court Orders	11	26%
Judicial Order for Return by Consent	3	7%
Judicial Order for Return Not by Consent	14	33%
Judicial Refusal	4	10%
Access Agreed or Ordered	2	4%
Application Pending	3	7%
Withdrawn	1	2%
Other	2	5%
Total	42	~100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In France in 2003, 3 (7%) judicial return orders were made with consent and 14 (33%) without consent.

Overall, 66% of applications made to France ended in the child being returned either by a court order or voluntarily, which is above the global average return rate of 51%. Similarly, the proportions of voluntary returns and judicial returns (26% and 40% respectively) are well above the global averages of 22% and 29% respectively.

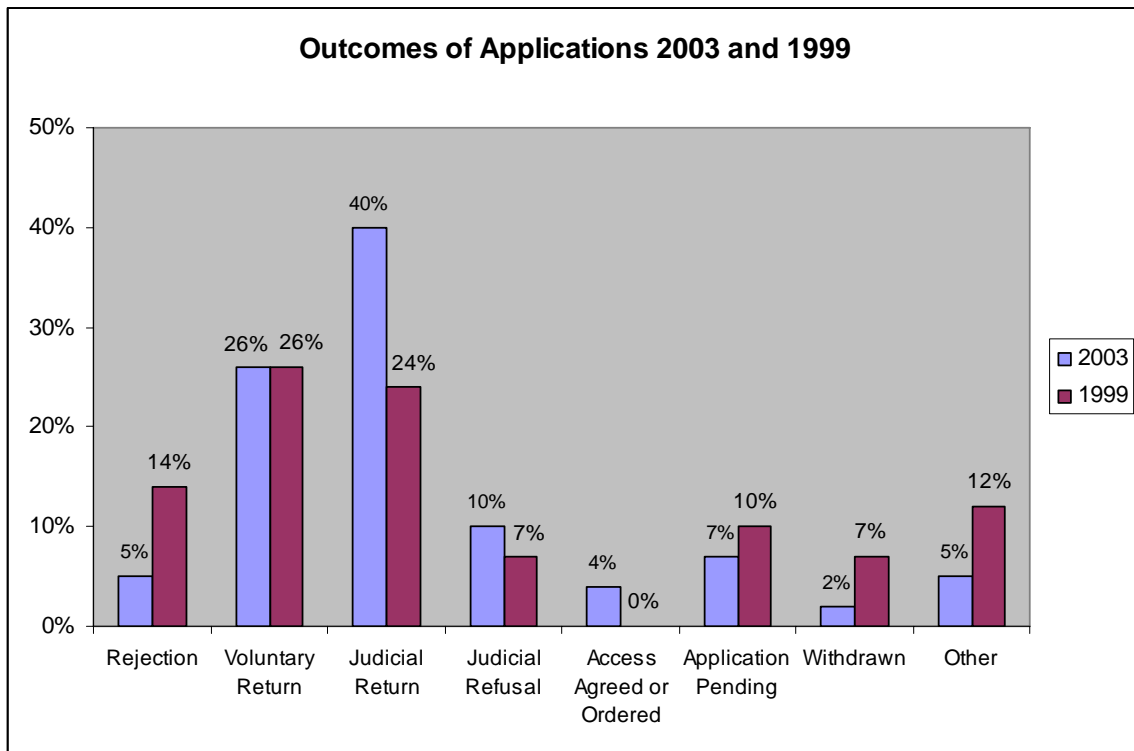
21 applications (50%) went to court. Of these cases, 17 (81%) resulted in return being ordered and 4 (19%) in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁴

At 2%, the withdrawal rate is below the global average of 15%. As of 30th June 2005, 3 (7%) applications were still pending, as opposed to the global average of 9%. 2 applications (4%) resulted in access being agreed or ordered, compared with 3% globally.

In 2 applications the child was 're-abducted' by the applicant back to the requesting State.⁵

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁵ Both recorded as 'other' outcome.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

The figures show that unlike in the 1999 survey, judicial return was the most common outcome for an application, with a total of 17 (40%) applications. This represents an increase on the proportion of return orders (24%) made in 1999.

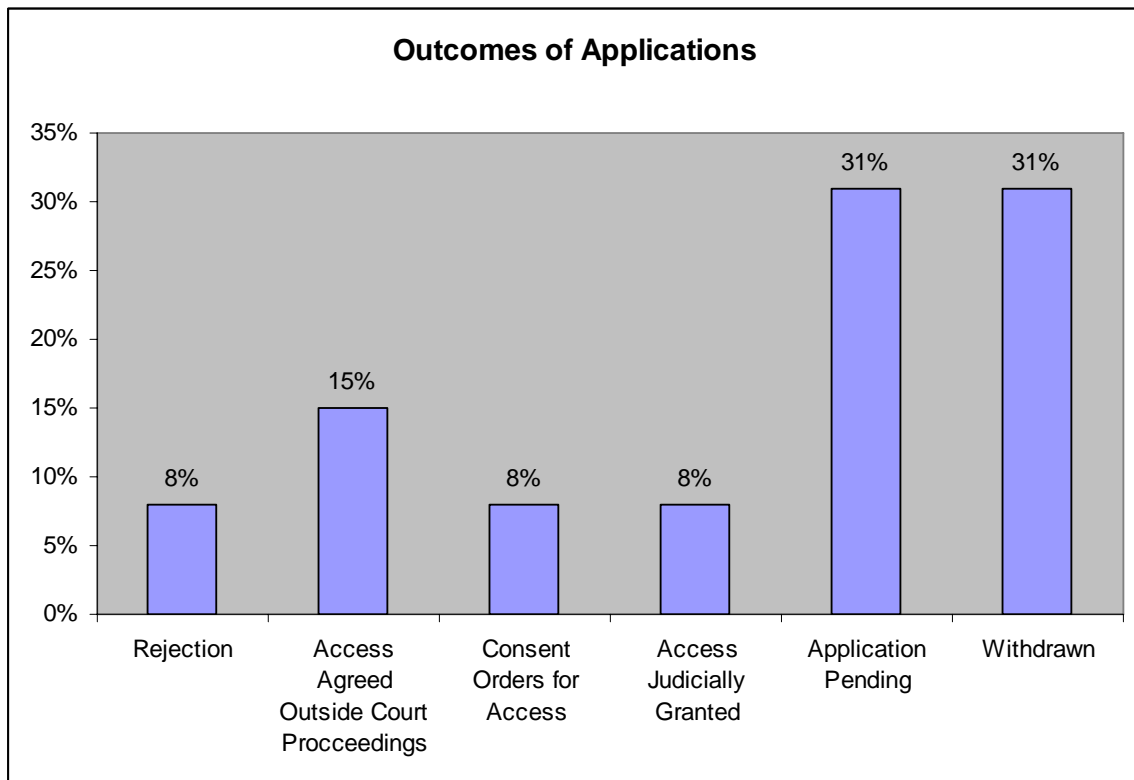
In 1999, the most common outcome was voluntary return. 11, 26% of applications were resolved voluntarily, which was the same proportion of voluntary returns as in 2003. However, the overall return rate was higher in 2003 (66%), compared with 50% in 1999.

Overall, 21 (50%) of all applications went to court, which represents an increase on the 13 (31%) of cases recorded in the 1999 survey. Of these cases, 4 (19%) were judicially refused, compared with 3 (7%) in 1999.

(b) Incoming access applications

Outcome of the Application

	Number	Percent
Rejection	1	8%
Access Agreed Outside Court Proceedings	2	15%
Consent Orders for Access - domestic law	1	8%
Access Judicially Granted - Under domestic law	1	8%
Application Pending	4	31%
Withdrawn	4	31%
Total	13	~100%



4 of the 13 applications, 31%, were withdrawn, compared with 22% globally and 33% in 1999. According to the Central Authority for France, in all these applications the reason for withdrawal was lack of response from the applicants.

In 2 (15%) applications access was agreed outside court proceedings, compared with 3 (20%) in 1999. Both of the applications in which access was granted (with or without consent) were resolved under domestic law. Globally in 2003, 13% of access applications resulted in a voluntary settlement of access and 20% resulted in access being judicially granted (with or without consent). As in 1999 there were no judicial refusals. It is to be noted that 4 (31%) applications were still pending as at 30th June 2005.

12. The reasons for rejection

(a) Incoming return applications

There were 2 applications rejected by France. Globally in 2003, 6% of return applications were rejected. The first application involved a sibling group and was rejected on the ground that the children were not located. The other refusal was based on Article 27. In contrast, in 1999, 6 applications were rejected by the French Central Authority. 5 of them were based on the location of the child and one because the applicant had no rights of custody.

(b) Incoming access applications

One access application was rejected as opposed to none in 1999. Globally in 2003, 13% of access applications were rejected. The reason for the one rejection was that the access order was to be enforced under the Luxembourg Convention rather than the Hague Convention.⁶

⁶ Recorded as 'other'.

13. The reasons for judicial refusal

(a) Incoming return applications

Of the 21 applications which went to court, 4 (19%) were refused. In 1999, only one application was refused. The most commonly relied upon exception (2, 50%) was that the applicant had no rights of custody. This can be compared with the 1999 survey where the one return application was refused on the same ground. In addition, in 2003, one refusal was based on Article 13 *b*) and one that the child was not habitually resident in the requesting State. Globally in 2003, 18% of refusals were based on the former and 15% on the latter reason.

14. The reasons for judicial refusals and the relationship of the taking person

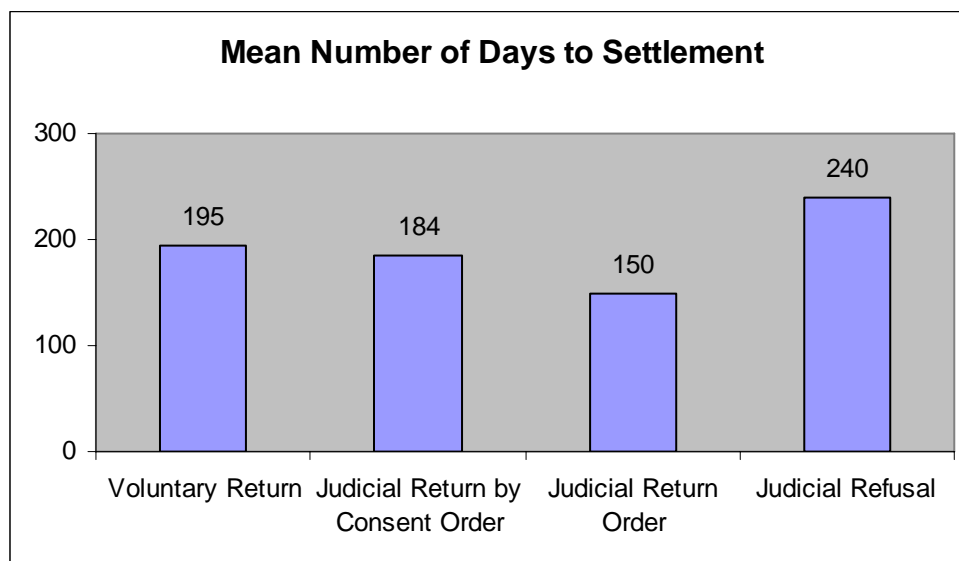
(a) Incoming return applications

Overall, in 3 of the 4 refusals, 75%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall. Conversely, in one of the 4 refusals, 25%, the taking person was father. Globally in 2003, 21% of refusals involved fathers.

Speed

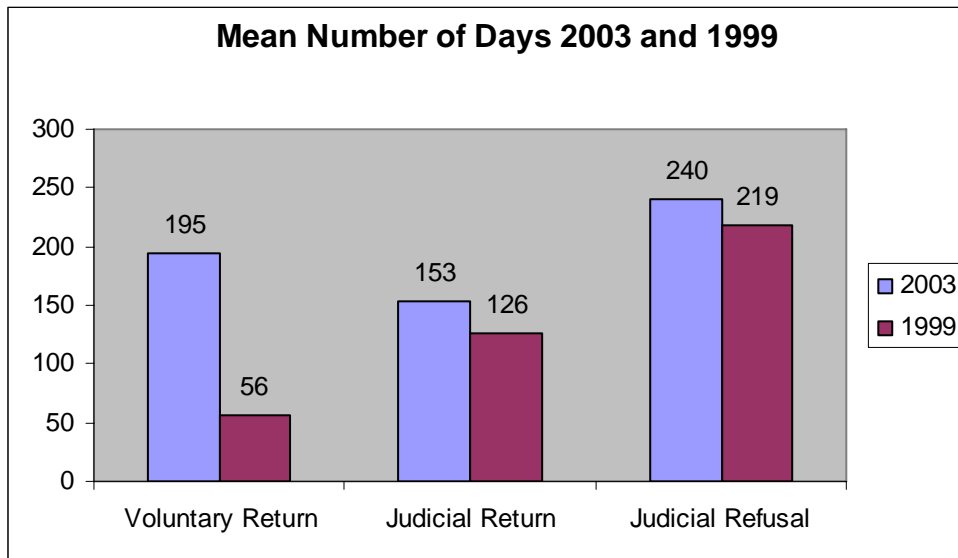
15. The time between application and outcome

(a) Incoming return applications⁷



Surprisingly, return orders without consent were resolved quicker than orders made with consent, 150 days compared with 184 days. This can be compared with the global averages of 143 days and 85 days respectively. Judicial refusals took on average 240 days to reach final outcome, which compares with the global average of 233 days. The speed of voluntary returns, averaging 195 days, was slower than the global mean of 98 days.

⁷ This information was not available in relation to 2 judicial returns and 6 voluntary returns.



The chart above shows that judicial returns were resolved in a combined average of 153 days compared with 126 days in 1999. Judicial refusals took a mean average of 240 days as against 219 days in 1999. Voluntary returns took a mean average of 195 days to reach the outcome, compared with 56 days in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	195	184	150	240
Median	147	144	146	165
Minimum	21	109	25	99
Maximum	517	300	370	529
Number of Cases	5	3	12	4

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in France. The fastest judicial decision, a judicial return without consent, was made in 150 days, the slowest, a judicial refusal, was made in 529 days. The quickest voluntary return was resolved in 21 days but the slowest took 517 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	50	240
Median	38	165
Minimum	28	99
Maximum	85	529
Number of cases	3	4

As can be seen, in relation to judicial refusals the exclusion of appealed cases does not affect the overall mean average taken to reach final outcomes. However, in relation to judicial returns, there is a difference of 100 days in the mean average before and after the exclusion of appealed cases.

(a) Incoming access applications⁸

The applications where access was agreed voluntarily took a mean average of 46 days, as opposed to 245 days globally. This was notably quicker than in 1999, where 2 out of 3 voluntary settlements, took over 6 months to reach a conclusion. The one application that resulted in a consent order for access took 206 days to reach the final outcome. 4 applications were still pending as at 30th June 2005.

16. Appeals

(a) Incoming return applications

Appeals				
		Appellate Final Judicial Decision		Total
		Return	Refusal	
Return		9	0	9
Refusal		1	0	1
Total		10	0	10

Of the 21 applications which went to court, 10 (48%) were appealed. Globally, just 22% of all cases which went to court were appealed. All 10 applications were judicially granted upon an appeal. In 9 of these decisions the appellate court upheld first instance decisions and in the remaining one case the appellate court overruled the first instance decision. These applications took a mean average of 174 days to make the final return order. In 1999, of the 13 applications which went to court, 4 (31%) were appealed. In 3 cases a return order was made but in the fourth return was refused.

(b) Incoming access applications

None of the incoming access applications was appealed.

⁸ This information was not available in relation to the one case where access was judicially granted.

FRANCE

Les demandes

1. Nombre de demandes

Demandes de retour reçues	42
Demandes de droit de visite reçues	13
Demandes de retour envoyées	57
Demandes de droit de visite envoyées	15

D'après l'Autorité centrale française, en 2003, la France a reçu 42 demandes de retour et 13 demandes de droit de visite, soit 55 demandes au total. Cela traduit une légère baisse par rapport aux 57 demandes reçues en 1999 (dont 42 pour un retour et 15 pour un droit de visite). Le rapport entre les demandes de retour et les demandes de droit de visite reçues est de 76% contre 24%, alors que les résultats d'ensemble révèlent un rapport de 84% contre 16%.

En outre, l'Autorité centrale a envoyé 57 demandes de retour¹ et 15 demandes de droit de visite en 2003. Cela traduit une hausse par rapport aux 43 demandes de retour et aux 7 demandes de droit de visite envoyées en 1999.

En tout et pour tout, l'Autorité centrale française a traité 127 nouvelles demandes en 2003, contre 107 nouvelles demandes en 1999.

Dans l'ensemble, 43% de demandes ont été reçues pour 57% de demandes envoyées.

2. Etats contractants qui ont envoyé des demandes

i. Demandes de retour reçues

Etats requérants en 2003

	Nombre	Taux
Etats-Unis	9	21%
Canada	5	12%
RU – Angleterre & Pays de Galles	5	12%
Suisse	4	10%
Belgique	3	7%
Allemagne	3	7%
Italie	2	5%
Suède	2	5%
Argentine	1	2%
République tchèque	1	2%
Finlande	1	2%
Grèce	1	2%
Israël	1	2%
Luxembourg	1	2%
Mexique	1	2%
Espagne	1	2%
Turquie	1	2%
Total	42	~100%

¹ Ceci est le nombre total de demandes sur la base des informations fournies par l'Autorité centrale, c-à-d le nombre de demandes qu'elle a envoyées. Ces demandes peuvent ne pas avoir été transmises à l'Autorité centrale étrangère ; en 2003, par exemple, certaines demandes peuvent avoir été retirées avant leur transmission ou elles peuvent ne pas avoir été envoyées à l'Autorité centrale étrangère (ou reçues par celle-ci) avant le 31 décembre 2003.

Etats requérants par rapport à 1999

	Nombre de demandes en 2003	Nombre de demandes en 1999
Etats-Unis	9 (21%)	5 (12%)
Canada	5 (12%)	4 (10%)
RU – Angleterre & Pays de Galles	5 (12%)	6 (14%)
Suisse	4 (10%)	3 (7%)
Belgique	3 (7%)	0 (0%)
Allemagne	3 (7%)	6 (14%)
Italie	2 (5%)	4 (10%)
Suède	2 (5%)	1 (2%)
Argentine	1 (2%)	0 (0%)
République tchèque	1 (2%)	0 (0%)
Finlande	1 (2%)	1 (2%)
Grèce	1 (2%)	0 (0%)
Israël	1 (2%)	1 (2%)
Luxembourg	1 (2%)	0 (0%)
Mexique	1 (2%)	1 (2%)
Espagne	1 (2%)	3 (7%)
Turquie	1 (2%)	0 (0%)
Australie	0 (0%)	2 (5%)
Pays-Bas	0 (0%)	2 (5%)
Norvège	0 (0%)	1 (2%)
RU - Ecosse	0 (0%)	1 (2%)
Maurice	0 (%)	1 (2%)
Total	42 (~100%)	42 (~100%)

La France a reçu des demandes de retour de 17 Etats contractants, contre 16 en 1999. Les Etats-Unis ont envoyé le plus grand nombre de demandes (21%). Cela traduit une hausse du nombre de demandes des Etats-Unis (9 demandes contre 5 en 1999). Le nombre de demandes envoyées par l'Angleterre et le Pays de Galles et l'Allemagne a baissé de 6 (14% chacun) en 1999 à respectivement 5 (12%) et 3 (7%) en 2003. Il est intéressant de constater qu'en 1999, l'Australie et les Pays-Bas avaient envoyé 2 demandes, mais aucune en 2003.

Etats requérants membres de l'UE en 2003

	Nombre	Taux
RU – Angleterre et Pays de Galles	5	25%
Belgique	3	15%
Allemagne	3	15%
Italie	2	10%
Suède	2	10%
République tchèque	1	5%
Finlande	1	5%
Grèce	1	5%
Luxembourg	1	5%
Espagne	1	5%
Total	20	100%

Le tableau ci-dessus montre le nombre de demandes reçues par les Etats qui sont actuellement membres de l'UE². Ces Etats ont envoyé 20 demandes sur les 42 reçues par la France, soit 48% du total des demandes.

ii. **Demandses de droit de visite reçues**

Etats requérants en 2003

	Nombre	Taux
Italie	2	15%
Suisse	2	15%
RU – Angleterre et Pays de Galles	2	15%
Etats-Unis	2	15%
Belgique	1	8%
Finlande	1	8%
Mexique	1	8%
Pays-Bas	1	8%
Suède	1	8%
Total	13	100%

Etats requérants par rapport à 1999

	Nombre de demandes en 2003	Nombre de demandes en 1999
Italie	2 (15%)	3 (20%)
Suisse	2 (15%)	0 (0%)
RU – Angleterre & Pays de Galles	2 (15%)	0 (0%)
Etats-Unis	2 (15%)	1 (7%)
Belgique	1 (8%)	0 (0%)
Finlande	1 (8%)	0 (0%)
Mexique	1 (8%)	0 (0%)
Pays-Bas	1 (8%)	1 (7%)
Suède	1 (8%)	0 (0%)
Allemagne	0 (0%)	3 (20%)
Danemark	0 (0%)	2 (13%)
Australie	0 (0%)	1 (7%)
Pologne	0 (0%)	1 (7%)
Espagne	0 (0%)	1 (7%)
Israël	0 (0%)	1 (7%)
Canada	0 (0%)	1 (7%)
Total	13 (100%)	15 (~100%)

La France a reçu 13 demandes de droit de visite, envoyées par plusieurs Etats contractants. Il est marquant qu'aucune demande ne provienne du Canada, vu le grand nombre de demandes de retour envoyées par cet Etat. L'Italie a envoyé 2 demandes (15%), contre 3 (20%) en 1999. Il est surprenant qu'aucune demande ne soit reçue de l'Allemagne, qui avait envoyé 3 demandes (20%) en 1999. D'autre part, 2 demandes (15%) provenaient de la Suisse et de l'Angleterre et du Pays de Galles, alors qu'en 1999, ces Etats contractants n'avaient envoyé aucune demande. Plus de la moitié des demandes (62%) a été envoyée par des Etats qui sont aujourd'hui membres de l'UE.

² Ces chiffres se réfèrent à l'Union européenne depuis 2006 par rapport à 2003. Les membres actuels de l'UE sont l'Allemagne, l'Autriche, la Belgique, Chypre, le Danemark, l'Espagne, l'Estonie, la Finlande, la France, la Grèce, la Hongrie, l'Irlande, l'Italie, la Lettonie, la Lituanie, le Luxembourg, Malte, les Pays-Bas, la Pologne, le Portugal, la République tchèque, le Royaume-Uni, la Slovaquie, la Slovénie et la Suède.

Si l'on combine les demandes de retour et de droit de visite, les 5 Etats contractants qui ont envoyé le plus de demandes à la France sont :

- | | |
|---------------------------------|-----------|
| 1. Etats-Unis | 11 |
| 2. Angleterre et Pays de Galles | 7 |
| 3. Suisse | 6 |
| 4. Canada | 5 |
| 5. Belgique, Italie | 4 chacune |

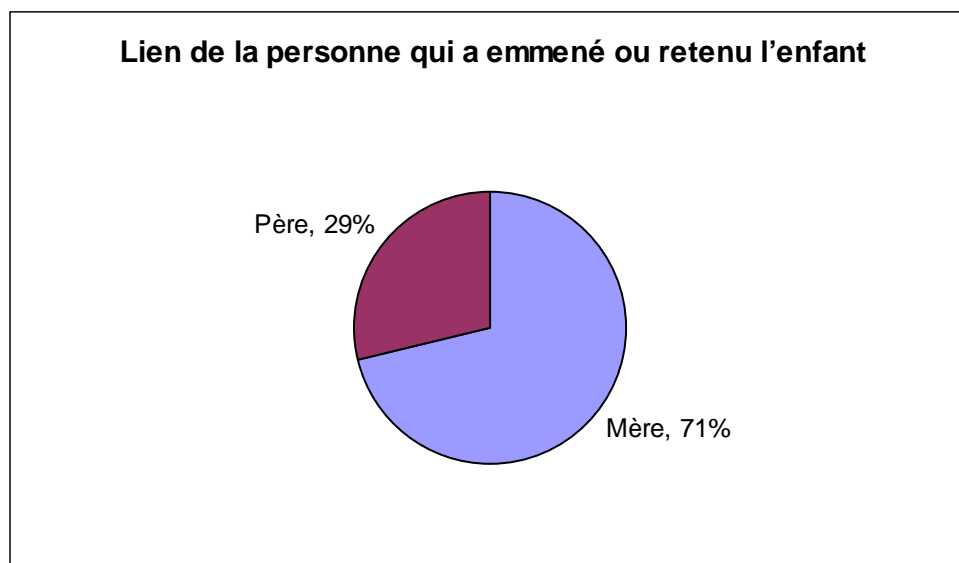
La personne qui a emmené ou retenu / le défendeur

3. Lien de la personne qui a emmené ou retenu / le défendeur

(a) Demandes de retour reçues

Lien de la personne qui a emmené ou retenu l'enfant

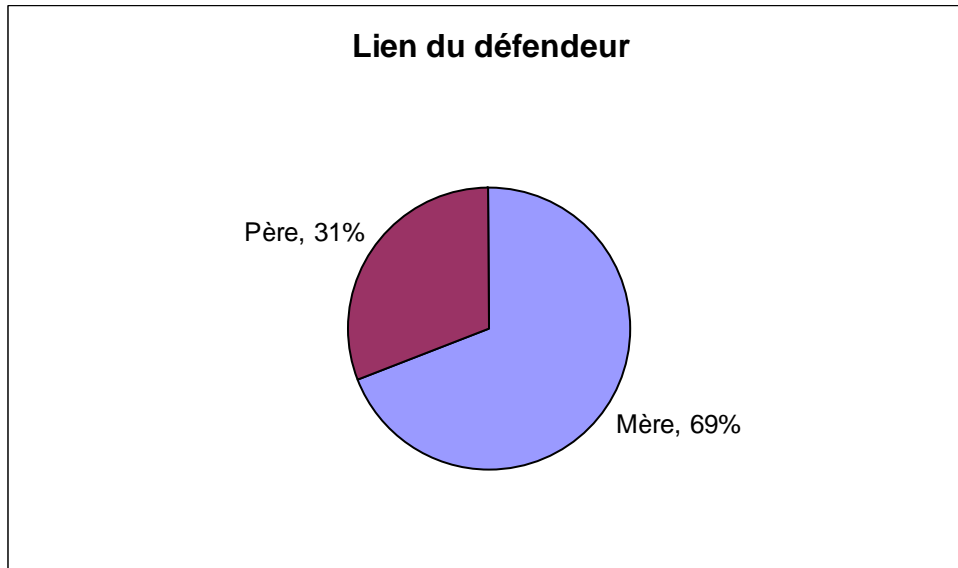
	Nombre	Taux
Mère	30	71%
Père	12	29%
Total	42	100%



L'étude de 2003 a cherché à obtenir des informations sur le lien entre l'enfant et la personne qui l'a emmené ou retenu, alors qu'en 1999 on ne s'intéressait qu'au sexe de la personne qui a emmené ou retenu l'enfant (homme, femme ou couple). 71% des personnes qui ont emmené ou retenu l'enfant étaient mères. Cela traduit une légère hausse par rapport à la moyenne générale de 68%, et peut être rapproché du taux relevé en 1999 de 64% de femmes qui ont emmené ou retenu l'enfant.

(b) Demandes de droit de visite reçues**Lien du défendeur**

	Nombre	Taux
Mère	9	69%
Père	4	31%
Total	13	100%



Dans 9 demandes de droit de visite (69%), la mère était défenderesse. Ce taux est inférieur au taux global de 79% ainsi qu'au taux de 87% de défenderesses en 1999.

4. Attributs de la personne qui a emmené ou retenu l'enfant par rapport à la responsabilité de l'enfant

(a) Demandes de retour reçues

La France n'a pas communiqué si les personnes qui ont emmené ou retenu l'enfant étaient ou non responsables de celui-ci.

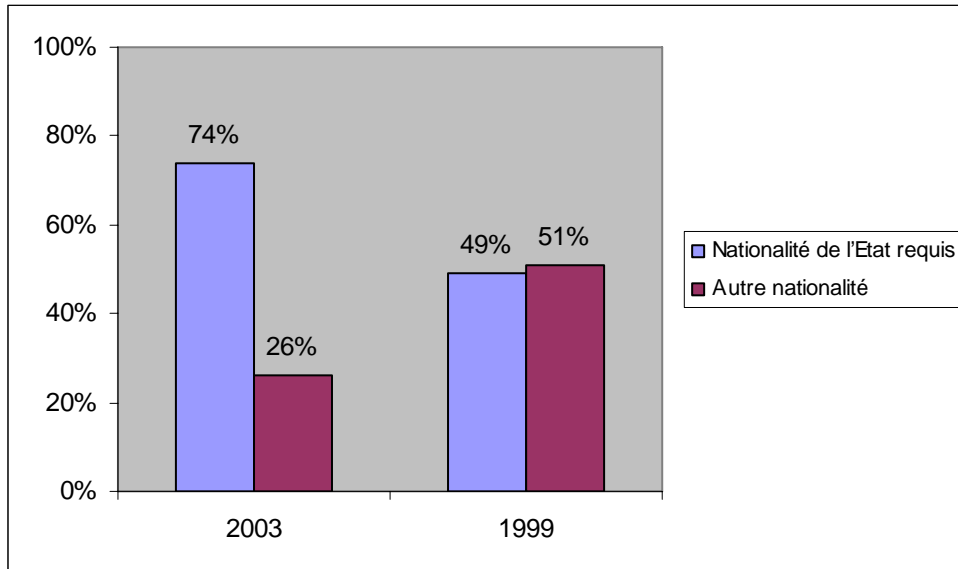
5. Nationalité de la personne qui a emmené ou retenu l'enfant / défendeur

(a) Demandes de retour reçues

La personne qui a emmené ou retenu l'enfant a la nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	31	74%
Autre nationalité	11	26%
Total	42	100%

Ce tableau montre que dans 74% des demandes, la personne qui a emmené ou retenu l'enfant était française (dont 3 personnes avec une double nationalité) et dans 26% des demandes, elle avait une autre nationalité. Cela diffère des taux d'ensemble respectifs de 55% et 45%.

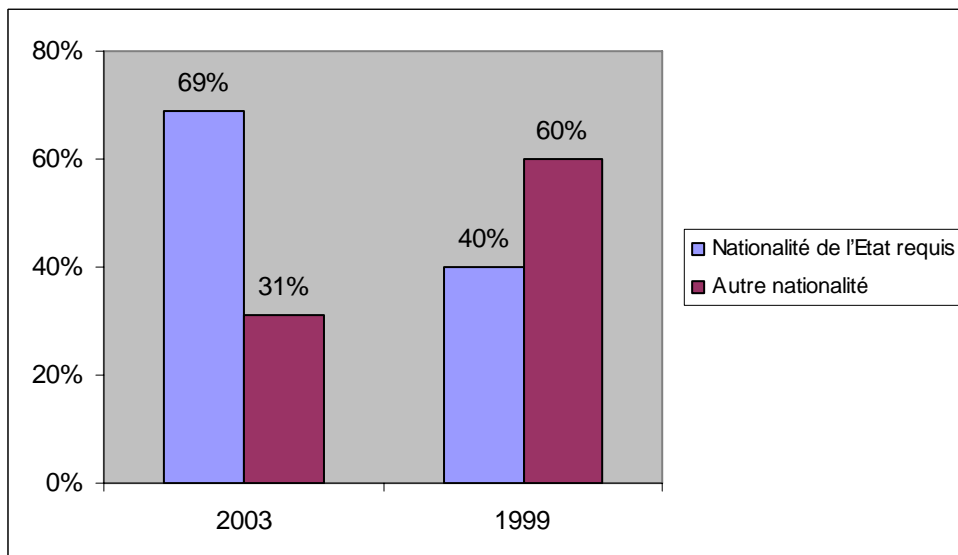


Le graphique ci-dessus compare les taux de 2003 relatifs à la nationalité avec ceux de 1999. Comme le montre le graphique, le taux de français qui ont emmené ou retenu l'enfant en France a augmenté de 49% en 1999 à 74% en 2003.

(b) Demandes de droit de visite reçues

Le défendeur a la nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	9	69%
Autre nationalité	4	31%
Total	13	100%



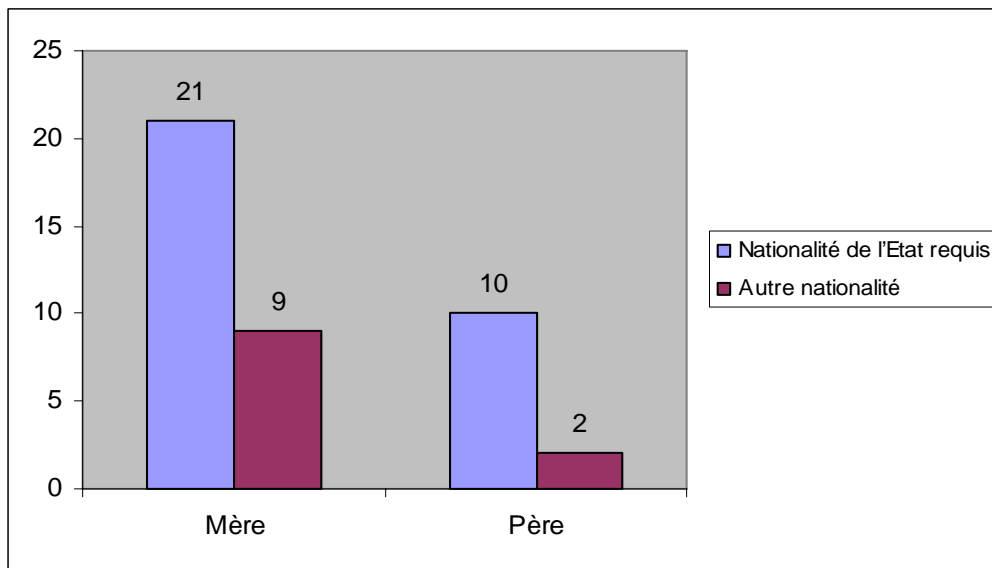
Dans 9 demandes (69%), les défendeurs étaient français. Ce taux est supérieur à la moyenne générale de 53% pour 2003 et nettement supérieur au taux de défendeurs qui avaient la nationalité de l'Etat requis en 1999.

6. Nationalité et lien de la personne qui a emmené ou retenu l'enfant / le défendeur (combinés)

(a) Demandes de retour reçues

Nationalité et lien de la personne qui a emmené ou retenu l'enfant

	Lien de la personne qui a emmené ou retenu l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	21	10	31
Autre nationalité	9	2	11
Total	30	12	42



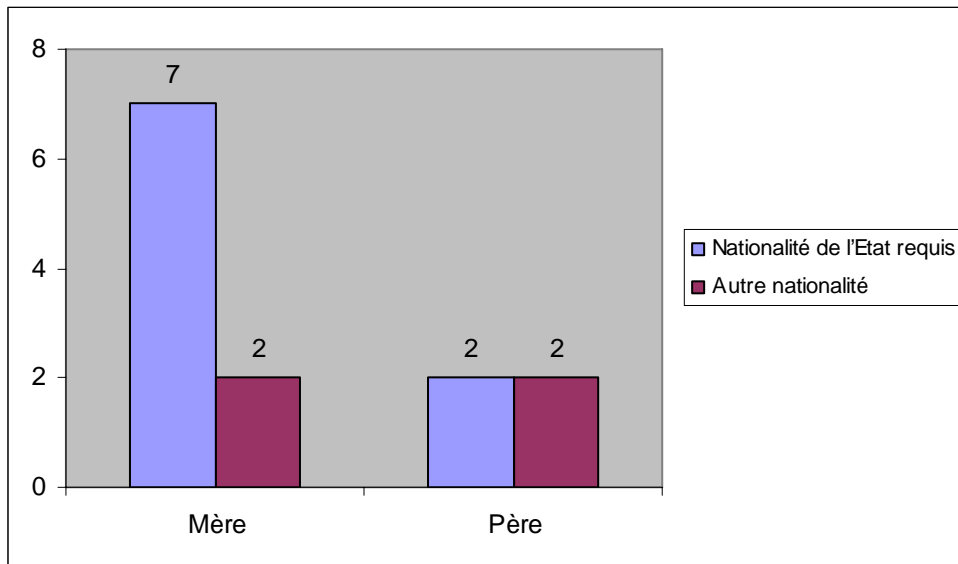
Contrairement à 1999, les mères et les pères qui ont emmené ou retenu l'enfant avaient le plus souvent la nationalité de l'Etat requis. En effet, 21 mères sur 30 (70%) et 10 pères sur 12 (83%) étaient français. Ceci indique qu'ils ont essayé d'emmener l'enfant « chez eux » lorsqu'ils le déplaçaient hors de son pays de résidence habituelle.

Ces chiffres sont supérieurs aux moyennes globales pour 2003 de 54% de mères et 55% de pères avec la nationalité de l'Etat requis. En 1999, on avait relevé 46% de femmes et 53% d'hommes français.

(b) Demandes de droit de visite reçues

Nationalité et lien du défendeur avec l'enfant

	Lien du défendeur avec l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	7	2	9
Autre nationalité	2	2	4
Total	9	4	13



Pour les demandes de droit de visite reçues par la France, 7 mères défenderesses sur 9 (78%) et 2 pères défendeurs sur 4 (50%) étaient français. Cela est à rapprocher des moyennes globales respectives de 49% de mères et 68% de pères nationaux de l'Etat requis en 2003. En 1999, 39% de défenderesses et 50% de défendeurs étaient français.

Les enfants

7. Nombre total d'enfants

(a) Demandes de retour reçues

60 enfants ont fait l'objet des 42 demandes de retour reçues en 2003. En 1999, 57 enfants au total étaient concernés par les 42 demandes de retour reçues. En 2003, il y avait en moyenne 1,43 enfants par demande de retour. Proportionnellement, cela traduit une hausse par rapport à la moyenne de 1,36 enfants par demande de retour reçue en 1999. Dans l'ensemble, en 2003, il y avait en moyenne 1,4 enfants par demande de retour.

(b) Demandes de droit de visite reçues

15 enfants ont fait l'objet des 13 demandes de droit de visite reçues en 2003. Ce chiffre est à rapprocher des 20 enfants au total concernés par les 15 demandes de droit de visite de 1999. En 2003, il y avait en moyenne 1,15 enfants par demande de droit de visite. Proportionnellement, cela traduit une baisse par rapport à la moyenne de 1,33 enfants par demande de droit de visite reçue en 1999. Dans l'ensemble, en 2003, il y avait en moyenne 1,3 enfants par demande de droit de visite.

8. Enfants uniques ou fratries

(a) Demandes de retour reçues

Enfant unique ou fratrie

	Nombre	Taux
Enfant unique	27	64%
Fratrie	15	36%
Total	42	100%

Nombre d'enfants

	Nombre	Taux
1 enfant	26	62%
2 enfants	14	33%
3 enfants	2	5%
Total	42	100%

Le taux d'enfants uniques mis en cause dans les demandes de retour (64%) est comparable au taux global de 67%. En 1999, 71% des demandes de retour reçues par la France concernaient un enfant unique. Comme en 1999, une demande s'est appliquée à 3 enfants. Par contre, contrairement à 1999, aucune demande n'a concerné une fratrie de plus de 4 enfants.

Comme en 1999, le taux de demandes relatives à 1 ou 2 enfants s'élevait à 95%. Dans l'ensemble, en 2003, 93% des demandes concernaient 1 ou 2 enfants.

(b) Demandes de droit de visite reçues**Enfant unique ou fratrie**

	Nombre	Taux
Enfant unique	11	85%
Fratrie	2	15%
Total	13	100%

Nombre d'enfants

	Nombre	Taux
1 enfant	11	85%
2 enfants	2	15%
Total	13	100%

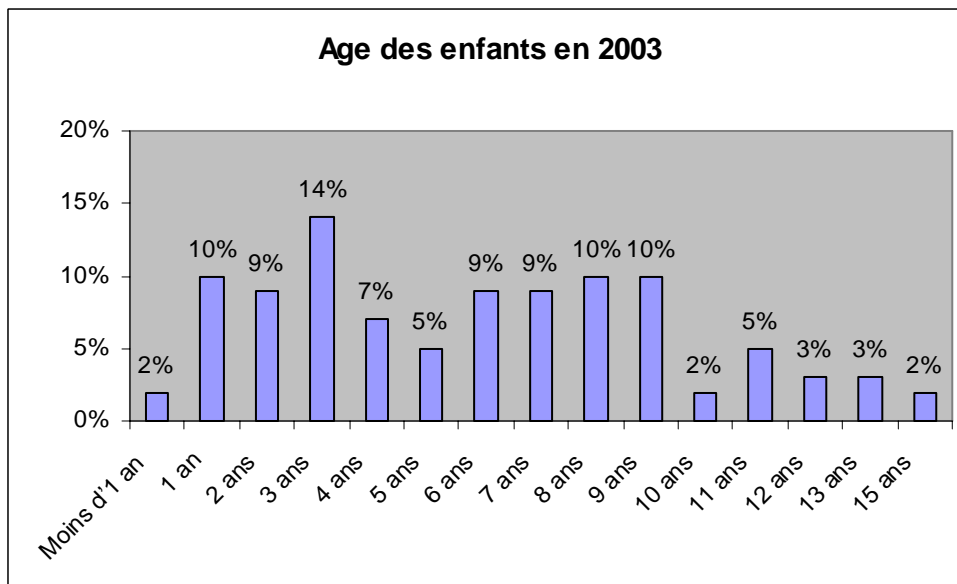
Pour les demandes de droit de visite, le taux d'enfants uniques (85%) est supérieur à la moyenne générale de 71%. En 1999, le taux d'enfants uniques dans les demandes de droit de visite reçues par la France était de 67%.

9. Age des enfants**(a) Demandes de retour reçues³**

³ Cette information n'a pas été communiquée pour 2 enfants.

Age des enfants en 2003

	Nombre	Taux
Moins d'1 an	1	2%
1 an	6	10%
2 ans	5	9%
3 ans	8	14%
4ans	4	7%
5 ans	3	5%
6 ans	5	9%
7 ans	5	9%
8 ans	6	10%
9 ans	6	10%
10 ans	1	2%
11 ans	3	5%
12 ans	2	3%
13 ans	2	3%
15 ans	1	2%
Total	58	100%

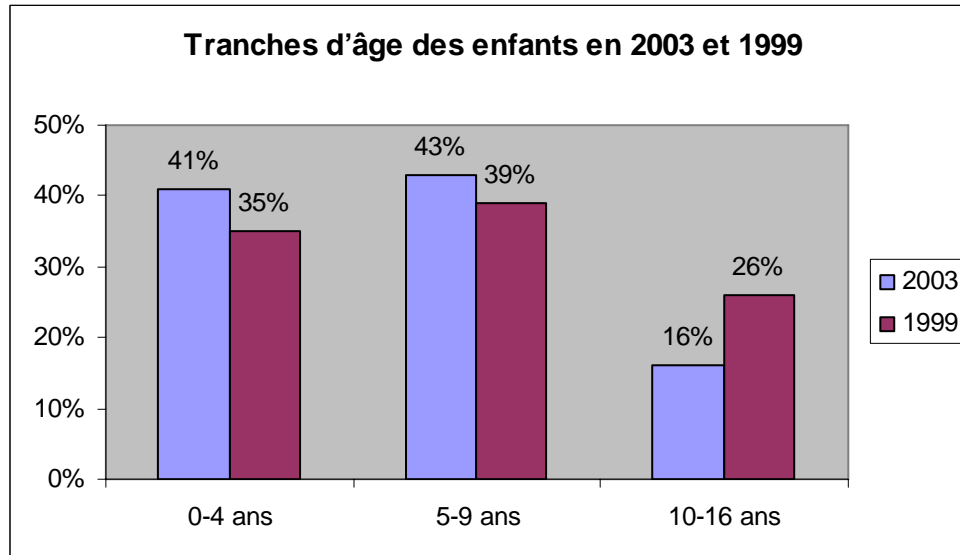


Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant faisant l'objet d'une demande. 54% des enfants étaient âgés de 1 à 6 ans, ce qui s'aligne avec la moyenne générale pour 2003 de 55%.

L'étude de 1999 n'était pas à ce niveau suffisamment détaillée pour nous permettre de comparer les résultats. Néanmoins, nous avons des données sur les tranches d'âge des enfants, lesquelles peuvent être comparées.

Tranches d'âge des enfants en 2003

	Nombre	Taux
0-4 ans	24	41%
5-9 ans	25	43%
10-16 ans	9	16%
Total	58	100%

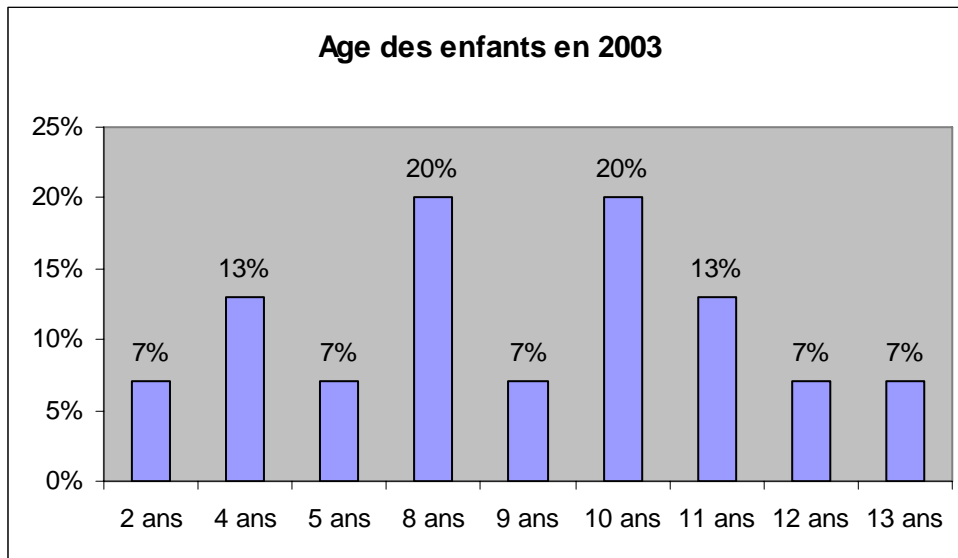


Parmi les 58 enfants, 43% étaient âgés de 5 à 9 ans, par rapport à 39% en 1999. Ce taux est à rapprocher de la moyenne globale de 42% pour 2003. Le taux d'enfants âgés de 0 à 4 ans a augmenté de 35% en 1999 à 41% en 2003, ce qui est supérieur au taux global de 36%. D'autre part, la proportion d'enfants âgés de 10 à 16 ans a baissé de 26% à 16%, ce qui est inférieur au taux global de 22%.

(b) Demandes de droit de visite reçues

Age des enfants en 2003

	Nombre	Taux
2 ans	1	7%
4 ans	2	13%
5 ans	1	7%
8 ans	3	20%
9 ans	1	7%
10 ans	3	20%
11 ans	2	13%
12 ans	1	7%
13 ans	1	7%
Total	15	~100%

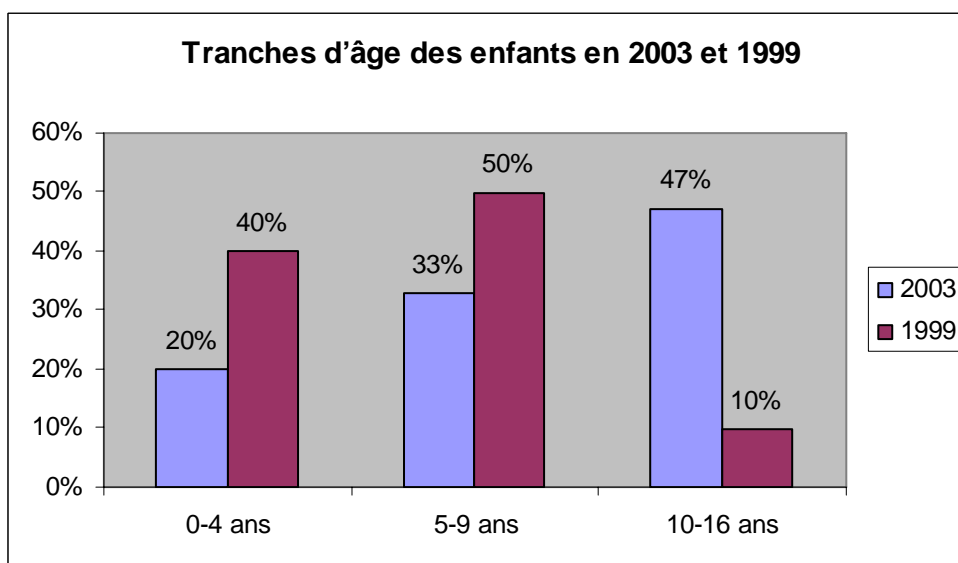


Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant. Seulement 27% des demandes de droit de visite sont relatives à des enfants âgés de 1 à 6 ans, contre une moyenne générale de 35%.

L'étude de 1999 n'était pas à ce niveau suffisamment détaillée pour nous permettre de comparer les résultats. Néanmoins, nous avons des données sur les tranches d'âge des enfants, lesquelles peuvent être comparées.

Tranches d'âge des enfants en 2003

	Nombre	Taux
0-4 ans	3	20%
5-9 ans	5	33%
10-16 ans	7	47%
Total	15	100%



Les graphiques ci-dessus comparent les informations sur les tranches d'âge des enfants pour 2003 et 1999. 33% des enfants étaient âgés de 5 à 9 ans, contre 50% en 1999. Globalement, en 2003, 46% des enfants étaient âgés de 5 à 9 ans. Le nombre d'enfants âgés de 0 à 4 ans a baissé de 40% en 1999 à 20% en 2003. Par contre, la proportion

d'enfants âgés de 10 à 16 ans a nettement augmenté, de 10% en 1999 à 47% en 2003, ce qui est à rapprocher du taux global de 34%.

10. Sexe des enfants

(a) Demandes de retour reçues

Sexe des enfants

	Nombre	Taux
Féminin	30	50%
Masculin	30	50%
Total	60	100%

Le taux de filles (50%) et de garçons (50%) s'aligne avec les taux globaux respectifs de 51% et 49%. En 1999, il y avait seulement 33% de filles contre 67% de garçons.

(b) Demandes de droit de visite reçues

Sexe des enfants

	Nombre	Taux
Féminin	9	60%
Masculin	6	40%
Total	15	100%

60% des enfants étaient des filles, ce qui est à rapprocher des 45% de moyenne générale. En 1999, il y avait 55% de filles.

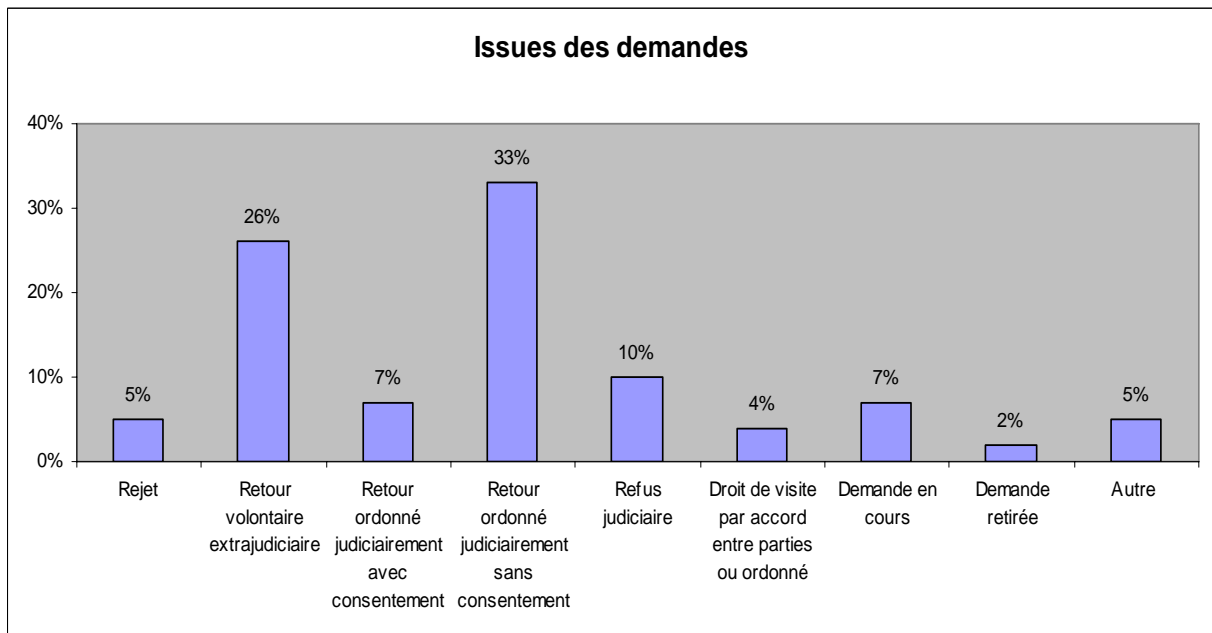
Issues des demandes

11. Issues globales

(a) Demandes de retour reçues

Issue des demandes

	Nombre	Taux
Rejet	2	5%
Retour volontaire extrajudiciaire	11	26%
Retour ordonné judiciairement avec consentement	3	7%
Retour ordonné judiciairement sans consentement	14	33%
Refus judiciaire	4	10%
Droit de visite par accord entre parties ou ordonné	2	4%
Demande en cours	3	7%
Demande retirée	1	2%
Autre issue	2	5%
Total	42	~100%



Le tableau ci-dessus montre les issues de toutes les demandes déposées en 2003.

Contrairement à l'étude de 1999, celle de 2003 distingue entre les retours ordonnés judiciairement avec et sans consentement. En France, en 2003, 3 retours ordonnés judiciairement (7%) ont été prononcés avec consentement et 14 (33%) sans consentement.

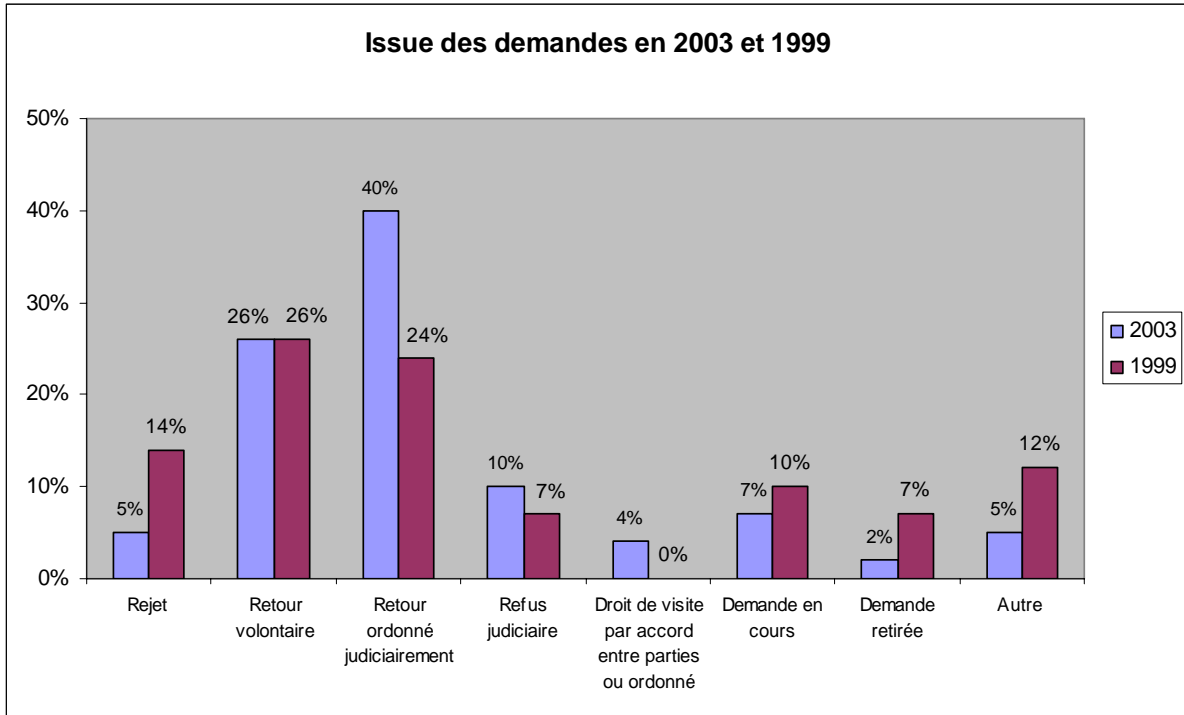
Globalement, 66% des demandes reçues par la France ont abouti au retour de l'enfant, soit ordonné judiciairement, soit volontaire, ce qui est supérieur au taux global de retours de 51%. De même, les taux de retours volontaires (26%) et de retours ordonnés judiciairement (40%) sont bien supérieurs aux taux globaux respectifs de 22% et 29%.

21 demandes (50%) ont été traitées par une autorité judiciaire. 17 d'entre elles (81%) ont abouti à un retour ordonné judiciairement et 4 (19%) à un refus judiciaire. Comparativement, les taux d'ensemble en 2003 étaient respectivement de 66% et 29%⁴.

⁴ Globalement, 66% des demandes ont abouti à un retour, 5% à un droit de visite et 29% à un refus judiciaire. Voir Partie I du Rapport de 2003, p. 32.

Le taux de demandes retirées de 2% est inférieur au taux global de 15%. Au 30 juin 2005, 3 demandes (7%) étaient toujours en cours, contre 9% en moyenne générale. 2 demandes (4%) ont abouti à un droit de visite par accord des parties ou ordonné, contre 3% de moyenne générale.

Dans 2 demandes, l'enfant a été « enlevé de nouveau » par le demandeur vers l'Etat requérant⁵.



Le graphique ci-dessus classe les issues des demandes de sorte à pouvoir les comparer avec les résultats de 1999. Ainsi, les « retours ordonnés judiciairement » incluent les retours ordonnés judiciairement avec consentement et sans consentement.

Ces résultats indiquent qu'à la différence de l'étude de 1999, l'issue de la demande la plus courante est le retour ordonné judiciairement, concernant 17 demandes au total (40%). Cela traduit une hausse par rapport à la proportion de retours ordonnés judiciairement prononcés en 1999 (24%).

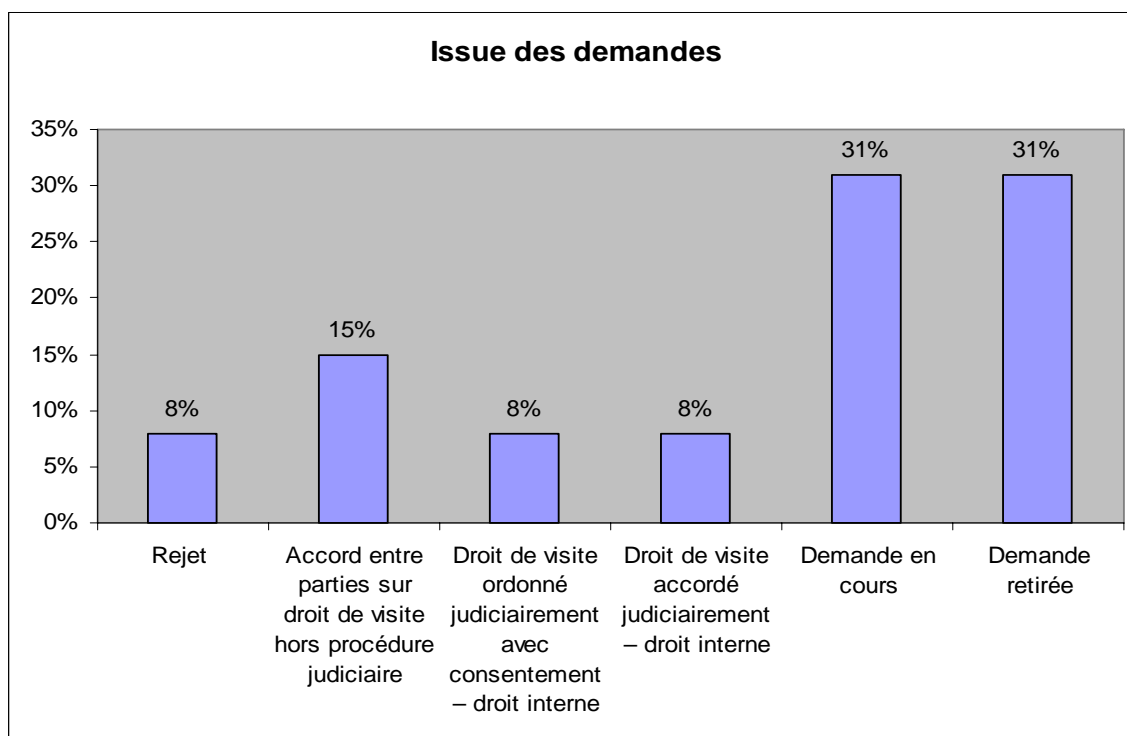
En 1999, l'issue la plus courante était le retour volontaire. 11 demandes (26%) avaient abouti à un retour volontaire, soit la même proportion de retours volontaires qu'en 2003. Par contre, le taux global de retours est plus élevé en 2003 (66%) qu'en 1999 (50%).

Dans l'ensemble, 21 demandes (50%) ont été traitées par voie judiciaire, ce qui traduit une hausse par rapport aux 13 demandes (31%) comptabilisées en 1999. 4 de ces demandes (19%) ont été refusées judiciairement, contre 3 (7%) en 1999.

⁵ Classées toutes deux dans la catégorie « Autre issue ».

(b) Demandes de droit de visite reçues**Issues des demandes**

	Nombre	Taux
Rejet	1	8%
Accord entre parties sur droit de visite hors procédure judiciaire	2	15%
Droit de visite ordonné judiciairement avec consentement – droit interne	1	8%
Droit de visite accordé judiciairement – droit interne	1	8%
Demande en cours	4	31%
Demande retirée	4	31%
Total	13	~100%



4 demandes sur 13 (31%) ont été retirées, contre 22% globalement et 33% en 1999. Selon l'Autorité centrale française, pour toutes ces demandes, l'absence de réaction du demandeur justifiait le retrait de la demande.

Dans 2 demandes (15%), les parties sont parvenues à un accord sur le droit de visite hors procédure judiciaire, contre 3 (20%) en 1999. Les 2 demandes qui ont abouti à un droit de visite accordé avec et sans consentement ont été traitées dans le cadre du droit interne. Globalement, en 2003, 13% des demandes de droit de visite ont fait l'objet d'un accord des parties et 20% ont abouti à un droit de visite accordé judiciairement (avec ou sans consentement). Comme en 1999, il n'y a eu aucun refus judiciaire. Il faut noter que 4 demandes (31%) étaient toujours en cours au 30 juin 2005.

12. Motifs du rejet**(a) Demandes de retour reçues**

L'Autorité centrale française a rejeté 2 demandes. Globalement, en 2003, 6% de l'ensemble des demandes de retour ont été rejetées. La première demande mettait en

cause une fratrie et a été rejetée parce que les enfants n'avaient pas pu être localisés. Dans l'autre cas, le refus reposait sur l'article 27. Par contre, en 1999, 6 demandes avaient été rejetées par l'Autorité centrale française. 5 de ces rejets reposaient sur la non-localisation de l'enfant et un sur l'absence de droit de garde du demandeur.

(b) Demandes de droit de visite reçues

Une demande de droit de visite a été rejetée contre aucune en 1999. Au total, en 2003, 13% des demandes de droit de visite ont été rejetées. La demande a été rejetée parce que l'exécution de l'ordonnance de visite relevait de la Convention de Luxembourg et non de la Convention de La Haye⁶.

13. Motifs du refus judiciaire

(a) Demandes de retour reçues

Sur 21 demandes qui ont été traitées par voie judiciaire, 4 (19%) ont été refusées. En 1999, seule une demande avait été refusée. L'exception invoquée le plus fréquemment (2 affaires, 50%) était l'absence de droit de garde du demandeur. Dans l'étude de 1999, la seule demande de retour refusée l'a été pour le même motif. En outre, en 2003, un refus a reposé sur l'exception de l'article 13(1) *b*) et un autre sur l'absence de résidence habituelle de l'enfant dans l'Etat requérant. Dans l'ensemble, en 2003, 18% des refus se sont fondés sur le premier motif et 15% sur le second.

14. Motifs du refus judiciaire et lien de la personne qui emmenait l'enfant

(a) Demandes de retour reçues

Dans 3 refus sur 4 (75%), la personne qui a emmené ou retenu l'enfant était la mère. Les résultats globaux de 2003 indiquent que 77% des refus concernaient la mère, alors que globalement les mères étaient dans 68% des cas la personne qui a emmené ou retenu l'enfant. Par contre, dans un refus sur 4 (25%), le père était la personne qui a emmené ou retenu l'enfant. Globalement, en 2003, dans 21% des refus, le père était la personne qui a emmené ou retenu l'enfant.

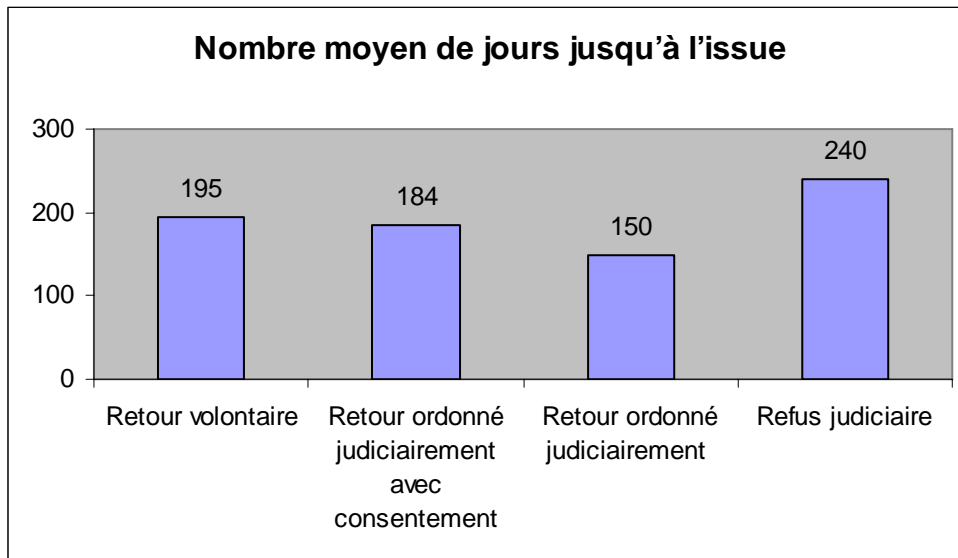
Rapidité de traitement des demandes

15. Durée entre la demande et son aboutissement

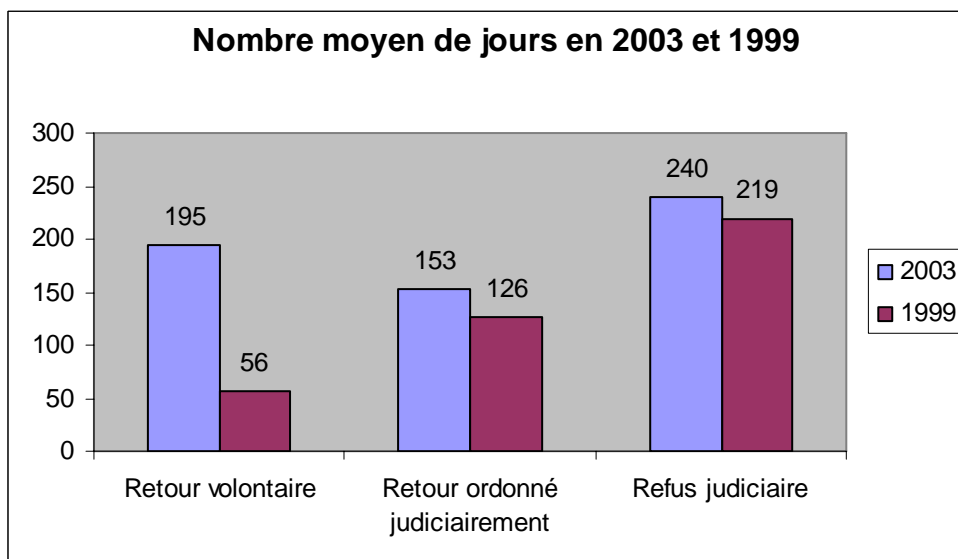
(a) Demandes de retour reçues⁷

⁶ Classée dans la catégorie « Autre issue ».

⁷ Cette information n'a pas été communiquée pour 2 retours judiciaires et 6 retours volontaires.



Il est surprenant que les retours ordonnés judiciairement sans consentement aient été prononcés plus rapidement que les retours ordonnés judiciairement avec consentement, soit 150 jours contre 184 jours, ce qui est à rapprocher des résultats d'ensemble de 143 jours contre 85 jours. Les refus judiciaires ont été prononcés au bout de 240 jours en moyenne, ce qui est comparable à la moyenne générale de 233 jours. La durée pour les retours volontaires, de 195 jours en moyenne, était plus longue que la moyenne générale de 98 jours.



Le graphique ci-dessus indique que les retours ordonnés judiciairement ont été prononcés au bout de 153 jours en moyenne, contre 126 jours en 1999. Les refus judiciaires ont été prononcés au bout de 240 jours en moyenne, contre 219 en 1999. Les retours volontaires ont eu lieu au bout de 195 jours en moyenne, contre 56 jours en 1999.

**Nombre de jours jusqu'à l'issue définitive en 2003
(y compris les décisions en appel)**

	Retour volontaire extrajudiciaire	Retour ordonné judiciairement avec consentement	Retour ordonné judiciairement	Refus judiciaire
Moyenne	195	184	150	240
Médiane	147	144	146	165
Minimum	21	109	25	99
Maximum	517	300	370	529
Nombre de demandes	5	3	12	4

Le tableau ci-dessus montre les différences de durées jusqu'à l'issue et offre un aperçu plus informatif du système français. Le délai le plus court pour les décisions judiciaires (un retour ordonné judiciairement sans consentement) était de 150 jours, et le délai le plus long de 529 jours. Le retour volontaire qui a pris le plus de temps a eu lieu au bout de 517 jours.

**Nombre de jours jusqu'à l'issue définitive des demandes en 2003
(à l'exclusion des décisions en appel)**

	Retour ordonné judiciairement	Refus judiciaire
Moyenne	50	240
Médiane	38	165
Minimum	28	99
Maximum	85	529
Nombre de demandes	3	4

Comme l'indique le tableau, en matière de refus judiciaires, ne pas comptabiliser les demandes traitées en appel n'affecte pas la durée moyenne jusqu'à l'aboutissement de la demande. Pour les retours ordonnés judiciairement, on constate un écart moyen de 100 jours si l'on comptabilise ou non les affaires traitées en appel.

(b) Demandes de droit de visite reçues⁸

Les demandes pour lesquelles les parties sont parvenues à un accord sur le droit de visite ont abouti au bout de 46 jours en moyenne, contre 245 jours dans l'ensemble. Ce délai est nettement plus court qu'en 1999, où une forte proportion de règlements amiables (2 sur 3) avaient été conclus après 6 mois ou plus. La seule demande qui a abouti à un droit de visite accordé judiciairement avec consentement a abouti au bout de 206 jours. 4 demandes étaient toujours en cours au 30 juin 2005.

15. Appels

(a) Demandes de retour reçues

⁸ Ces renseignements n'ont pas été communiqués pour la seule demande qui a abouti à un droit de visite accordé judiciairement.

Appels

	Décision judiciaire d'appel définitive	Total
Retour	9	9
Refus	1	1
Total	10	10

Des 21 demandes traitées judiciairement, 10 (48%) ont fait l'objet d'un recours. Dans l'ensemble, tout juste 22% de toutes les affaires ont été frappées d'appel. Les 10 demandes ont été accueillies en appel. Dans 9 affaires, l'instance d'appel a confirmé la décision de première instance et dans une affaire elle l'a infirmée. Ces demandes ont abouti définitivement à un retour ordonné judiciairement au bout de 174 jours en moyenne.

En 1999, des 13 demandes traitées judiciairement, 4 demandes (31%) avaient fait l'objet d'un appel. Dans 3 affaires, un retour ordonné judiciairement avait été prononcé et dans une affaire, le retour refusé.

(b) Demandes de droit de visite reçues

Aucune des demandes de droit de visite reçues n'a fait l'objet de recours.

GERMANY

The applications

1. The number of applications

Incoming Return Applications	80
Incoming Access Applications	18
Outgoing Return Applications	138
Outgoing Access Applications	19

According to the Central Authority for Germany, they received 80 incoming return and 18 incoming access applications in 2003, making a total of 98 incoming applications. This is a slight increase on 94 incoming applications (70 of which were return applications and 24 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 82% to 18%, compares with the global average of 84% to 16%.

The latest statistics show that Germany therefore accounted for 6% of all incoming return applications made in 2003, as opposed to 7% in 1999.

Additionally, the Central Authority made 138 outgoing return applications¹ and 19 outgoing access applications in 2003. This can be compared with 103 return applications and 13 access applications made in 1999.

Altogether, the Central Authority handled 255 new applications in 2003, compared with 210 new applications in 1999. Bearing in mind that the USA incoming and outgoing applications are dealt with separately, this makes the Central Authority for Germany one of the busiest in 2003.²

The overall ratio of incoming to outgoing applications was 38% to 62%.

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

² The German Central Authority is third only to that of the USA and England & Wales.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Italy	9	11%
USA	9	11%
Netherlands	7	9%
UK - England & Wales	6	8%
Austria	5	6%
Greece	5	6%
Poland	5	6%
Belgium	2	3%
France	2	3%
Ireland	2	3%
Israel	2	3%
Luxembourg	2	3%
Norway	2	3%
Switzerland	2	3%
Australia	1	1%
Brazil	1	1%
Chile	1	1%
Colombia	1	1%
Croatia	1	1%
Czech Republic	1	1%
Cyprus	1	1%
Denmark	1	1%
Hungary	1	1%
Mexico	1	1%
New Zealand	1	1%
Portugal	1	1%
Serbia & Montenegro	1	1%
Slovakia	1	1%
Slovenia	1	1%
Spain	1	1%
Sweden	1	1%
Turkey	1	1%
UK- Scotland	1	1%
Venezuela	1	1%
Total	80	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Italy	9 (11%)	4 (9%)
USA	9 (11%)	24 (34%)
Netherlands	7 (9%)	1 (1%)
UK - England & Wales	6 (8%)	11 (16%)
Austria	5 (6%)	1 (1%)
Greece	5 (6%)	0 (0%)
Poland	5 (6%)	1 (1%)
Belgium	2 (3%)	0 (0%)
France	2 (3%)	6 (9%)
Ireland	2 (3%)	0 (0%)
Israel	2 (3%)	2 (3%)
Luxembourg	2 (3%)	0 (0%)
Norway	2 (3%)	2 (3%)
Switzerland	2 (3%)	0 (0%)
Australia	1 (1%)	2 (3%)
Brazil	1 (1%)	0 (0%)
Chile	1 (1%)	0 (0%)
Colombia	1 (1%)	0 (0%)
Croatia	1 (1%)	0 (0%)
Czech Republic	1 (1%)	1 (1%)
Cyprus	1 (1%)	0 (0%)
Denmark	1 (1%)	1 (1%)
Hungary	1 (1%)	1 (1%)
Mexico	1 (1%)	0 (0%)
New Zealand	1 (1%)	0 (0%)
Portugal	1 (1%)	3 (4%)
Serbia & Montenegro	1 (1%)	0 (0%)
Slovakia	1 (1%)	0 (0%)
Slovenia	1 (1%)	0 (0%)
Spain	1 (1%)	1 (1%)
Sweden	1 (1%)	1 (1%)
Turkey	1 (1%)	-
UK- Scotland	1 (1%)	0 (0%)
Venezuela	1 (1%)	1 (1%)
South Africa	0 (0%)	3 (4%)
Canada	0 (0%)	2 (3%)
Malta	0 (0%)	1 (1%)
Monaco	0 (0%)	1 (1%)
Uruguay	0 (0%)	1 (1%)
Total	80 (~100%)	70 (~100%)

Germany received applications for return from 33 Contracting States compared with 21 in 1999.

The majority of return applications were received from the Italy and the USA (11% each). This is an increase in applications from Italy (9 applications in 2003 compared with 4 applications in 1999) but a decrease in applications from the USA (9 applications in 2003 compared with 24 applications in 1999). The number of applications from countries such as England and Wales, France, Portugal and South Africa has also

markedly decreased. Despite the significant decrease in applications from the USA in particular, the overall number of applications received has increased. Conversely, the number of applications from the Netherlands, Austria, Greece (from which there were 5 applications in 2003 compared with none in 1999), Poland and Italy has markedly increased.

The number of Contracting States making applications to Germany are diverse.

Requesting States within the EU 2003

	Number	Percent
Italy	9	16%
Netherlands	7	13%
UK - England & Wales	6	11%
Austria	5	11%
Greece	5	11%
Poland	5	11%
Belgium	2	4%
France	2	4%
Ireland	2	4%
Luxembourg	2	4%
Czech Republic	1	< 2 %
Cyprus	1	< 2 %
Denmark	1	< 2 %
Hungary	1	< 2 %
Portugal	1	< 2 %
Slovakia	1	< 2 %
Slovenia	1	< 2 %
Spain	1	< 2 %
Sweden	1	< 2 %
UK- Scotland	1	< 2 %
Total	55	~100%

The above chart shows the number of applications received from countries that are now part of the EU. These countries account for 55 of the 80 (69%) applications received by Germany. This can be compared with the 1999 survey where EU countries made up a total of 32 of the 70 applications (46%) in 1999.³

³ Both of these figures are based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

(b) Incoming access applications**Requesting States 2003**

	Number	Percent
Slovakia	3	17%
Denmark	2	11%
France	2	11%
Italy	2	11%
USA	2	11%
Argentina	1	6%
Australia	1	6%
Cyprus	1	6%
Netherlands	1	6%
Poland	1	6%
Spain	1	6%
UK - England & Wales	1	6%
Total	18	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Slovakia	3 (17%)	-
Denmark	2 (11%)	2 (8%)
France	2 (11%)	3 (13%)
Italy	2 (11%)	4 (17%)
USA	2 (11%)	2 (8%)
Argentina	1 (6%)	0 (0%)
Australia	1 (6%)	0 (0%)
Cyprus	1 (6%)	0 (0%)
Netherlands	1 (6%)	0 (0%)
Poland	1 (6%)	0 (0%)
Spain	1 (6%)	3 (13%)
UK - England & Wales	1 (6%)	3 (13%)
Portugal	0 (0%)	2 (8%)
Czech Republic	0 (0%)	1 (4%)
Luxembourg	0 (0%)	1 (4%)
Switzerland	0 (0%)	1 (4%)
Hungary	0 (0%)	1 (4%)
Poland	0 (0%)	1 (4%)
Total	18 (~100%)	24 (100%)

Germany received 18 access applications, from various Contracting States. Strikingly, the greatest proportion of applications came from Slovakia (3 applications, 17%), a Contracting State that only ratified the Convention in 2001. In 1999 the majority of applications came from Italy, France, Spain and England & Wales.

Combining return and access applications, the top 5 Contracting States which made applications to Germany were:

- 1. Italy 11
- 2. USA 9
- 3. UK - England and Wales 7
- 4. Poland 6
- 5. Austria and Greece 5 each.

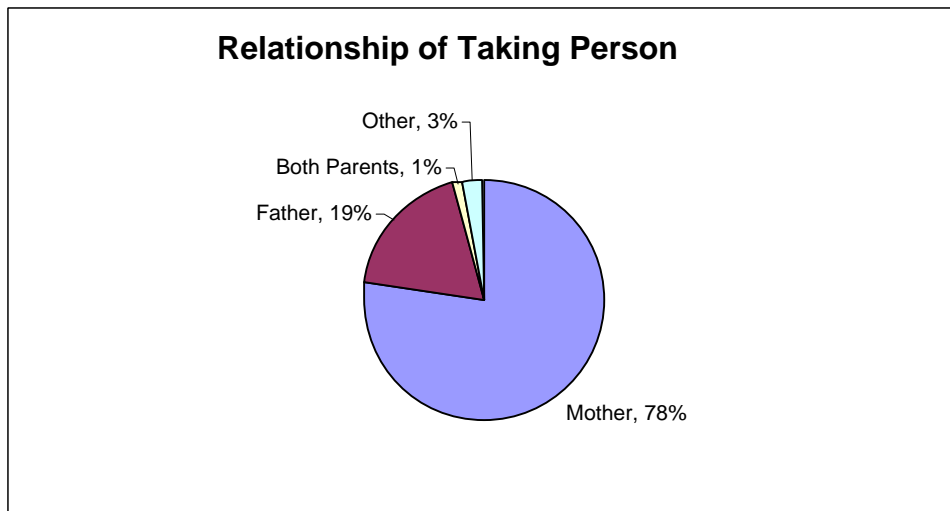
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of Taking Person to Child

	Number	Percent
Mother	62	78%
Father	15	19%
Both Parents	1	1%
Other	2	3%
Total	80	~100%

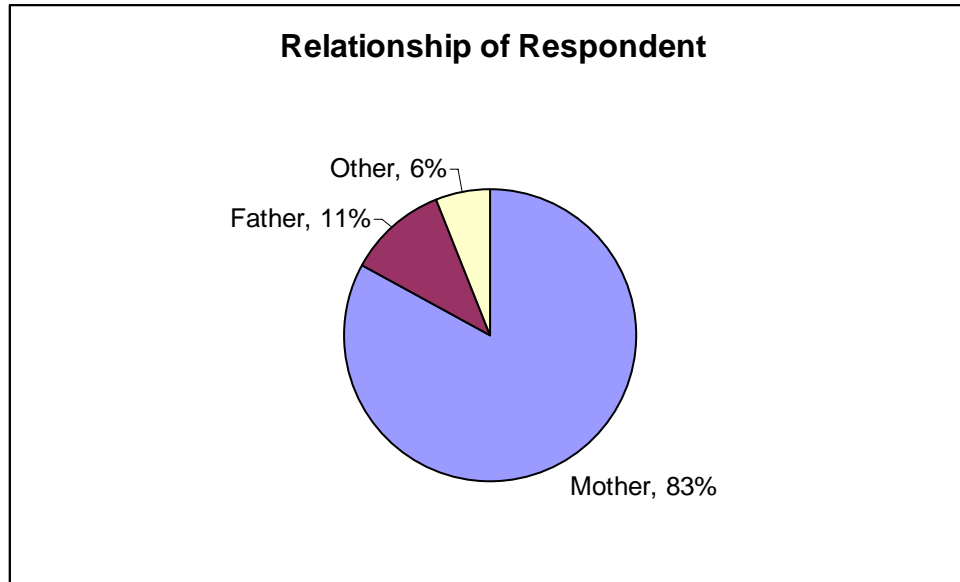


The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 78% of taking persons were mothers. This is higher than the global average of 68%, and is similar to the 1999 survey,⁴ where 77% of taking persons were recorded as being female.

⁴ Insofar as 'female' can normally be taken to mean 'mother'.

(b) Incoming access applications**Relationship of the Respondent**

	Number	Percent
Mother	15	83%
Father	2	11%
Other	1	6%
Total	18	100%



In 15 access applications (83%) the respondent was the mother. This compares with the global average of 79% and the 1999 survey where 96% of respondents were female.

4. The status of the taking person as carer in relation to the child

Germany did not provide information on the status of the taking person as carer.

5. The nationality of the taking person / respondent

Germany was unable to provide information regarding the nationality of the taking person or respondent.

6. The relationship and nationality of the taking person / respondent combined

See 5 above.

The children**7. The total number of children****(a) Incoming return applications**

There were 114 children involved in the 80 incoming return applications in 2003. This compares with the total of at least⁵ 100 children being involved in the 70 return applications in 1999. In 2003, on average 1.43 children were involved in return

⁵ There was one application where the number of children was not stated, however, the application must have involved at least one child.

applications. Proportionally, this is the same as in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 18 children involved in the 18 incoming access applications in 2003. This compares with the total of 30 children being involved in the 24 access applications in 1999. In 2003, on average one child was involved in access applications. Proportionally, this is a slight decrease on the average number (1.25) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	52	65%
Sibling Group	28	35%
Total	80	100%

Number of Children

	Number	Percent
1 Child	52	65%
2 Children	22	28%
3 Children	6	8%
Total	80	~100%

The proportion of single children involved in applications for return, 65%, compares with the global average of 67% and is similar to the 1999 proportion of 64%.

The overall number of cases involving one or 2 children decreased from all applications (100%) in 1999 to 93% in 2003, which is identical with the 2003 global average.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	15	83%
Sibling Group	3	17%
Total	18	100%

Number of Children

	Number	Percent
1 Child	15	83%
2 Children	2	11%
3 Children	1	6%
Total	18	100%

83% of applications involved a single child compared with 70% globally.

9. The age of the children

Germany was unable to provide information regarding the age of children in a suitable format for the survey.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	58	51%
Male	56	49%
Total	80	100%

The proportion of female (51%) and male (49%) children are the same as the global averages of 51% and 49% respectively. This compares with the 1999 survey where only 44% were female and 56% were male.

(b) Incoming access applications

Gender of the Children 2003

	Number	Percent
Female	13	59%
Male	9	41%
Total	22	~100%

59% of children were female compared with the global average of 45%. In 1999, 50% were female.

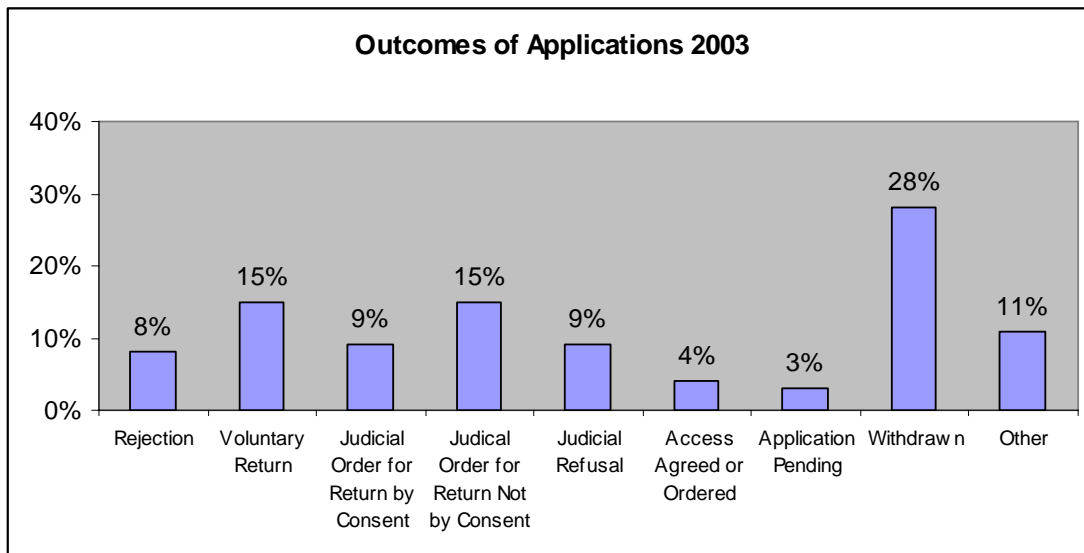
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	6	8%
Voluntary Return No Court Orders	12	15%
Judicial Order for Return by Consent	7	9%
Judicial Order for Return Not by Consent	12	15%
Judicial Refusal	7	9%
Access Agreed or Ordered	3	4%
Application Pending	2	3%
Withdrawn	22	28%
Other	9	11%
Total	80	~100%



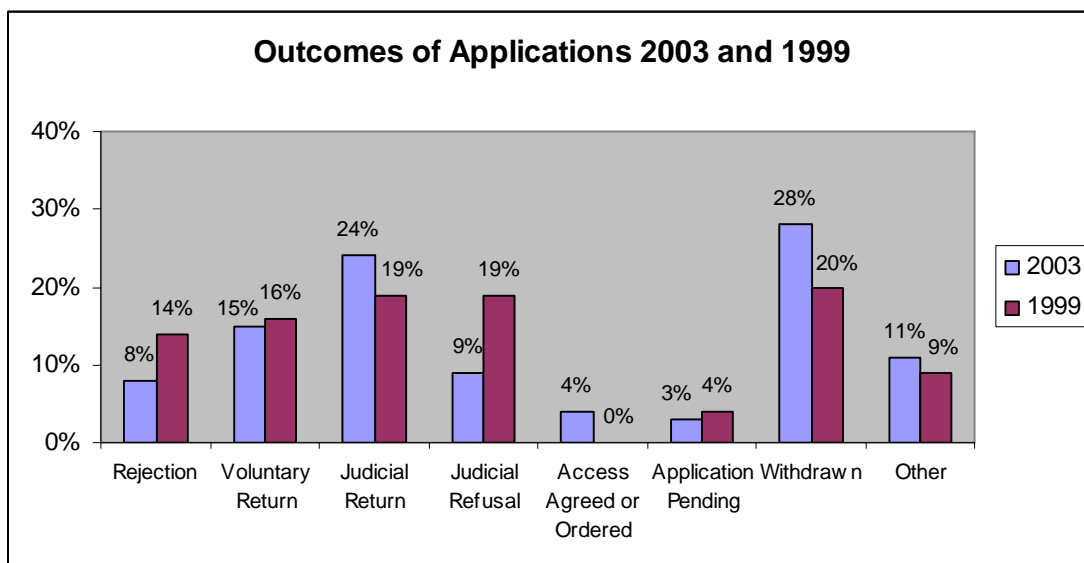
The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Germany, in 2003, 7 (9%) judicial return orders were made with consent and 12 (15%) without consent.

Overall, 39% of applications made to Germany ended in the child being returned either by a court order or voluntarily, which is below the global average return rate of 51%. At 24%, the proportion of judicial returns is below the global average of 29%. Similarly, the proportion of voluntary returns (15%) is lower than the global average of 22%.

26 applications (33%) went to court. Of these cases, 73% resulted in return being ordered and 27% in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁶

At 28%, the withdrawal rate is above the global average of 15%. As of 30th June 2005, 2 (3%) applications were still pending, compared with the global average of 9%.



⁶ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore includes orders made with and without consent.

Proportionally, the figures show that as in 1999, the most common outcome was for the case to be withdrawn (28%), compared with 20% in 1999. Such cases were recorded as being withdrawn for a variety of reasons and at various stages including non-pursuance by the parties, termination of the dispute, pre-judicial withdrawal and withdrawal during court proceedings.

Judicial orders for return (including by consent) were the second most common outcome, with a total of 19 applications (24%). This can be compared with 19% in 1999. The proportion of voluntary returns, 15%, shows a slight decrease on the 16% of voluntary returns in 1999. On the other hand, the overall return rate increased, from 35% in 1999 to 39% in 2003.

Unlike in 1999 where the refusal rate was 19%, the judicial refusal rate (9%) was below the 2003 global average of 13%.

3% of cases were still pending compared with 4% in 1999. A higher proportion of cases than in 1999 ended in the outcome being classified as 'other'. 3 applications (4%) resulted in access being agreed or ordered, as opposed to none in 1999.

The rejection rate in Germany fell from 10 cases (14%) to 6 (8%) in 2003. This is more in line with the global average for rejections (6%).

(b) Incoming access applications

Outcome of Application

	Number	Percent
Rejection	6	33%
Access Agreed Outside Court Proceedings	5	28%
Access Judicially Granted Pending Hearing	1	6%
Access Judicially Granted	2	12%
Application Pending	2	11%
Other	2	11%
Total	18	~100%

7 out of 18 (40%) of applications ended with access being granted or agreed, compared with 67% in 1999. This is a little closer, though still markedly above the 2003 global average of 33%. 6 out of the 18 applications (33%) were rejected as opposed to 13% globally. The proportion of applications in which access was judicially granted, 12%, is below the 1999 proportion of 50%. On the other hand, there was an increase in voluntary settlements of access, from 17% in 1999 to 28% in 2003. This compares with the 2003 global averages of 16% and 13% respectively. One application where access was judicially granted was resolved under domestic law and the other as a Hague application.

5 applications (28%) resulted in a voluntary settlement of access, compared with the global average of 13%.

In one case access was judicially granted pending the hearing. Globally, 2% of access applications resulted in access being judicially granted pending hearing. 2 applications (11%) were still pending as of 30th June 2005, as opposed to 22% globally.

12. The reasons for rejection

(a) Incoming return applications

Reason for Rejection by the Central Authority

	Number	Percent
Child Not Located	2	33%
Applicant Had No Rights of Custody	3	50%
Other	1	17%
Total	6	100%

There were 6 cases rejected by Germany compared with 9 in 1999. 3 of the 6 applications were rejected because the applicant had no rights of custody. 2 applications were rejected because the child could not be located. In 1999, no rejection was based on this latter reason. Globally in 2003, 19% of rejections were based on the former and 27% on the latter reason. Only one application was rejected for some 'other' reason (which is unknown) compared with 6 in 1999. In 1999 the remaining three cases were rejected as the child was located in another country, whereas in 2003 there were no such cases.

(b) Incoming access applications

One application was rejected as the child could not be located. Another was rejected as the child was aged 16 years or older. The other 4 cases were rejected for some 'other' reason.

13. The reasons for judicial refusal

(a) Incoming return applications

Overall Reason for Judicial Refusal per Application

	Number	Percent
Child Not Habitually Resident in Requesting State	1	14%
Art 13a Not Exercising Rights of Custody	1	14%
Article 13 a Consent	1	14%
Art 13b	2	29%
More than one reason	1	14%
Other	1	14%
Total	7	~100%

Of the 26 applications which went to court, 7 (27%) were refused, which is a decrease on the 13 out of 26 (50%) applications refused in 1999 and below the 2003 global average of 29%.

2 of the 6 refusals (29%) were based on Article 13 b). Globally, 18% of refusals were based on this reason. One application (14%) was based on a multiple reason for refusal – lack of habitual residence of the child and lack of rights of custody. Interestingly, in 1999 there was another application refused based on these 2 exceptions.

In 1999, Article 12 (4 applications) and Article 13 b) (3 applications) were the most commonly relied upon exceptions.

14. The reasons for judicial refusal and the relationship of the taking person

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Judicial Refusal

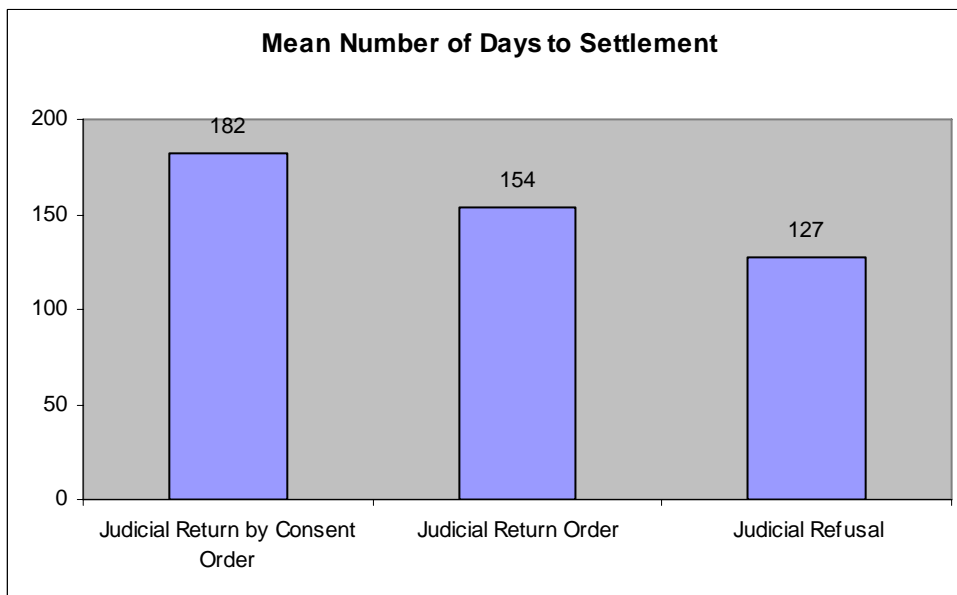
	Relationship of Taking Person to Child			Total
	Mother	Father	Other Relative	
Child Not Habitually Resident in Requesting State	0	1	0	1
Art 13a Not Exercising Rights of Custody	1	0	0	1
Article 13 a Consent	0	1	0	1
Art 13b	1	1	0	2
More than one reason	1	0	0	1
Other	0	0	1	1
Total	3	3	1	7

In total, 3 out of the 7 judicial refusal cases involved mothers (43%). Given that 51% of taking persons were mothers this ratio appears to be more proportionate compared with the 1999 survey where 77% of taking persons were mothers but 92% of refusals involved mothers.

Speed

15. The time between application and outcome

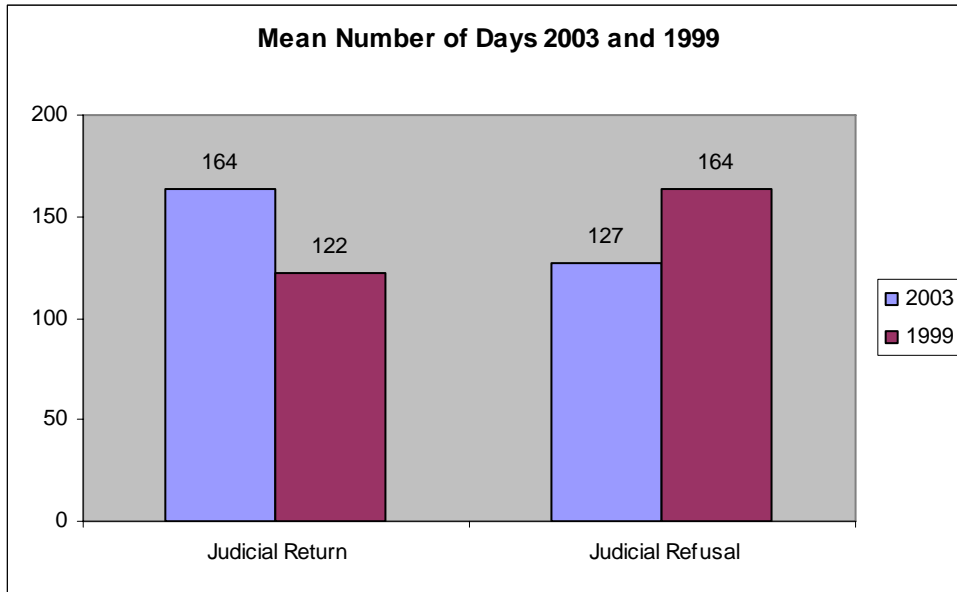
(a) Incoming return applications



Surprisingly, return orders with consent took slightly longer than orders made without consent, 182 days compared with 154 days. This can be compared with the global norm of 85 days and 143 days respectively in 2003.

Information regarding timing of voluntary returns was not available. In 1999, these took

64 days on average. In 2003 the global average was 98 days.



The chart above shows that judicial refusals took an average of 127 days, compared with 164 days in 1999.

Number of Days Taken to Reach Final Outcome: 2003 ⁷

	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	182	154	127
Median	76	139	81
Minimum	41	21	0
Maximum	866	487	437
Number of cases	7	12	7

The table above gives a more informative picture of the system in Germany. It must be noted that as at 30th June 2005 two applications were still pending. These aside, the slowest judicial decision was reached within 866 days (under 2 ½ years).

(b) Incoming access applications

The one case in which access was judicially granted took under a year to reach a final settlement (280 days). One of the 'other' cases in which the child was returned was concluded within 3 days "following direct compulsion/coercion". Two cases were still pending as at 30th June 2005.

⁷ This information was not available in all of the 12 of the voluntary return applications.

16. Appeals

(a) Incoming return applications

Appeals

	Appellate Final Judicial Decision			Total
	Return	Refusal	Other	
Return	8		1	9
Refusal		2		2
Total	8	2	1	11

Of the 26 applications which went to court 11 (42%) were appealed. This can be compared with 22% globally. In all but one of these applications, the appellate court upheld the first instance decision. In this one case some form of judicial settlement was reached following a return order at first instance.

The cases that resulted in a judicial refusal took an average of 113 days to reach final outcome, compared with an average of 296 days globally. The cases that resulted in a judicial return took an average of 265 days compared with 206 days globally. The one case that reached some 'other' outcome took 87 days.

(b) Incoming access applications

None of the judicial decisions was appealed.

HONDURAS

The applications

1. The number of applications

Incoming Return Applications	3
Incoming Access Applications	0
Outgoing Return Applications	0
Outgoing Access Applications	0

According to the Central Authority for Honduras, they received 3 incoming return applications but no incoming access applications in 2003. It is to be noted that the overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

The Central Authority made no outgoing applications either for return or for access in that year. Therefore the overall ratio of incoming to outgoing applications was 100%.

Honduras did not participate in the 1999 statistical survey and we cannot therefore compare the number of applications received in that year.

2. The Contracting States which made the application

2 applications (67%) came from USA and one (33%) from Sweden.

The taking person

3. The relationship of the taking person

2 of the 3 (67%) taking persons were mothers. One (33%) taking person was recorded as father. This compares with the 2003 global averages of 68% and 29% respectively.

4. The status of the taking person as carer in relation to the child¹

In the one case where the information on the status of the taking person as carer was available, the taking person was recorded as a joint primary carer of the child. Globally in 2003, 68% of taking persons were primary or joint primary carer of the child.

5. The nationality of the taking person

All 3 taking persons (100%) were Honduran nationals, which is considerably higher than the 2003 global average of 55% of taking persons having the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 54% of talking persons recorded as the mother of the child had the same nationality as the requested State.

The children

7. The total number of children

There were 6 children involved in the 3 incoming return applications in 2003. In 2003, on average 2 children were involved in return applications. Globally, on average 1.4 children were involved in return applications in 2003.

¹ This information was not available in relation to 2 taking persons.

8. Single children or sibling groups

One (33%) application involved a single child compared with the global proportion of 67%. There was one sibling group of 2 children and one sibling group of 3 children. Proportionally, 66% of applications concerned one or 2 children, as opposed to the 2003 global average of 93%.

9. The age of the children

Contrary to the global average of 55%, there were no children aged between 1 and 6 years, though one child was under 1 year old. 2 (32%) children were aged 7 and 9. This compares with the global average of 42% of children aged between 5 and 9. One child was aged 10 and 2 were aged 12 which meant half (50%) were in 10-16 year age group compared with 22% globally.

10. 10. The gender of the children

Only one out of 6 (17%) children involved in applications to Honduras was female. Globally in 2003, 51% of children involved in return applications were female.

The outcomes

11. Overall outcomes

One application (33%) resulted in a voluntary return. This can be compared with the 2003 global average of 22%. The other 2 (67%) applications were still pending as of 30th June 2005. Globally in 2003, 9% of applications were still pending as of 30th June 2005.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome

The information on the speed of the one voluntary return was not available.

16. Appeals

Not applicable.

HONDURAS

Las solicitudes

1. El número de solicitudes

Solicitudes de restitución recibidas	3
Solicitudes de derecho de visita recibidas	0
Solicitudes de restitución efectuadas	0
Solicitudes de derecho de visita efectuadas	0

De acuerdo a la Autoridad Central de Honduras, ésta recibió 3 solicitudes de restitución pero ninguna solicitud de derecho de visita en el 2003. Debe notarse que el ratio general de solicitudes de restitución frente a solicitudes de derecho de visita (100%) estuvo por encima del promedio global de 84% a 16%.

La Autoridad Central no efectuó solicitudes de restitución o de derecho de visita en ese año. Por tanto, el ratio general de solicitudes recibidas frente a solicitudes efectuadas fue de 100%.

Honduras no participó en el estudio de 1999 y por tanto no podemos comparar el número de solicitudes recibidas en ese año.

2. Los Estados contratantes que efectuaron la solicitud

Dos solicitudes (67%) provenían de EE.UU. y una (33%) de Suecia.

La persona que se lleva o retiene al menor

3. La relación entre el menor y la persona que se lo lleva o lo retiene

Dos de las 3 (67%) personas que se llevaron o retuvieron a los menores eran madres. Una (33%) de las personas que se llevo o retuvo a un menor fue registrada como padre. Esto se compara con los promedios globales de 2003 de 68% y 29%, respectivamente.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado¹

En un caso, para el cual esta información estuvo disponible, la persona que se llevo o retuvo al menor ejercía su cuidado primordial de manera conjunta. A nivel global en el 2003, el 68% de las personas que se llevaron o retuvieron menores ejercían el cuidado primordial del menor de manera individual o conjunta.

5. La nacionalidad de la persona que se lleva o retiene al menor

Las tres personas que se llevaron o retuvieron menores (100%) eran hondureñas, lo cual es considerablemente más alto que el promedio global de 2003, en el que el 55% de las personas que se llevaron o retuvieron menores tenían la nacionalidad del Estado requerido.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor combinadas

Véase 3 y 5 arriba. A nivel global, el 54% de las personas que se llevaron o retuvieron menores registradas como madres tenían la nacionalidad del Estado requerido.

Los menores

7. El número total de menores

Hubo 6 menores comprendidos en 3 solicitudes de restitución recibidas en el 2003. En el 2003, en promedio 2 menores estuvieron comprendidos en solicitudes de restitución. A

¹ Esta información no estuvo disponible con respecto a dos personas que se llevaron o retuvieron menores.

nivel global, en promedio 1.4 menores estuvieron comprendidos en solicitudes de restitución en el 2003.

8. Un menor o grupo de hermanos

Una (33%) solicitud comprendió a un menor en comparación con el porcentaje global de 67%. Hubo un grupo de hermanos compuesto por 2 menores y otro compuesto por 3 menores. En términos porcentuales, el 66% de solicitudes incluyeron a uno o 2 menores frente al promedio global de 2003 de 93%.

9. La edad de los menores

A diferencia del promedio global de 55%, no hubo menores entre las edades de 1 y 6 años, aunque un menor tenía menos de 1 año. Dos (32%) menores tenían entre 7 y 9 años. Esto se compara con el promedio global de 42% de menores entre 5 y 9 años. Un menor tenía 10 años y 2 tenían 12 años lo que significa que la mitad (50%) estaban dentro del grupo de 10 a 16 años frente al 22% a nivel global.

10. El sexo de los menores

Solamente 1 de los 6 (17%) menores comprendidos en solicitudes efectuadas a Honduras era mujer. A nivel global en el 2003, el 51% de menores comprendidos en solicitudes de restitución eran mujeres.

Los resultados

11. Los resultados totales

Una solicitud (33%) concluyó con la restitución voluntaria. Esto puede compararse con el promedio global de 2003 de 22%. Las otras 2 (67%) solicitudes se encontraban pendientes al 30 de junio de 2005. A nivel global en el 2003, el 9% de solicitudes se encontraban pendientes al 30 de junio de 2005.

12. Las razones de rechazo

No aplicable.

13. Las razones de denegatoria judicial

No aplicable.

14. Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene

No aplicable.

Celeridad

15. El tiempo entre la solicitud y el resultado

No estuvo disponible información con respecto a la celeridad de la restitución voluntaria.

16. Apelaciones

No aplicable.

CHINA (HONG KONG SPECIAL ADMINISTRATIVE REGION)**The applications****1. The number of applications**

Incoming Return Applications	5
Incoming Access Applications	0
Outgoing Return Applications	1
Outgoing Access Applications	0

According to the Central Authority for China (Hong Kong Special Administrative Region - HKSAR), they received 5 incoming return and no incoming access applications in 2003. This is an increase on the 4 incoming applications (all of which were applications for return) received in 1999. It is to be noted that the ratio of incoming return to incoming access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made one outgoing return application¹ but no outgoing access applications in 2003. This is a decrease on the 2 outgoing applications (both of which were for return) made in 1999.

Altogether, the Central Authority handled 6 new applications in 2003. This is the same as in 1999.

The overall ratio of incoming to outgoing applications was 83% to 17%.

2. The Contracting States which made the application**Requesting States 2003**

	Number	Percent
Australia	2	40%
USA	2	40%
New Zealand	1	20%
Total	5	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Australia	2 (40%)	0 (0%)
USA	2 (40%)	1 (25%)
New Zealand	1 (20%)	0 (0%)
UK - England and Wales	0 (0%)	2 (50%)
Canada	0 (0%)	1 (25%)
Total	5 (100%)	4 (100%)

As in 1999, China (HKSAR) received applications for return from 3 Contracting States. Only the USA made applications in both 2003 and 1999.

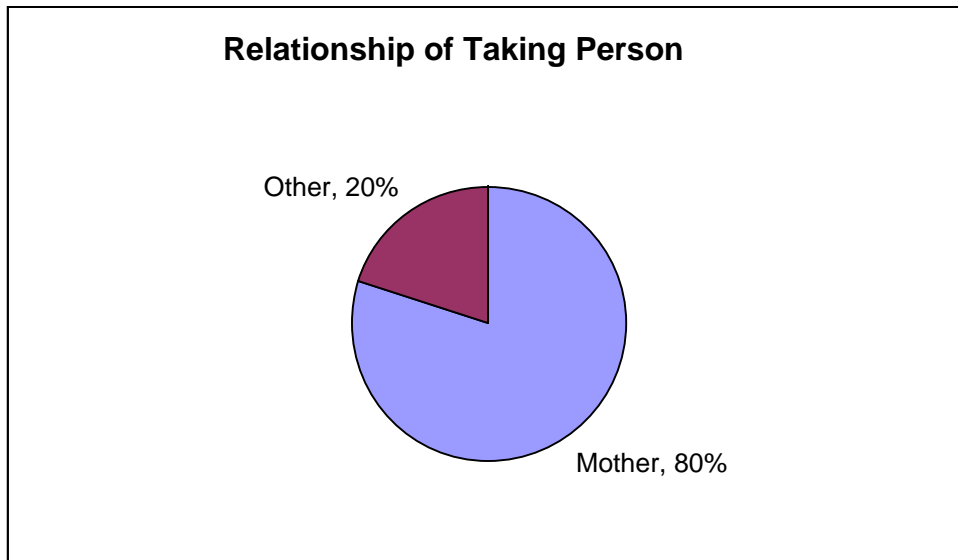
¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

The taking person

3. The relationship of the taking person

Relationship of Taking Person

	Number	Percent
Mother	4	80%
Other	1	20%
Total	5	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 4 (80%) of taking persons were mothers. This is higher than the global average of 68% and is a virtual reversal of the position in 1999, where all taking persons (100%) were male.

In one application the taking person was the adoptive maternal aunt of the child.²

4. The status of the taking person as carer in relation to the child

China (HKSAR) did not provide information on the status of the taking person as carer.

5. The nationality of the taking person³

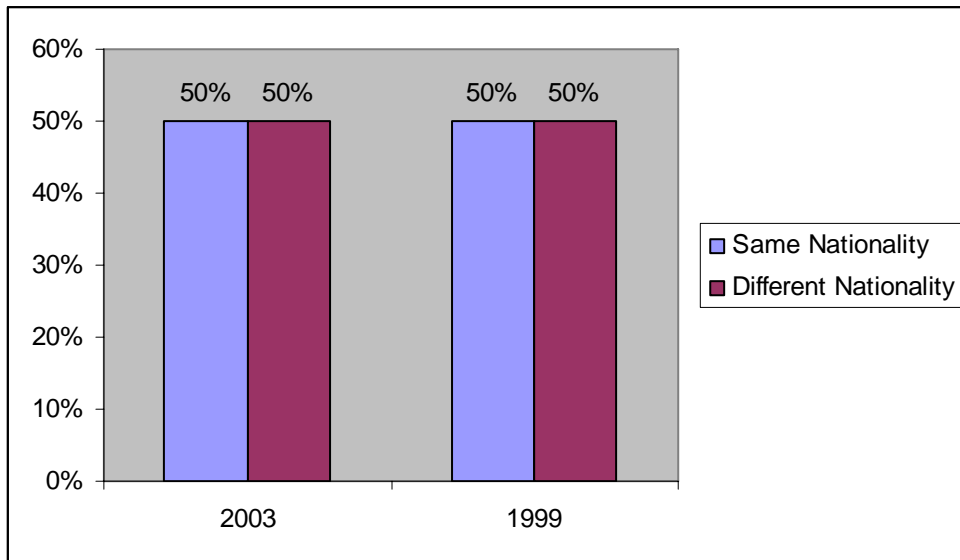
Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	2	50%
Different Nationality	2	50%
Total	4	100%

At 50%, the proportion of taking persons being Chinese nationals compares with the 2003 global average of 55% of taking persons having the nationality of the requested State.

² Recorded as 'other'.

³ This information was not available in one application.

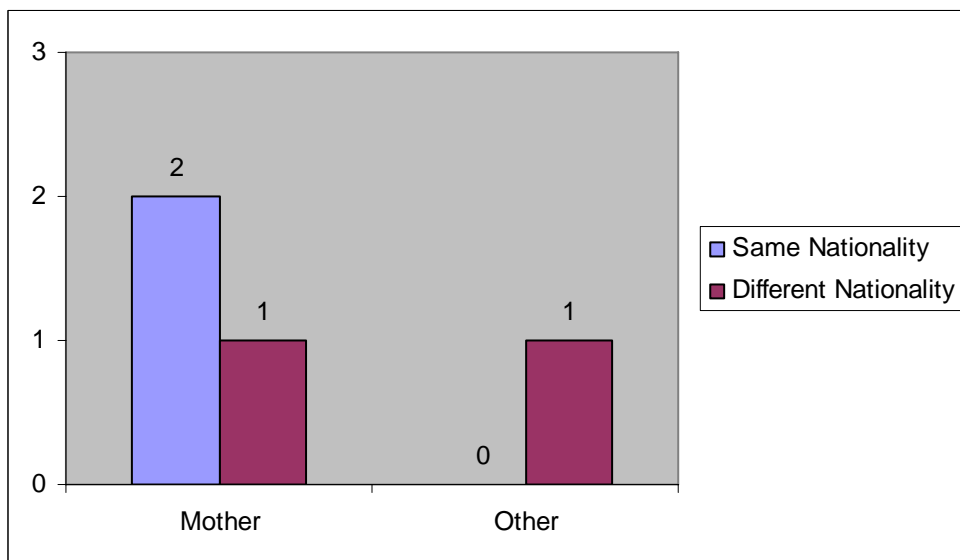


The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, in 2 of the 4 (50%) incoming return applications, the taking person was Chinese. This was the same as in 1999.

6. The relationship and nationality of the taking person combined

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Other	
Same Nationality	2	0	2
Different Nationality	1	1	2
Total	3	1	4



As can be seen, 2 of the 3 mothers were found to be Chinese nationals. Globally, 54% taking persons recorded as mothers had the nationality of the requested State. In 1999, 2 of the 4 male taking persons were recorded as having a Chinese nationality.

The children

7. The total number of children

There were 6 children involved in the 5 incoming return applications in 2003. This can be compared with a total of 4 children being involved in the 4 applications in 1999. Proportionally, this represents a slight increase in the number of children per application overall, with an average of 1.2 in 2003 and one child in 1999.

Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	4	80%
Sibling Group	1	20%
Total	5	100%

Number of Children

	Number	Percent
1 Child	4	80%
2 Children	1	20%
Total	5	100%

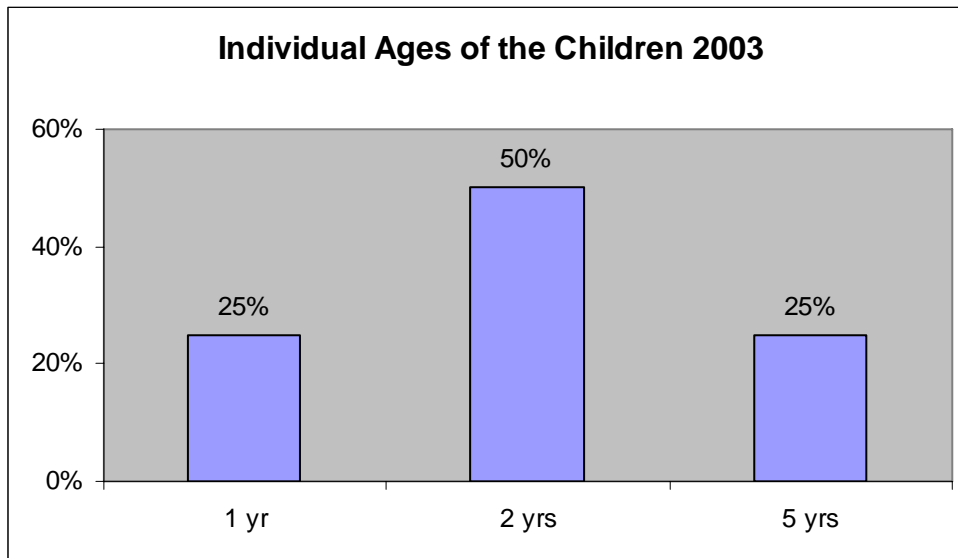
The above table shows that 4 of 5 (80%) applications involved a single child, compared with the global average of 67%. All of the applications involved either one or 2 children, compared with the global average of 93%. In contrast, in 1999, each application was for a single child and no sibling groups were involved.

9. The age of the children⁴

Individual Ages 2003

	Number	Percent
1 yr	1	25%
2 yrs	2	50%
5 yrs	1	25%
Total	4	100%

⁴ This information was not available in relation to one sibling group involving 2 children.

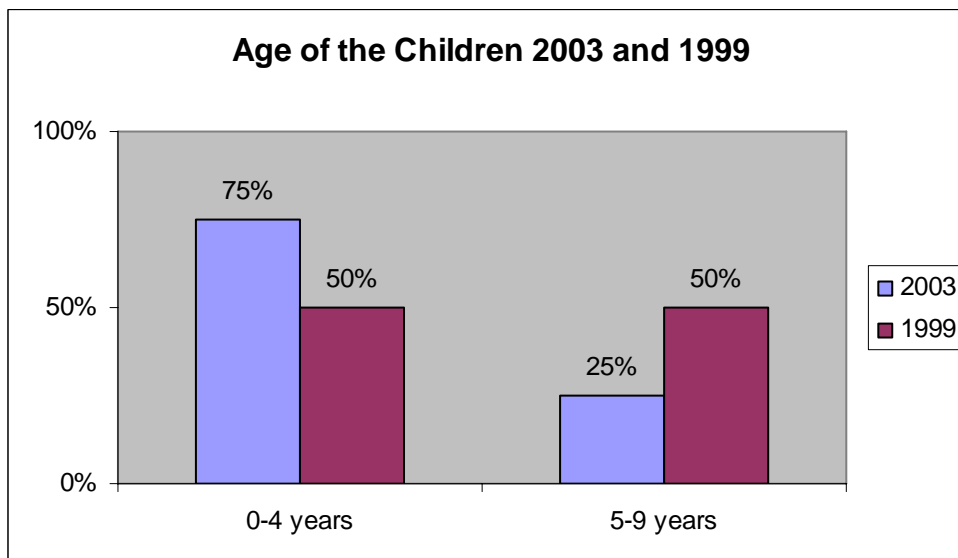


The above table and chart show the ages of the individual children involved. Where the information concerning the age of the child was available, all of the 4 children involved (100%) were aged between 1 and 6 years. This is markedly higher than the global average of 55%. Nevertheless, the numbers involved in the applications are too small to enable meaningful conclusions to be drawn.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	3	75%
5-9 years	1	25%
Total	4	100%



Of the 4 children included, one (25%) was aged between 5-9 years which is a decrease on the 2 (50%) recorded in 1999. This can be compared with the 2003 global average of 42%. On the other hand, the proportion of children aged between 0-4 years increased from 50% in 1999 to 75% in 2003. As in 1999, there were no children aged between 10-16 years, compared with the global average of 22%.

10. The gender of the children⁵

Gender of the Children 2003

	Number	Percent
Female	2	50%
Male	2	50%
Total	4	100%

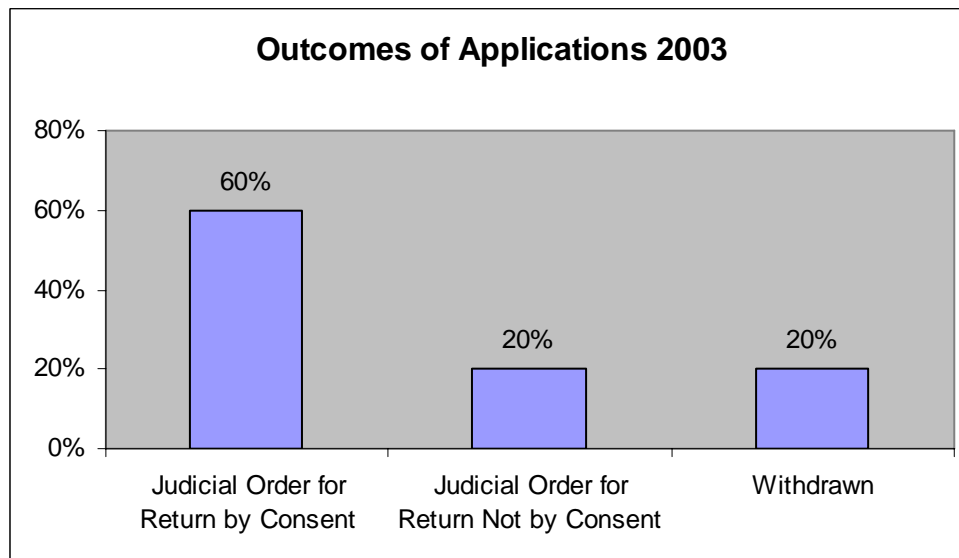
As in the 1999 survey, the proportion of both, female and male children was 50%. Globally in 2003, 51% of children were female and 49% were male.

The outcomes

11. Overall outcomes

Outcome of Application

	Number	Percent
Judicial Order for Return by Consent	3	60%
Judicial Order for Return Not by Consent	1	20%
Withdrawn	1	20%
Total	5	100%



The above table shows the outcome of all applications in 2003. Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In 2003, 3 return orders were made with consent in Hong Kong.

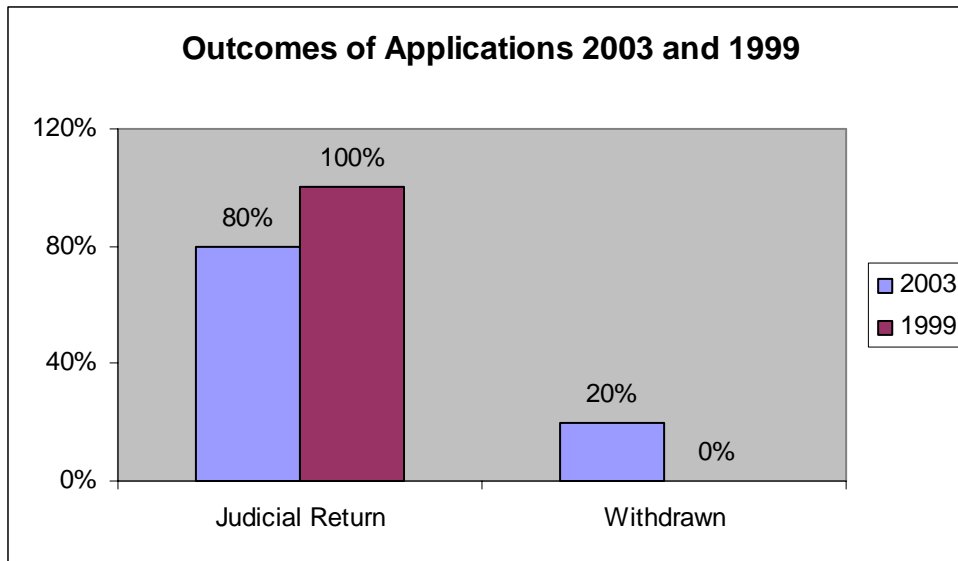
Proportionally, the figures show that judicial order for return by consent was the most common outcome for an application, with a total of 3 (60%) applications. One application (20%) resulted in order for return made without consent. These proportions can be compared with the 2003 global averages of 9% and 20% respectively. It is to be noticed that overall return rate was 80%, which is significantly higher than the global average of 51%.

4 applications (80%) went to court. All of these ended in a judicial return.⁶

⁵ This information was not available in relation to 2 children.

⁶ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

One application (20%) was withdrawn, compared with 15% globally. As of 30th June 2005, no application was pending. Globally in 2003, 9% of applications were still pending as of 30th June 2005.



The above chart categorises the outcomes in a way that is comparable with the 1999 findings. 'Judicial Returns' therefore include orders made with and without consent.

It is to be noted that as in 1999, a judicial return order was the most common outcome for an application. In 1999, each application resulted in a return order.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

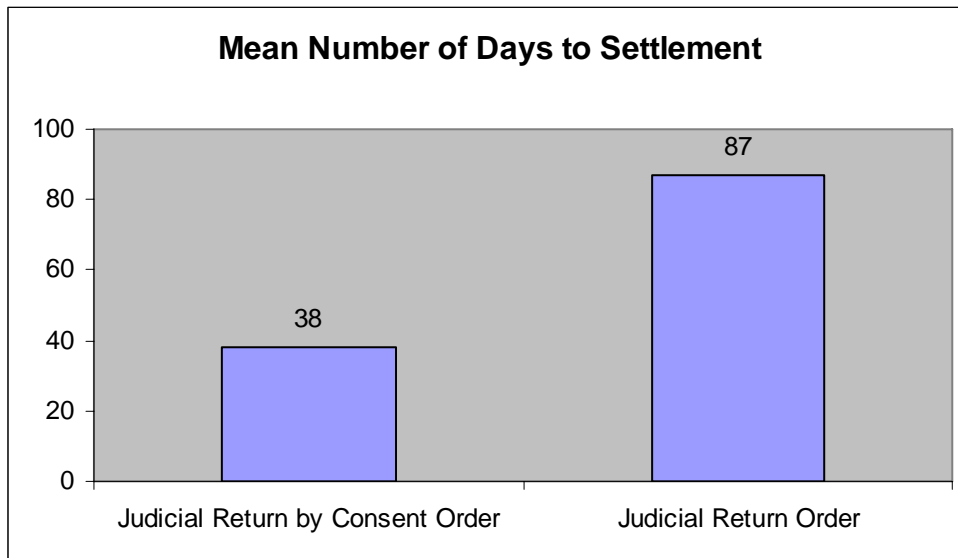
The reason for the one judicial refusal was not available.

14. The reasons for judicial refusal and the relationship of the taking person

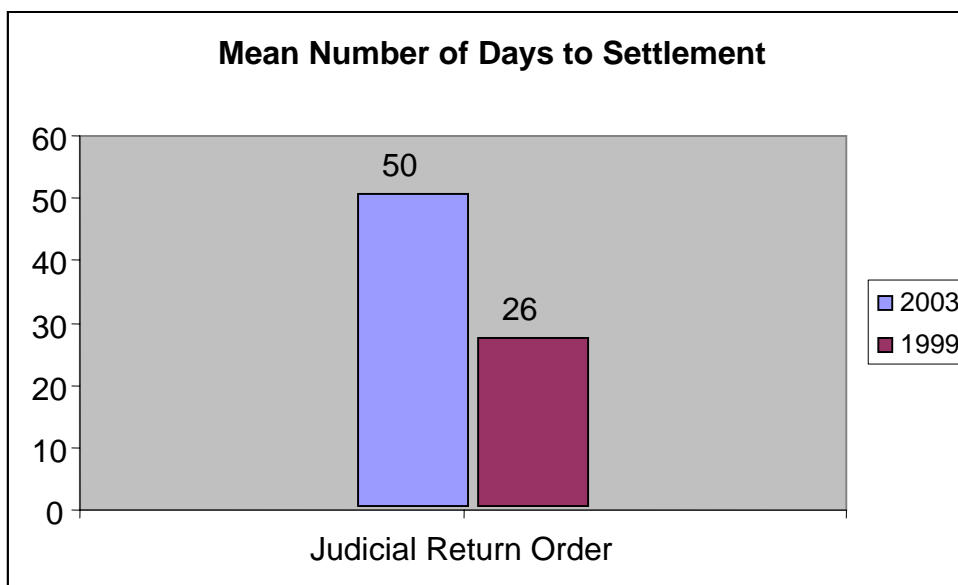
Not applicable.

Speed

15. The time between application and outcome



The above chart shows that orders made with consent were resolved on average in 38 days, which is quicker than the 2003 global average of 85 days. Similarly, the one judicial return took 87 days, compared with the 2003 global average of 143 days.



The chart above shows that combined judicial returns, averaging 50 days, took longer than the 1999 judicial returns global mean of 26 days. Globally in 2003, combined judicial returns took an average of 125 days to resolve.

Number of Days Taken to Reach Final Outcome: 2003

	Judicial Return by Consent Order	Judicial Return Order
Mean	38	87
Median	14	87
Minimum	3	87
Maximum	96	87
Number of cases	3	1

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in China (HKSAR). As can be seen, the fastest consent return order was made in 3 days. Interestingly, the one judicial return without consent was resolved quicker than the slowest consent return order, 87 days compared with 96 days.

16. Appeals

None of the return orders were appealed.

HUNGARY

The applications

1. The number of applications

Incoming Return Applications	13
Incoming Access Applications	1
Outgoing Return Applications	15
Outgoing Access Applications	3

According to the Central Authority for Hungary, they received 13 incoming return applications and one incoming access application in 2003, making a total of 14 incoming applications. This is an increase on the 9 incoming applications (8 of which were return applications and one of which was for access) made in 1999. The ratio of incoming return applications to access applications, 93% to 7% can be compared with the global average of 84% to 16%.

Additionally, the Central Authority made 15 outgoing return applications¹ and 3 outgoing access applications in 2003. This is an increase on the 12 outgoing return applications and two outgoing access application made in 1999.

Altogether, the Central Authority handled 32 new applications in 2003, compared with 23 new applications in 1999.

The overall ratio of incoming to outgoing applications was 44% to 56%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Austria	2	15%
Germany	2	15%
Netherlands	2	15%
Sweden	2	15%
Australia	1	8%
Belgium	1	8%
Israel	1	8%
UK - England & Wales	1	8%
USA	1	8%
Total	13	100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Austria	2 (15%)	2 (25%)
Germany	2 (15%)	2 (25%)
Netherlands	2 (15%)	0 (0%)
Sweden	2 (15%)	0 (0%)
USA	1 (8%)	1 (13%)
Switzerland	1 (8%)	0 (0%)
UK – England & Wales	1 (8%)	0 (0%)
Israel	1 (8%)	0 (0%)
Australia	1 (8%)	0 (0%)
France	0 (0%)	1 (13%)
Italy	0 (0%)	1 (13%)
Norway	0 (0%)	1 (13%)
Total	13 (100%)	8 (~100%)

Hungary received applications for return from 9 Contracting States, compared with 6 in 1999.

As in 1999, the highest number of applications was made by Austria and Germany (2 applications by each in 1999 as well as in 2003) but there were also 2 applications both from Sweden and Netherlands compared with none in 1999. No applications were received from France, Italy and Norway whereas in 1999 each of these countries made one application. Conversely, USA, Switzerland, England & Wales, Israel and Australia made one application each (8% each) compared with none in 1999. Interestingly, as in 1999, no Eastern European State made applications to Hungary.

Requesting States within the EU 2003

	Number	Percent
Germany	2	22%
Austria	2	22%
Netherlands	2	22%
Sweden	2	22%
UK - England & Wales	1	11%
Total	9	~100%

The above chart shows the number of applications received from countries that are now part of the EU. It is notable that these countries account for 9 of the 13 applications received by Hungary, a total of 68% of all applications. In the 1999 survey 87% (7 of the 8 applications) came from what are now EU Member States.²

(b) Incoming access applications

The Central Authority for Hungary received one access application which was the same as in 1999. However, the requesting State was different. In 1999, the access application was made by Italy whereas in 2003 it was made by Germany.

² Both these figures are based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

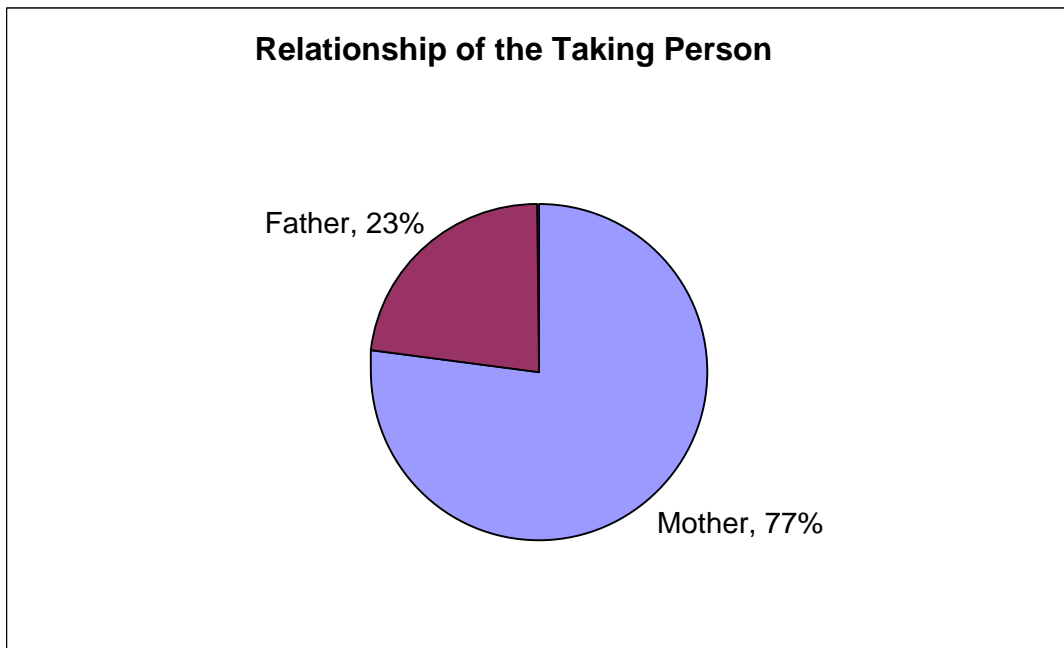
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	10	77%
Father	3	23%
Total	13	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 77% of taking persons were mothers. This is higher than the global average of 68% and is an increase in the 69% of taking persons recorded as female in the 1999 survey.

(b) Incoming access application

The access application was from Germany and the respondent was the mother. This compares with the 1999 case where the respondent was also the mother. Globally in 2003, 79% of respondents in access applications were recorded as the mother of the child.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications

Status of the Taking Person as Carer

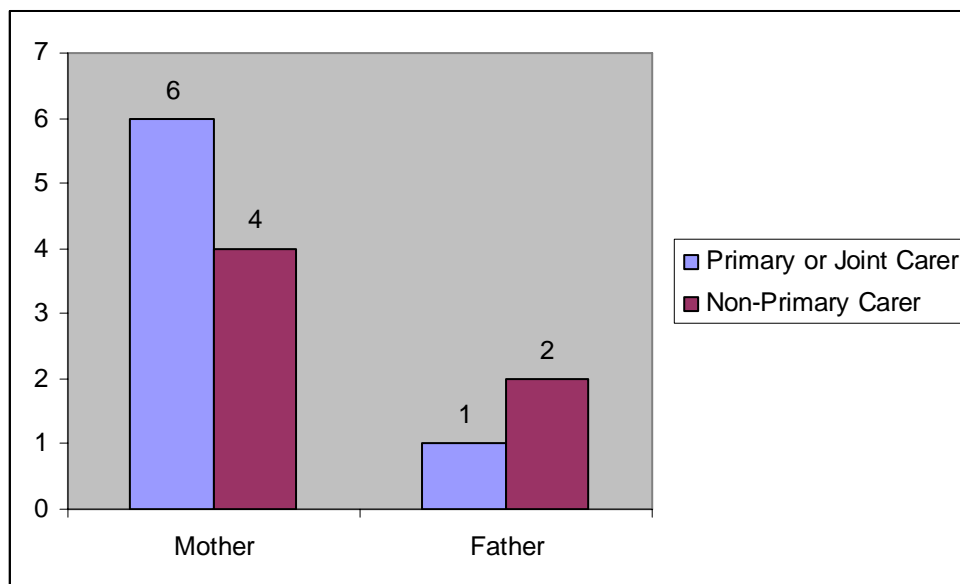
	Number	Percent
Primary or Joint Primary Carer	7	54%
Non-Primary Carer	6	46%
Total	13	100%

The table above shows that in 54% of applications, the taking person was the primary carer of the child.³ This can be compared with the 2003 global average of 68%.

Status as Carer and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary or Joint Primary Carer	6	1	7
Non-Primary Carer	4	2	6
Total	10	3	13

The above table shows that a slight majority of mothers (6 out of 10 applications, 60%) were the primary carer of the child. This can be compared with one of the 3 (33%) of fathers being a primary carer. Globally in 2003, 84% of mothers and 28% of respondent fathers were primary or joint primary carer of the child.



³ None of the cases were recorded as involving a joint primary carer.

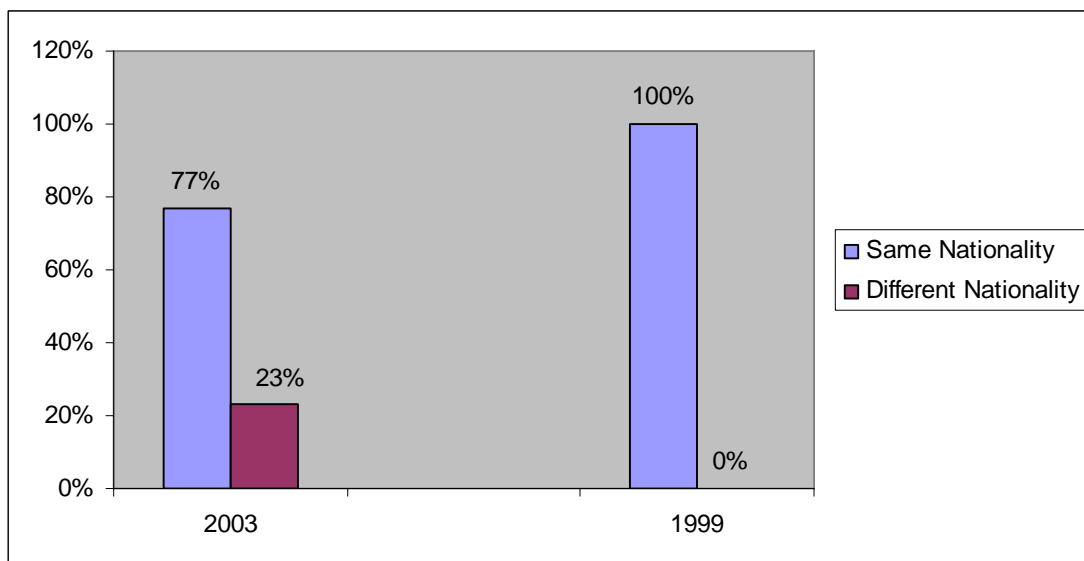
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	10	77%
Different Nationality	3	23%
Total	13	100%

This table shows that in 77% of applications the taking person was a Hungarian national (including 3 cases in which the taking person had dual nationality) and in 23% of applications they were not. This is quite different from the global averages of 55% and 45% respectively.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Hungarian nationals taking children to Hungary dropped from 100% in 1999 to 77% in 2003. This is a little closer to, though still markedly different, from the 2003 global average of 55% of taking persons having the same nationality as the requested State.

(b) Incoming access applications

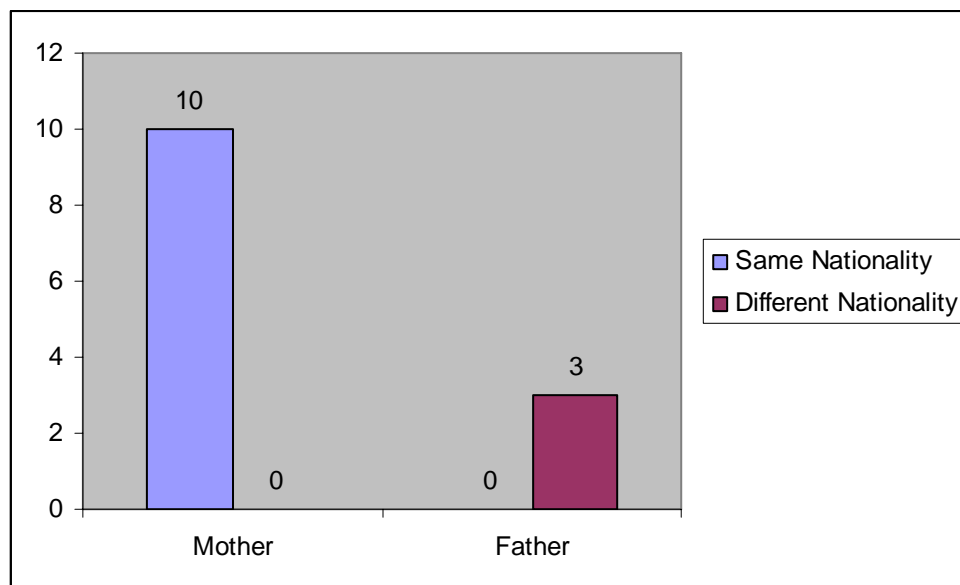
In the access application the respondent was Hungarian. This is different from the 1999 application (which had been received from Germany) but where the respondent was Italian. Globally in 2003, 53% of respondents involved in access applications had the nationality of the requested State.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	10	0	10
Different Nationality	0	3	3
Total	10	3	13



The tables above show the nationality of the taking person in relation to their gender. As can be seen all 10 mothers were found to be Hungarian nationals whereas all 3 fathers were recorded as being non Hungarian. The 2003 findings are in striking contrast to the global figures of 54% of female and 55% of male taking persons respectively being nationals of the requested State. It also contrasts with the 1999 survey in which all taking persons were recorded as being Hungarian.

(b) Incoming access applications

See 3(b) and 5(b). Globally, 49% of respondent mothers had the same nationality as the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 20 children involved in the 13 incoming return applications in 2003. This can be compared with the total of 9 children being involved in the 8 return applications in 1999. In 2003, on average 1.54 children were involved in return applications. Proportionally, this represents an increase on the average number (1.13) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There was one child involved in the one access application in 2003. This is the same as in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	9	69%
Sibling Group	4	31%
Total	13	100%

Number of Children

	Number	Percent
1 Child	9	69%
2 Children	2	15%
3 Children	1	8%
4 Children	1	8%
Total	13	100%

The above table shows that there has been a decrease in the number of single child applications from 88 % in 1999 to 69% in 2003. This can be compared with the 2003 global average of 67%. The overall number of cases involving one or 2 children dropped from 100% in 1999 to 84% in 2003. Globally in 2003, it was found that 93% of applications involved one or 2 children.

(b) Incoming access applications

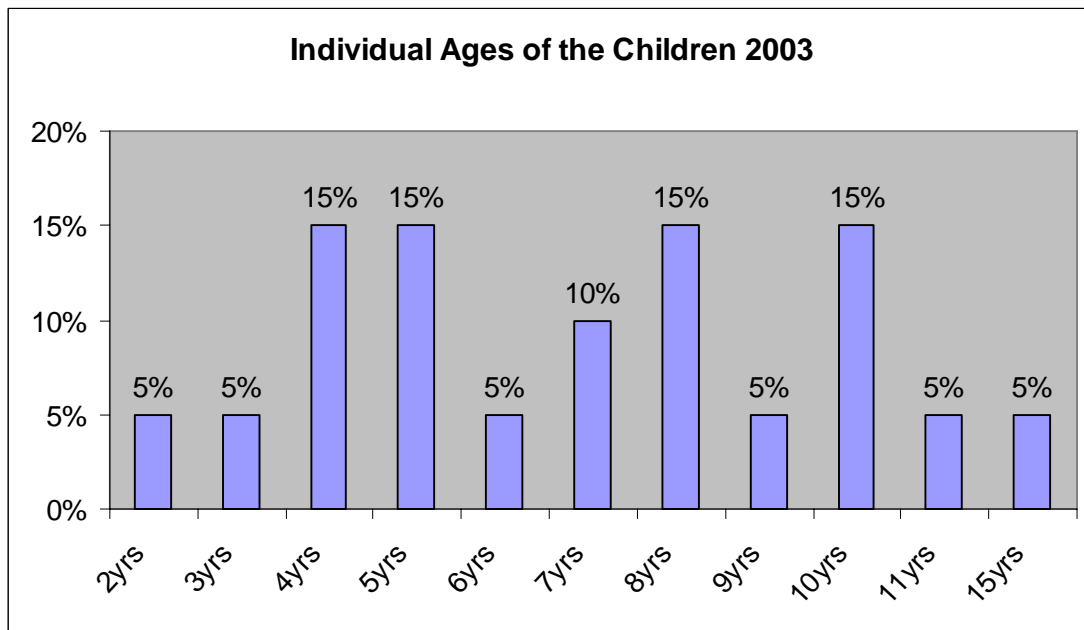
The access application involved a single child. The same was recorded in 1999. Globally in 2003, 71% of access applications involved single children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
2 yrs	1	5%
3 yrs	1	5%
4 yrs	3	15%
5 yrs	3	15%
6 yrs	1	5%
7 yrs	2	10%
8 yrs	3	15%
9 yrs	1	5%
10 yrs	3	15%
11 yrs	1	5%
15 yrs	1	5%
Total	20	100%

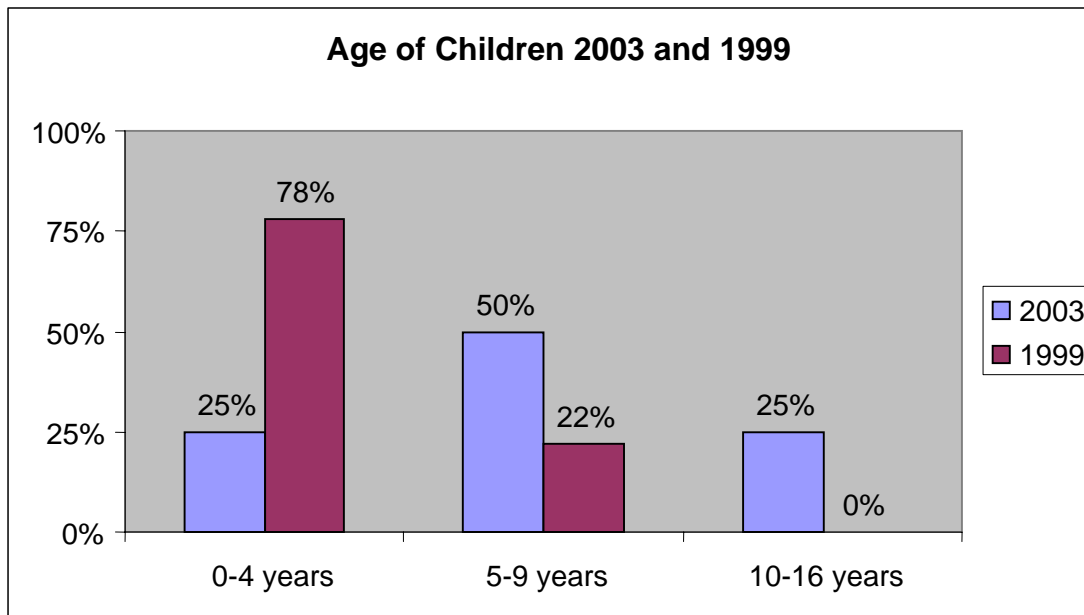


The above table and chart show the ages of the individual children involved. As can be seen, 45% of children were aged between ages 1 and 6, which can be compared with the 2003 global average 55%. There were no applications involving children under 2 years old.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	5	25%
5-9 years	10	50%
10-16 years	5	25%
Total	20	100%



Of the 20 children included, 50% were aged between 5-9 years, compared with 22% in 1999. This can be compared with the 2003 global average of 42%. The proportion of children aged between 0-4 years dropped significantly (from 78% to 25%). On the other hand, the number of children aged between 10-16 years has risen from 0% to 25%. This is similar to the 2003 global average of 22%.

(a) Incoming access applications

The child involved in the one incoming access application was 1 year old. This compares with the 1999 access application where the child was recorded as being aged between 0 and 4 years. Globally in 2003, 20% of children involved in access applications were aged between 0 and 4 years.

10. The gender of the children**(a) Incoming return applications⁴****Gender of the Children**

	Number	Percent
Female	12	63%
Male	7	37%
Total	19	100%

⁴ This information was not available in relation to one child.

As can be seen, there were more female children (63%) involved in return applications than male children (37%). Globally in 2003, 49% of children were male and 51% were female. In 1999, 56% of children involved in return applications to Hungary were female.

(b) Incoming access applications

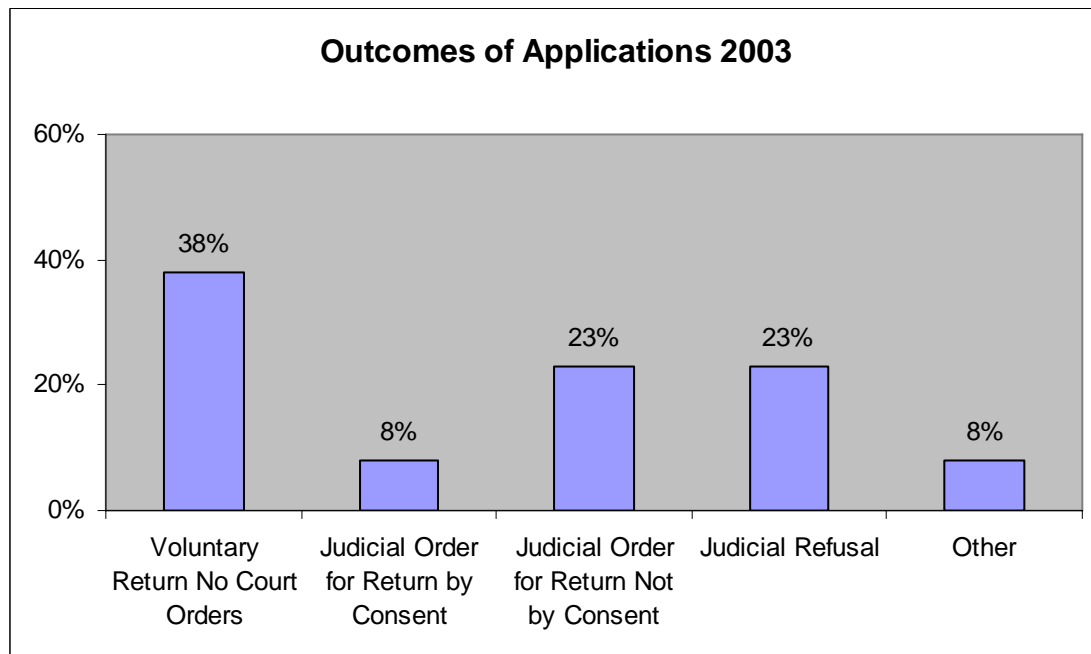
The child involved in the 2003 access application was male. In contrast, in the 1999 application the child concerned was female. Globally in 2003, 55% of children involved in access applications were male.

The outcomes

11. Overall outcomes

(a) Incoming return applications

	Number	Percent
Voluntary Return No Court Orders	5	38%
Judicial Order for Return by Consent	1	8%
Judicial Order for Return Not by Consent	3	23%
Judicial Refusal	3	23%
Other	1	8%
Total	13	100%



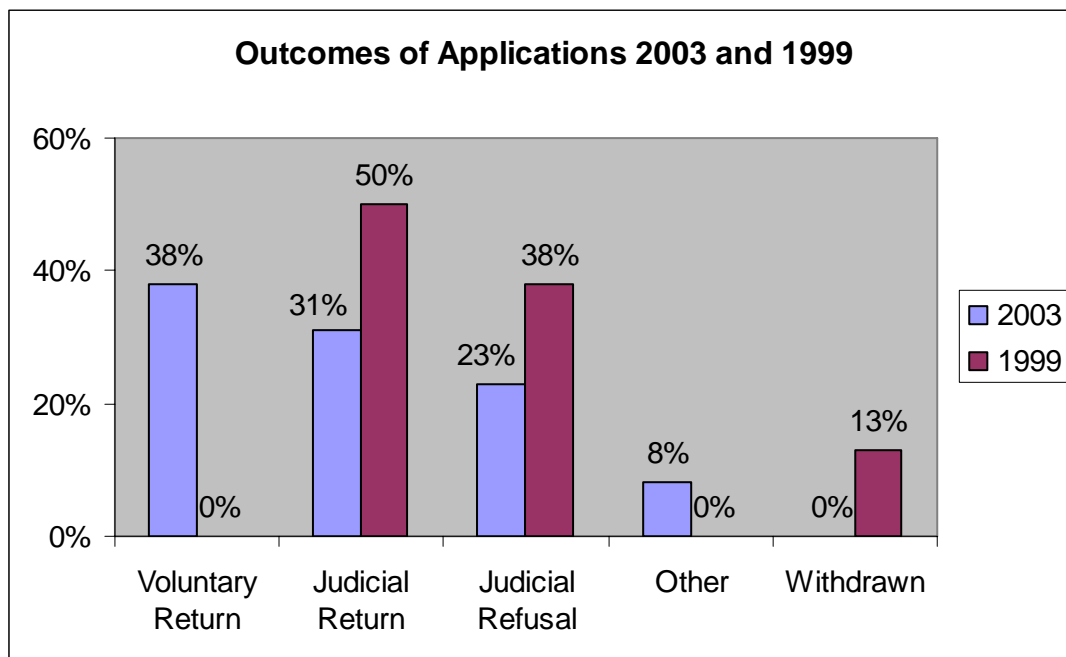
The above chart shows the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Hungary in 2003, one judicial return order was made with consent.

Proportionally, the figures show that voluntary return was the most common outcome for an application with a total of 5 (38%) applications. This is higher than the global average of 22%. Combining judicial and voluntary returns the overall return rate was 69%, which is also above the global average of 51%. On the other hand, however, a higher proportion of cases than the global average ended in a judicial refusal, 23% compared with 13%.

7 applications (54%) went to court. Of these cases, 4 (57%) resulted in return being ordered and 3 (43%) in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁵

In one application the applicant 're-abducted' the child back to the requesting State.⁶ Strikingly no applications were withdrawn, whereas globally, 14% of cases ended in withdrawal. It is to be noted that no applications were rejected and no cases were still pending as of June 30th 2005.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

The figures show that unlike in the 1999 survey, voluntary return was the most common outcome for an application. Indeed, in 1999 no application ended in a voluntary return whereas in 2003 the proportion of children returned voluntarily was 38%. Judicial return as the most common outcome in 1999 (50%) accounted for only 31% of all applications in 2003. The proportion of judicial refusals decreased from 38% in 2003 to 23% in 1999. Correspondingly, the overall return rate increased from 50% in 1999 to 69% in 2003.

No applications were withdrawn, as opposed to the 1999 withdrawal rate of 13%.

(b) Incoming access applications

In the one access application, access was agreed outside court proceedings. In contrast, in the 1999 application the access was judicially granted. Globally in 2003, 13% of access applications ended in a settlement for access being made.

⁵ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁶ Recorded as 'other'.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications

The proportion of judicial refusals (23%) was higher than the global average of 13%. In 1999, Hungary refused 38% of applications.

One application, 33%, was refused on the basis of Article 13 *b*). In one application multiple reasons for judicial refusal were given for a single child (lack of right's of custody and child's objections) and in the remaining application multiple reasons for refusal were given for a sibling group. This case involved 4 children; Article 13 *b*) was cited for all 4 children. Child's objections were cited as an additional reason in relation to 3 of the children (aged 11, 10 and 8).

When multiple grounds for refusal are taken into account, the most commonly recorded reasons for refusing applications were Article 13 *b*) and child's objections.

Interestingly, none of the reasons for refusal relied upon in 2003 was recorded in 1999.

14. The reasons for judicial refusal and the relationship of the taking person

(a) Incoming return applications

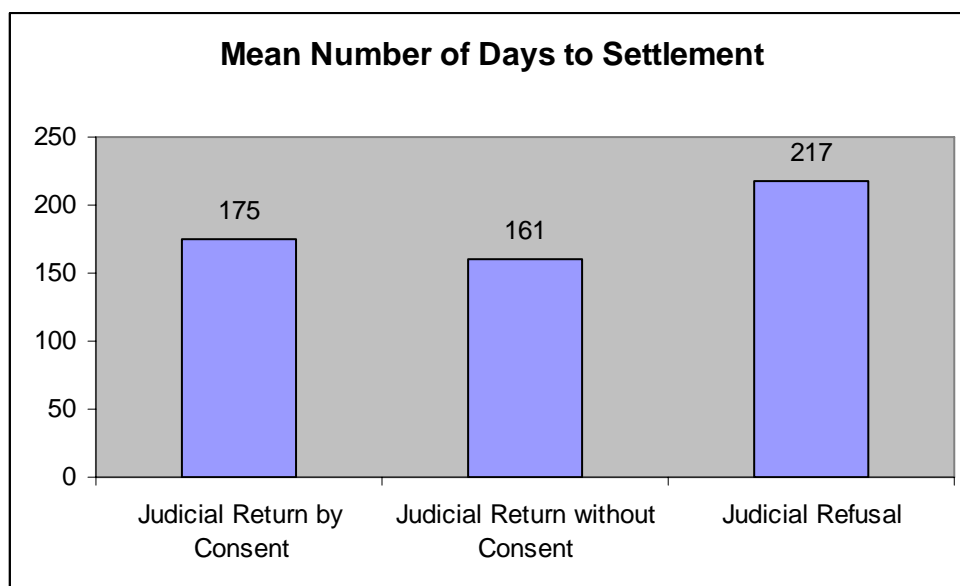
In 2 of the 3 refusals, 67%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall. Conversely, in one out of the 3 refusals, 33%, the taking person was father. Globally in 2003, 21% of refusals involved fathers.

In the 1999 survey the information on the reasons for judicial refusal and the gender of the taking person was not stated.

Speed

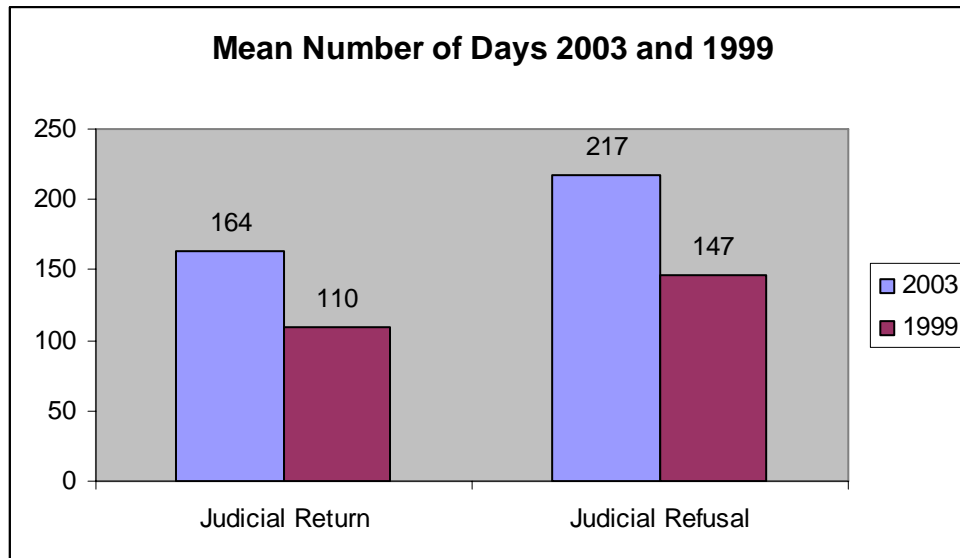
15. The time between application and outcome

(a) Incoming return applications⁷



⁷ This information was not available in relation to any of the voluntary returns.

Surprisingly, return orders without consent were resolved slightly quicker than the one return order by consent, 161 days compared with 175 days. This can be compared with the 2003 global averages of 143 days and 85 days respectively in 2003. Judicial refusals, averaging 217 days, took longer than the global mean of 233 days.



The chart above shows that judicial returns were resolved in a combined average of 164 days compared with 110 days in 1999. Judicial refusals took a mean average of 217 days as against 147 days in 1999. In short, judicial disposal times were longer in 2003 than in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)⁸**

	Judicial Return By Consent Order	Judicial Return Order	Judicial Refusal
Mean	175	161	217
Median	175	176	258
Minimum	175	118	116
Maximum	175	188	277
Number of cases	1	3	3

The table above demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Hungary. The fastest judicial decision, a judicial refusal, was made in 116 days, the slowest, again a judicial refusal, was made in 277 days.

(b) Incoming access applications

The access application was resolved in 186 days which was quicker than 227 days globally. In the one 1999 access application, it took over 6 months for access to be granted.

⁸ The one judicial return by consent order, all 3 judicial returns without consent and all 3 judicial refusals were appealed cases.

16. Appeals

(a) Incoming return applications

Appeals				
		Appellate Final Judicial Decision		Total
		Return	Refusal	
	Return	3	0	3
	Refusal	1	3	4
Total		4	3	7

Strikingly, all 7 of the applications which went to court, 100%, were appealed.⁹ Globally, just 22% of all cases which went to court were appealed.

4 applications for return were judicially granted upon an appeal. In 3 of these decisions the appellate court upheld first instance decisions and in the remaining one case the appellate court overruled the first instance refusal to return.

3 appellate decisions resulted in a judicial refusal. In all of these cases, the appellate court upheld the first instance refusal to return.

In 1999, one of the 4 judicial returns and all 3 of the judicial refusals were results of appeals.

(b) Incoming access applications

Not applicable.

⁹ Including the application for which the outcome was recorded as 'order for return by consent'. The consent order was made at appellate level.

ICELAND

The applications

1. The number of applications

Incoming Return Applications	6
Incoming Access Applications	0
Outgoing Return Applications	1
Outgoing Access Applications	0

According to the Central Authority for Iceland, they received a total of 6 incoming return but no incoming access applications in 2003. This is an increase on the 4 incoming return applications and no incoming access applications received in 1999. It is to be noted that the overall ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made one outgoing return application but no outgoing access applications in 2003.¹ This can be compared with 1999 when Iceland made no outgoing applications for either return or access.

Altogether, therefore, the Central Authority handled 7 new applications in 2003, compared with 4 new applications in 1999.

The overall ratio of incoming to outgoing applications was 86% to 14%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
USA	2	33%
Denmark	1	17%
Luxembourg	1	17%
Mexico	1	17%
Sweden	1	17%
Total	6	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
USA	2 (33%)	1 (25%)
Denmark	1 (17%)	0 (0%)
Luxembourg	1 (17%)	0 (0%)
Mexico	1 (17%)	0 (0%)
Sweden	1 (17%)	1 (25%)
Spain	0 (0%)	1 (25%)
Poland	0 (0%)	1 (25%)
Total	6 (100%)	4 (100%)

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Iceland received applications for return from 5 Contracting States, compared with 4 in 1999. Two applications came from the USA.

The taking person

3. The relationship of the taking person

Relationship of the Taking Person

	Number	Percent
Mother	3	50%
Father	3	50%
Total	6	100%

The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender (*i.e.* simply male/female) of the taking person, as recorded in the 1999 survey. 3 out of the 6 (50%) taking persons were mothers, compared with the global average of 68%. This compares with the 1999 survey where all 4 respondents were mothers.

4. The status of the taking person as carer in relation to the child²

Status of the Taking Person as Carer

	Number	Percent
Primary Carer	2	50%
Non-Primary Carer	2	50%
Total	4	100%

The table above shows that in 50% of cases, the taking person was the primary carer of the child. Globally in 2003, 68% of taking persons were recorded as the primary or joint primary carer of the child.

Status as Carer and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary Carer	2	0	2
Non-Primary Carer	0	2	2
Total	2	2	4

Interestingly, where the status as carer and the relationship of the taking person were known, both of the mothers were the primary carer the child, whereas neither of the fathers were.

5. The nationality of the taking person

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	6	100%
Total	6	100%

This table shows that in all 6 applications, the taking person was an Icelandic national. This compares with 3 out of 4 applications in 1999 and 55% globally.

² This information was not available in relation to 2 applications.

6. The relationship and nationality of the taking person combined

All 3 mothers and all 3 fathers were Icelandic nationals. Globally, 54% of mothers and 55% of fathers had the same nationality as the requested State.

The children

7. The total number of children

There were 8 children involved in the 6 incoming return applications. This is a similar figure to that recorded in 1999 where a total of 8 children were involved in the 4 new applications in that year. Proportionally this represents a decrease in the number of children per application overall, with an average of 1.33 in 2003 and 2.0 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Single child or Sibling Group

	Number	Percent
Single Child	4	67%
Sibling Group	2	33%
Total	6	100%

Number of Children

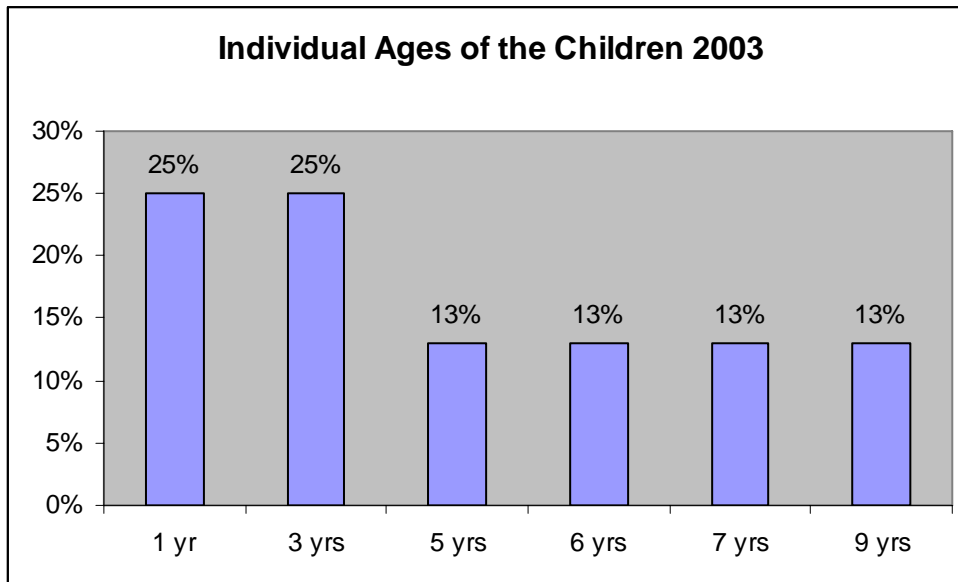
	Number	Percent
1 Child	4	67%
2 Children	2	33%
Total	6	100%

The proportion of single children involved in return applications, 67%, is the same as the 2003 global average. In 1999, only 25% of applications to Iceland involved a single child. All of the cases involved one or two children, compared with 93% globally.

9. The age of the children

Individual Ages 2003

	Number	Percent
1 yr	2	25%
3 yrs	2	25%
5 yrs	1	13%
6 yrs	1	13%
7 yrs	1	13%
9 yrs	1	13%
Total	8	100%

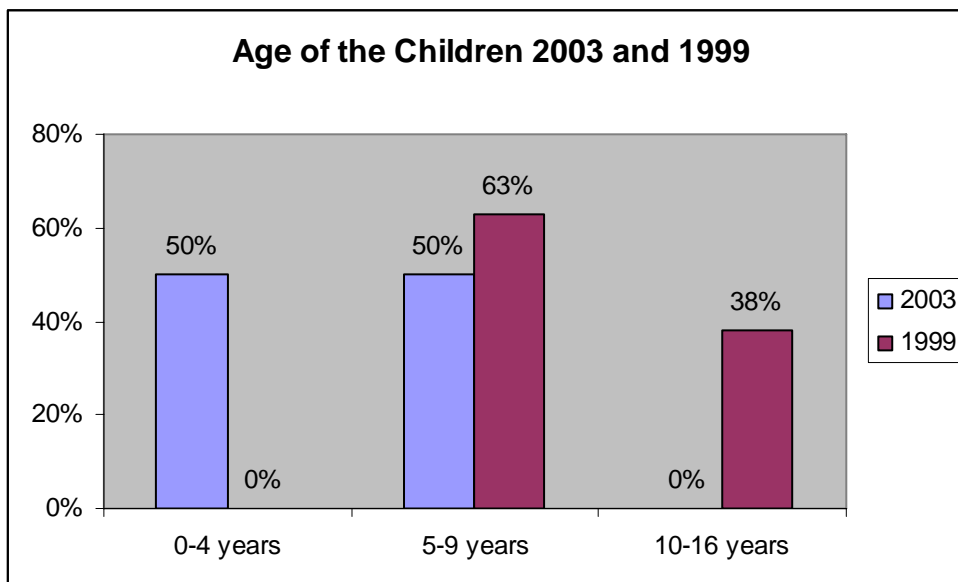


The above table and chart show the ages of the individual children involved. 76% of children were aged 1 - 6, compared with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	4	50%
5-9 years	4	50%
Total	8	100%



Of the 8 children included, 4 (50%) were aged between 0-4 years and 4 (50%) were aged 5-9. Unlike in 1999 there were no children aged 10-16 years. Conversely, in 1999 there were no children aged 0-4 years. This overall shift to younger children being involved in abductions in 2003 goes against the global trend. Globally in 2003, 36% of children were aged between 0-4 years and 42% were aged between 5-9 years.

10. The gender of the children

Gender of the Children 2003

	Number	Percent
Female	3	38%
Male	5	63%
Total	8	100%

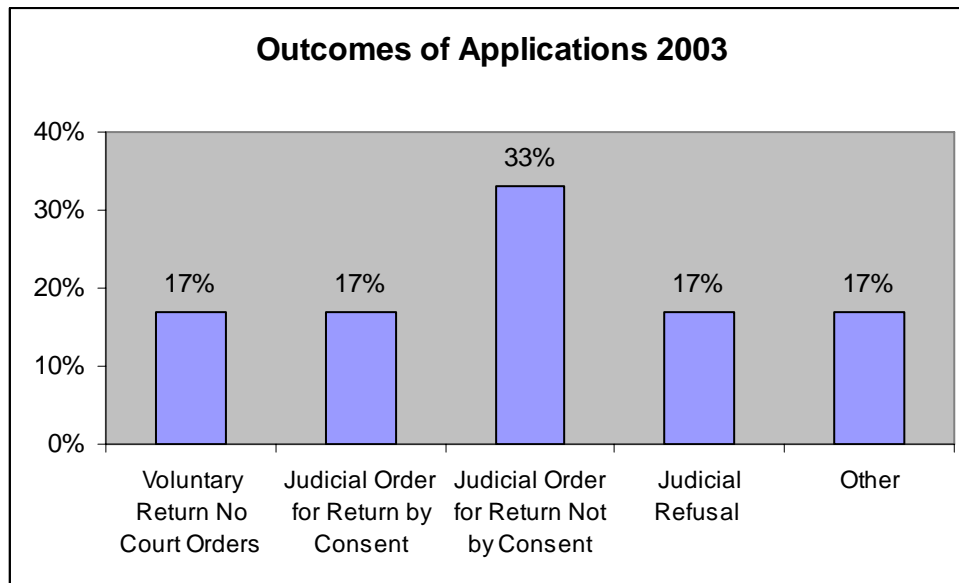
The proportion of female (38%) and male (63%) children is the same as that recorded in 1999 but differs from the 2003 global averages of 51% and 49% respectively.

The outcomes

11. Overall outcomes

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	1	17%
Judicial Order for Return by Consent	1	17%
Judicial Order for Return Not by Consent	2	33%
Judicial Refusal	1	17%
Other	1	17%
Total	6	~100%



The above table and chart show the outcome of all applications in 2003.

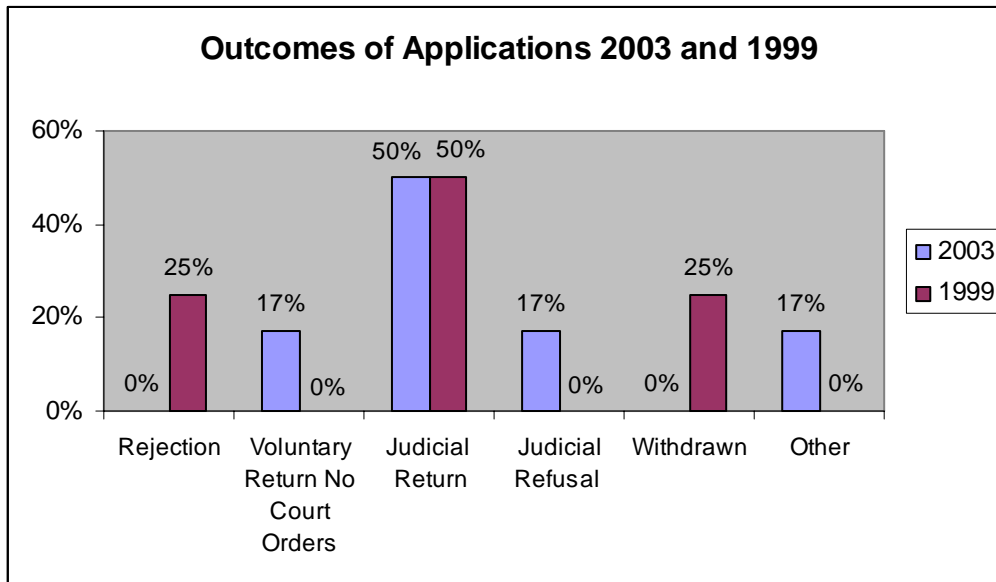
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Iceland, in 2003, one (17%) judicial return order was made with consent and 2 (33%) were made without consent.

Overall, 67% of applications made to Iceland ended in the child being returned either by a court order or voluntarily, which is above the global average return rate of 51%. Similarly, at 50%, the proportion of judicial returns is well above the global average of

29%. On the other hand, the proportion of voluntary returns, 17%, is below the global average of 22%.

4 out of the 6 applications (67%) went to court. Of these cases, 75% resulted in return being ordered and 25% in judicial refusal. This compares with the 2003 global averages of 66% and 29% respectively.³

One case was closed as the applicant moved to Iceland.⁴



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore includes orders made with and without consent.

Proportionally, the figures show that a judicial order for return (including by consent) was the most common outcome for an application, with a combined total of 3 cases (50%). This compares with 2 cases (50%) in 1999. Unlike in 1999, in 2003 there was also one voluntary return, one judicial refusal and one outcome recorded as 'other'. On the other hand, there were no rejections and no withdrawals as opposed to 2 (25%) each in 1999. As in 1999 there were no pending cases at the end of the cut-off period.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

The one application which was refused was because the applicant had no rights of custody. Globally, 8% of refusals were based on this reason.

14. The reasons for judicial refusals and the relationship of the taking person

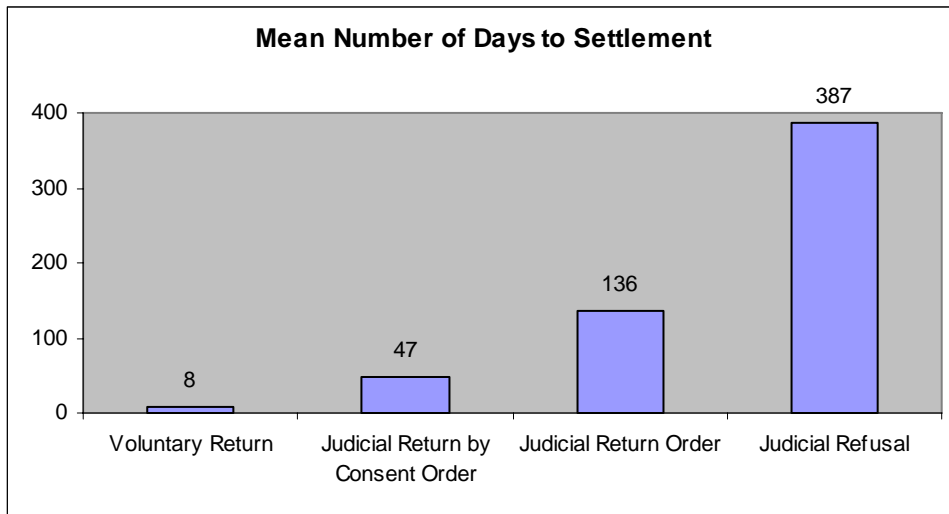
The taking person involved in the one refused application was recorded as the mother of the child. Globally, 77% of refusals involved mothers.

³ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 25.

⁴ Recorded as 'other' outcome.

Speed

15. The time between application and outcome⁵



Predictably, the one return order by consent was resolved quicker than return orders without consent, in 47 days compared with 136 days. This compares with the global averages of 85 days and 143 days respectively. The one voluntary return took 8 days to reach a final outcome, which compares favourably with the global average of 98 days. On the other hand, the speed of the one judicial refusal, 387 days, was slower than the global average of 233 days.

Number of Days Taken to Reach Final Outcome: 2003 (including appealed cases)

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	8	47	136	387
Median	8	47	136	387
Minimum	8	47	135	387
Maximum	8	47	137	387
Number of cases	1	1	2	1

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Iceland. No applications were pending. Therefore the slowest judicial decision, a judicial refusal, was reached in just over one year (387 days).

16. Appeals

3 out of the 4 applications which went to court (75%) were appealed. This compares with 22% of cases globally. All 3 decisions, 2 judicial returns and one judicial refusal, were upheld on appeal. The judicial returns were concluded within 135 and 137 days and the judicial refusal in 387 days.

⁵ This information was not available in 3 of the voluntary return applications.

IRELAND

The applications

1. The number of applications

Incoming Return Applications	33
Incoming Access Applications	2
Outgoing Return Applications	23
Outgoing Access Applications	0

According to the Central Authority for Ireland, they received 33 incoming return applications and 2 incoming access applications in 2003, making a total of 35 incoming applications. This is a slight decrease on the 39 incoming applications (of which 38 were for return and 1 for access) made in 1999. The ratio of incoming return applications to access applications, 94% to 6 %, can be compared with the global average of 84% to 16%.

Additionally, the Central Authority made 23 outgoing return applications¹ but no outgoing access applications in 2003. This is a slight increase on the 21 outgoing applications (of which all were for return) made in 1999.

Altogether, the Central Authority handled 58 new applications in 2003, which compares with 60 new applications in 1999.

The overall ratio of incoming to outgoing applications was 60% to 40%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
UK - England & Wales	17	52%
Australia	5	15%
USA	3	9%
Canada	1	3%
Denmark	1	3%
France	1	3%
Germany	1	3%
Israel	1	3%
Netherlands	1	3%
Sweden	1	3%
UK - Isle of Man	1	3%
Total	33	100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requested States compared with 1999 findings

	Number of Applications 2003	Number of Applications 1999
UK - England & Wales	17 (52%)	23 (61%)
Australia	5 (15%)	1 (3%)
USA	3 (9%)	7 (18%)
Canada	1 (3%)	2 (5%)
Denmark	1 (3%)	0 (0%)
France	1 (3%)	0 (0%)
Germany	1 (3%)	0 (0%)
Israel	1 (3%)	0 (0%)
Netherlands	1 (3%)	1 (3%)
Sweden	1 (3%)	0 (0%)
UK - Isle of Man	1 (3%)	0 (0%)
Italy	0 (0%)	1 (3%)
UK - Scotland	0 (0%)	1 (3%)
UK - Northern Ireland	0 (0%)	1 (3%)
Ireland	0 (0%)	1 (3%)
Slovenia	0 (0%)	1 (3%)
Total	33 (100%)	38 (~100%)

Ireland received applications for return from 11 Contracting States, compared with 9 in 1999. As in 1999, more than half (17, 52%) of the applications came from England & Wales. This is, however, a decrease on the number of applications received from this jurisdiction in 1999, (23, 61%). Interestingly, Ireland only made 17 applications to England & Wales a proportion of just 12% of the 142 applications received by that Territory.

Australia made 5 (15%) applications, compared with only 1 (3%) in 1999. On the other hand, the proportion of applications received from the USA decreased to 3 (9%) in 2003 compared with 7 (18%) in 1999.

Requesting States within the EU 2003

	Number	Percent
UK - England & Wales	17	77%
Denmark	1	5%
France	1	5%
Germany	1	5%
Netherlands	1	5%
Sweden	1	5%
Total	22	~100%

The above chart shows the number of applications received from countries that are now part of the EU.² These countries account for 22 of the 33 applications received by Ireland, a total of 67% of all cases. This can be compared with the 1999 survey where EU countries made up a total of 28 of the 38 applications (74%). 77% of the EU applications in 2003 came from neighbouring England & Wales.

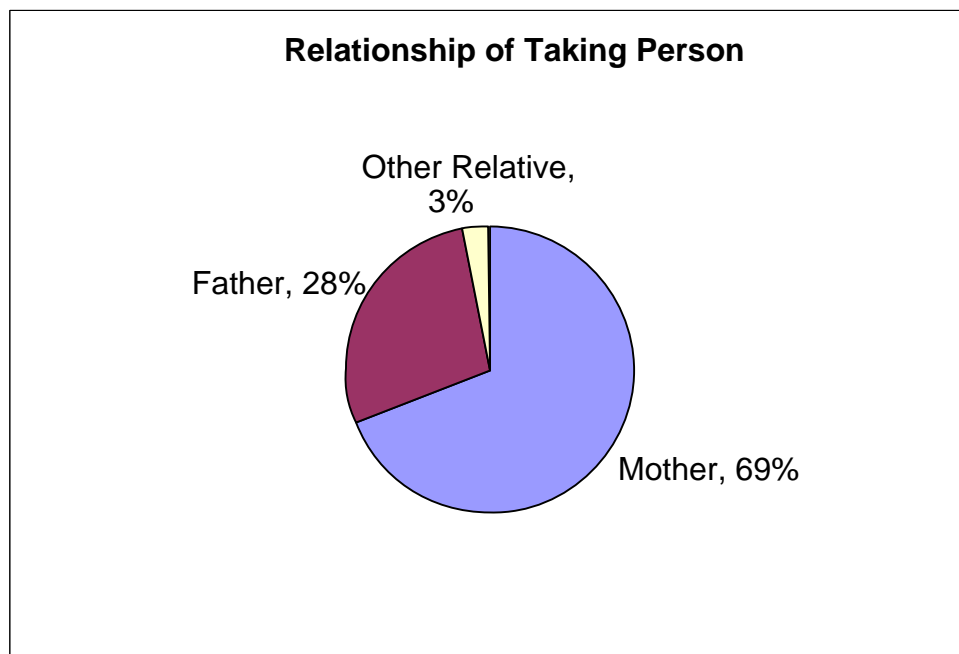
² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

(b) Incoming access applications

Ireland received one access application from each of 2 Contracting States, Spain and the Netherlands (both Member States of the European Union). In 1999, the one access application came from Hungary.

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications³****Relationship of the Taking Person**

	Number	Percent
Mother	22	69%
Father	9	28%
Other Relative	1	3%
Total	32	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 69% of taking persons were mothers. This compares with the global average of 68% but is a decrease on the 82% of female taking persons in 1999.⁴ 23% of taking persons were fathers and in one application the taking person was the step father of the child.⁵

(b) Incoming access applications

In both access applications the respondent was the mother. Similarly, in 1999, the access application involved a female respondent. Globally in 2003, 79% of respondents in access applications were mothers.

³ This information was not available in relation to one application.

⁴ Insofar as 'female' can normally be taken to mean 'mother'.

⁵ Recorded as 'other'.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications⁶

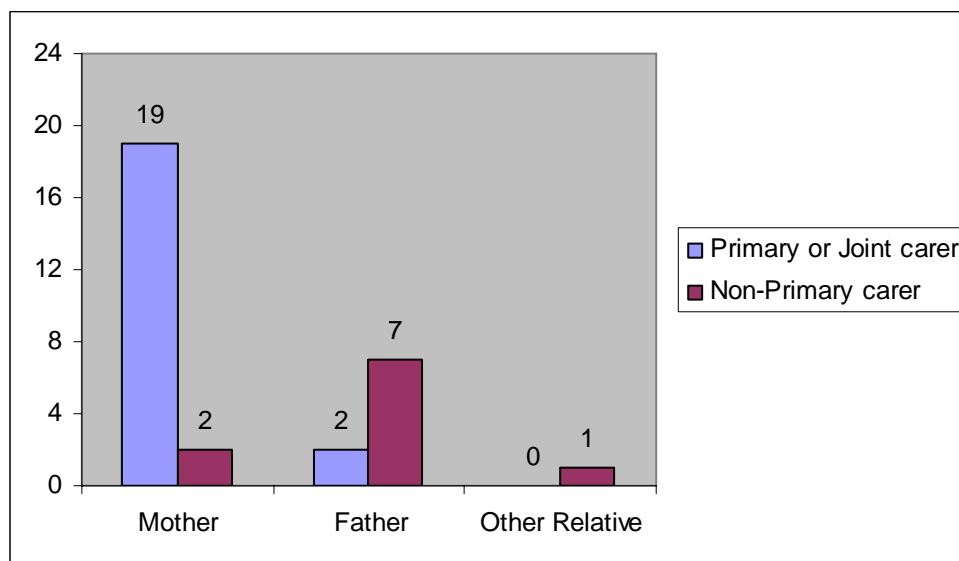
Status of the Taking Person as Carer

	Number	Percent
Primary or Joint Primary Carer	22	69%
Non-Primary Carer	10	31%
Total	32	100%

The table above shows that in a majority of applications, 69%, the taking person was the primary or joint primary carer of the child (12 respondents were primary carer and 10 respondents were joint primary carer of the child). This compares with the 2003 global proportion of 68% of taking persons being the primary or joint primary carer of the child.

Status of the Taking Person as Carer

	Relationship of Taking Person to Child			Total
	Mother	Father	Other Relative	
Primary or Joint Primary Carer	19	2	0	21
Non-Primary Carer	2	7	1	10
Total	21	9	1	31



The above table and chart show that where the status as carer and the relationship of the taking person were known, 19 of the 21 (90%) of the respondent mothers were the primary carer or joint primary carer of the child. This can be compared with 2 of the 9 (22%) respondent fathers. Globally, in 2003, 84% of mothers and 28% of respondent fathers were primary or joint primary carer of the child. No comparable information was collected in the 1999 survey.

⁶ The information on the status of the taking person as carer was not available in relation to one application.

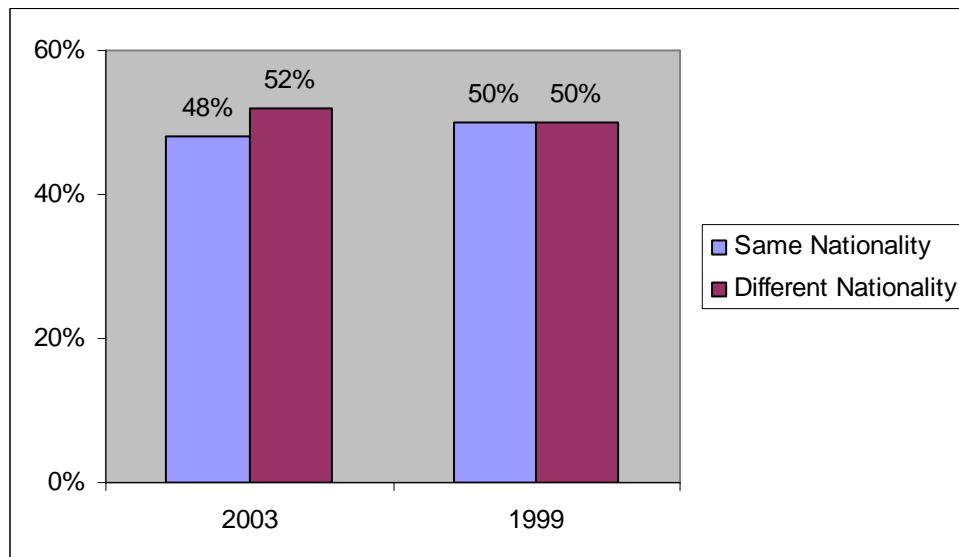
(b) Incoming access applications

In both incoming access applications the respondent mother was the primary carer of the child. No comparable information was collected in the 1999 survey.

5. The nationality of the taking person / respondent**(a) Incoming return applications****Taking Person Same Nationality as Requested State**

	Number	Percent
Same Nationality	16	48%
Different Nationality	17	52%
Total	33	100%

This table shows that 48% of taking persons were Irish (including 3 taking persons with dual nationality), whereas 52% of taking persons were not. This pattern is different from the global findings where 55% of taking persons had the nationality of the requested State and 45% had a different nationality.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Irish persons taking children to Ireland slightly decreased from 50% in 1999 to 48% in 2003.

(b) Incoming access applications

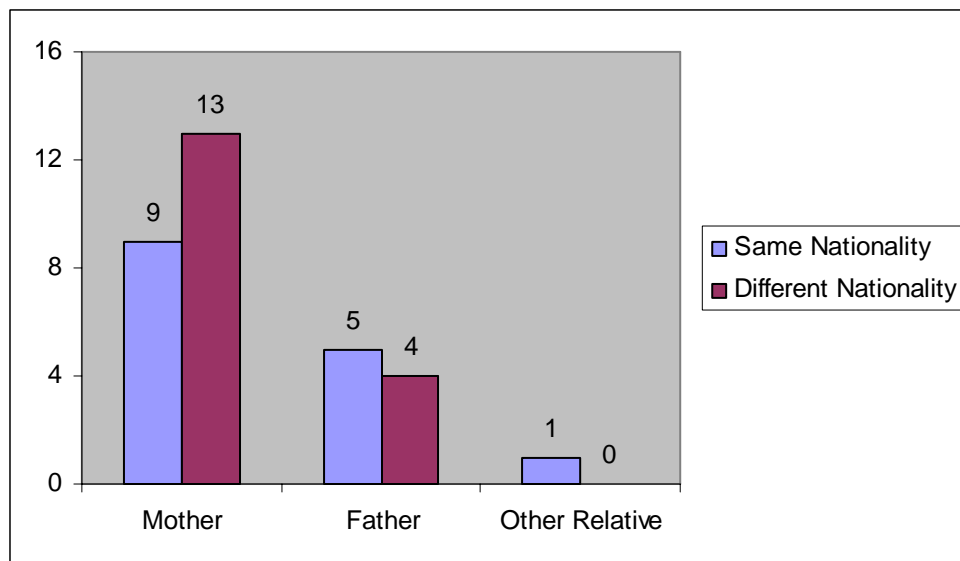
In one of the 2 access applications (50%), the respondent was Irish. In 1999, the respondent in the access application did not have Irish nationality. Globally in 2003, 53% of respondents in access applications had the same nationality as the requested State.

6. The relationship and nationality of the taking person / respondent combined

(b) Incoming return applications⁷

Nationality and the Relationship of the Taking Person

	Relationship of Taking Person to Child			Total
	Mother	Father	Other Relative	
Same Nationality	9	5	1	15
Different Nationality	13	4	0	17
Total	22	9	1	32



In relation to fathers, the taking person was more often recorded as having the same nationality as the requested State. Indeed, 5 out of 9 (56%) fathers were Irish. On the other hand, in relation to mothers only 9 out of 13 (41%) taking persons were Irish nationals.

This proportion is different from the 2003 global average where 54% of mothers and 55% of fathers were nationals of the requested State. The 1999 survey recorded that 15 out of 31 (48%) of females and 4 out of 6 (67%) of males were Irish.

(b) Incoming access applications

See 3(b) and 5(b) above.

The children

7. The total number of children

(a) Incoming return applications

There were 52 children involved in the 33 incoming return applications, compared with 61 children involved in the 38 return applications in 1999. In 2003, on average 1.58 children were involved in return applications. Proportionally, this represents a slight decrease in the number of children per return application, compared with 1.6 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

⁷ Information of relationship of the taking person was not available in one application.

(b) Incoming access applications

There were 3 children involved in the 2 incoming access applications, compared with one child involved in the one access applications in 1999. This represents an increase in the number of children per return application (1.5), compared with 1 in 1999. Globally, on average 1.3 children was involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	18	55%
Sibling Group	15	45%
Total	33	100%

Number of Children

	Number	Percent
1 Child	18	55%
2 Children	12	36%
3 Children	2	6%
4 Children	1	3%
Total	33	100%

The number of applications involving a single child was 55%, which is below the 2003 global average of 67% but an increase on the 53% of applications recorded in 1999. There were 2 applications concerning a sibling group of 3 children, compared with 3 in 1999. In addition, as in 1999, there was one case involving 4 children.

The proportion of applications involving one or 2 children was 91% which is similar to the 1999 figure of 90%. Globally in 2003, it was found that 93% of applications involved one or 2 children.

(b) Incoming access applications

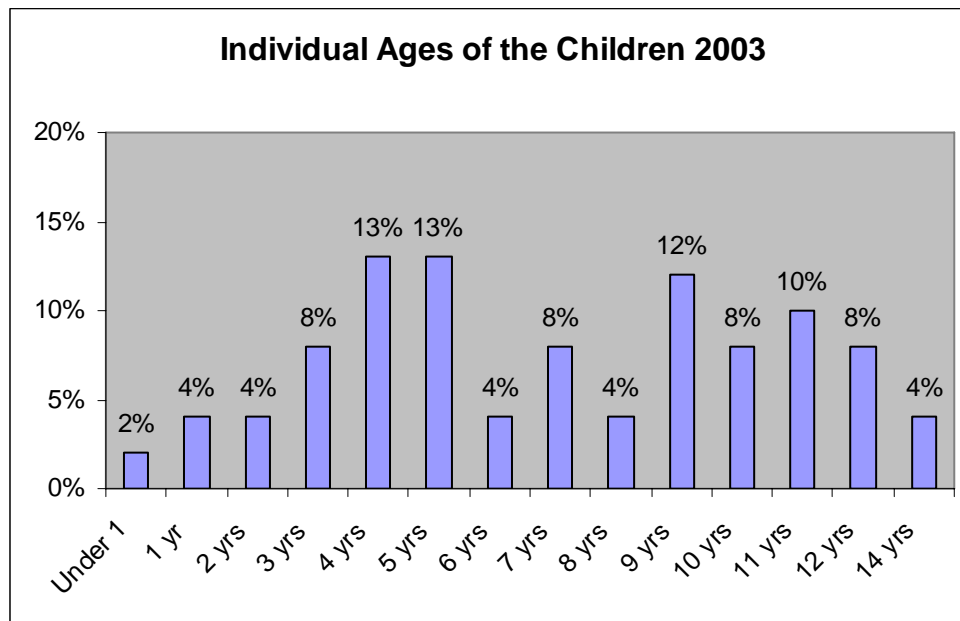
One of the access applications concerned a single child and one a sibling group of 2 children. In 1999, the access application involved a single child. Globally in 2003, 71% of access applications involved single children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
Under 1	1	2%
1 yr	2	4%
2 yrs	2	4%
3 yrs	4	8%
4 yrs	7	13%
5 yrs	7	13%
6 yrs	2	4%
7 yrs	4	8%
8 yrs	2	4%
9 yrs	6	12%
10 yrs	4	8%
11 yrs	5	10%
12 yrs	4	8%
14 yrs	2	4%
Total	52	~100%

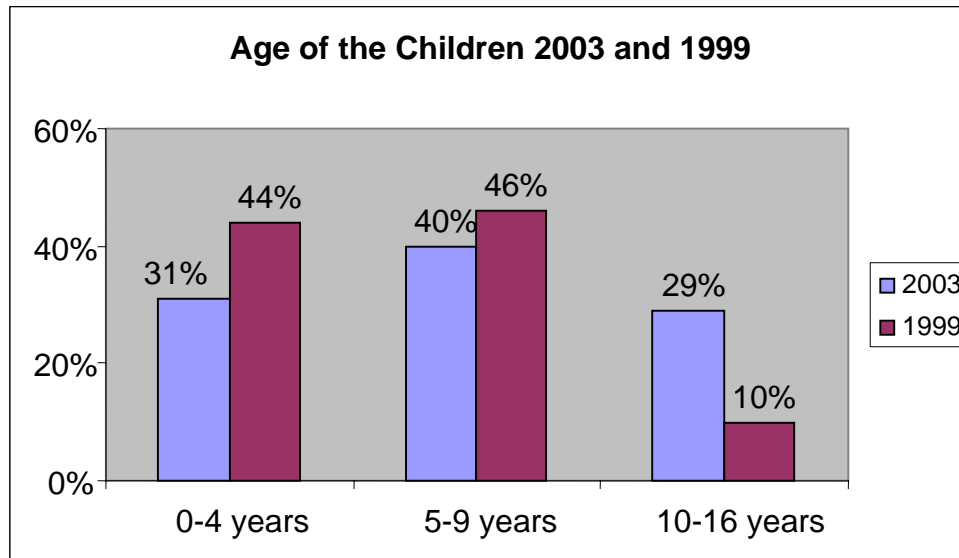


The above table and chart show the ages of the individual children involved. 46% of children were between ages 1 and 6 compared with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	16	31%
5-9 years	21	40%
10-16 years	15	29%
Total	52	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. Of the 52 children included, 40% were aged between 5-9 years, compared with 46% in 1999. This can be compared with the global average of 42%. 31% of children were aged between 0-4 years compared with the 1999 figure of 44% and the global proportion of 36%. 29% of children were also aged between 10-16 years compared with 10% in 1999 and the 2003 global average of 22%.

(b) Incoming access applications

The children involved in the access applications were aged 4, 7 and 11 years old. In the one 1999 access application, the child concerned was aged between 0 and 4 years old. Globally in 2003, 20% of children involved in access applications were aged between 0-4 years, 46% between 5-9 years and 34% between 10-16 years.

10. The gender of the children**(a) Incoming return applications****Gender of the Children 2003**

	Number	Percent
Female	23	44%
Male	29	56%
Total	52	100%

As can be seen, 44% of children were females and 56% were males. The 2003 figures are almost identical with the 1999 findings where 43% of the children involved in applications to Ireland were females and 57% were males. Globally in 2003, 51% of children in return applications were female.

(b) Incoming access applications

2 of the 3 children involved in the access applications were female. The 1999 access application related to a female child. Globally in 2003, 45% of children involved in access applications were female.

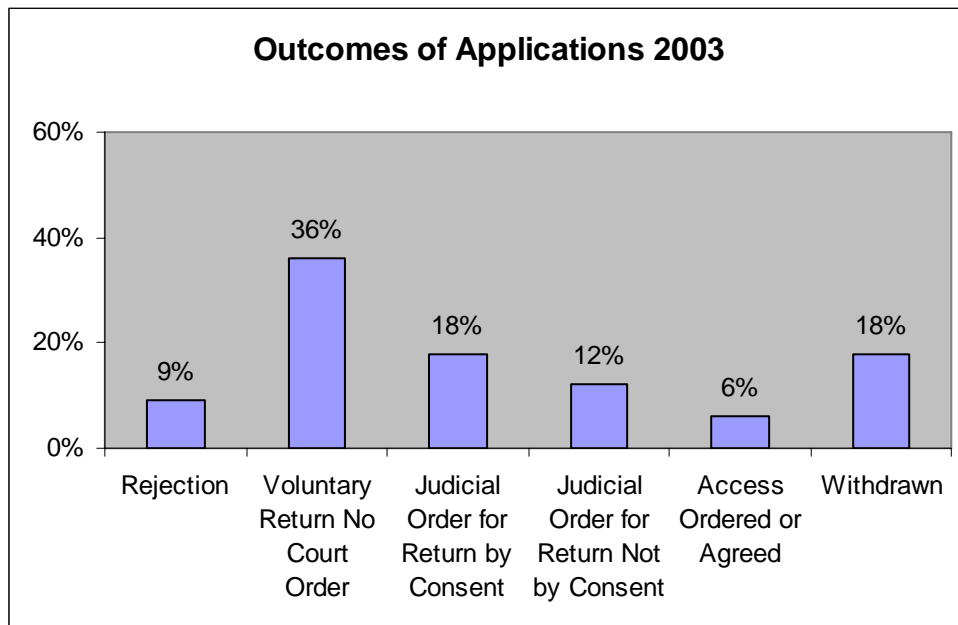
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	3	9%
Voluntary Return No Court Orders	12	36%
Judicial Order for Return by Consent	6	18%
Judicial Order for Return Not by Consent	4	12%
Order for Access Judicially Granted	2	6%
Withdrawn	6	18%
Total	33	~100%

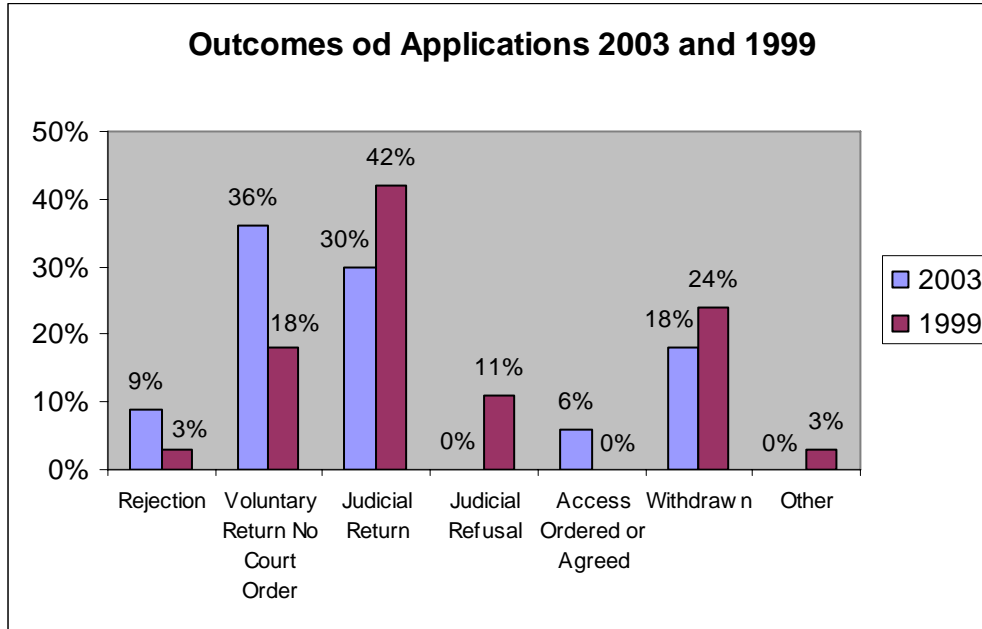


The above table and chart show the outcome of all applications in 2003. Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Ireland in 2003, 6 judicial return orders were made with consent and 4 without.

Proportionally, the figures show that voluntary return was the most common outcome for an application, with a total of 12 (36%) applications. This is above the global average of 22%. Combining judicial and voluntary returns the overall return rate was relatively high, 66%, compared with the 2003 global average of 51%.

Of the 12 applications which went to court, 10, 83% resulted in a return order, which is higher than the global average of 66%.⁸ The remaining 2 applications (17%) ended in judicial order for access. It is to be noticed that no application was judicially refused compared with the global average of 13%.

The withdrawal rate of 18% was slightly higher than the 2003 global average of 15%. There were no pending cases compared with the 2003 global average of 9%.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

The figures show that unlike in the 1999 survey, voluntary return was the most common outcome for an application (12, 36%). This represents a marked increase on the proportion of applications resolved voluntarily in 1999 (18%). On the other hand, judicial returns decreased, with a combined total of 8, 30% applications, compared with 16, 42% in 1999. Nevertheless, the overall return rate rose from 60% in 1999 to 66% in 2003.

It is notable that no application was refused, whereas in 1999 4 (11%) applications ended in a judicial refusal. In 2003 Ireland rejected 3 (9%) applications, compared with 1 (3%) in 1999. The withdrawal rate decreased from 24% in 1999 to 18% in 2003. As in 1999, no application was still pending as of the cut-off period for the survey.

(b) Incoming access applications

One of the access applications ended in access being judicially granted under domestic law. The other application was still pending as of 30th June 2003. In 1999, the access application was forwarded to the legal board to be pursued under domestic legislation. Globally in 2003, 16% of applications resulted in access being judicially granted and 22% of applications were still pending as of 30th June 2005.

12. The reasons for rejection

(a) Incoming return applications

There were 3 cases rejected by Ireland in 2003 compared with only one in 1999. One application (33%) was rejected as the child was located in another country compared

⁸ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

with 24% globally. This is similar to that found in 1999 where the one rejected application was rejected also because of this reason. In a second 2003 case the applicant had no rights of custody. The third rejected application was not well founded as the applicant initially consented to the removal.⁹

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications

Not applicable.

14. The reasons for judicial refusal and the gender of the taking person

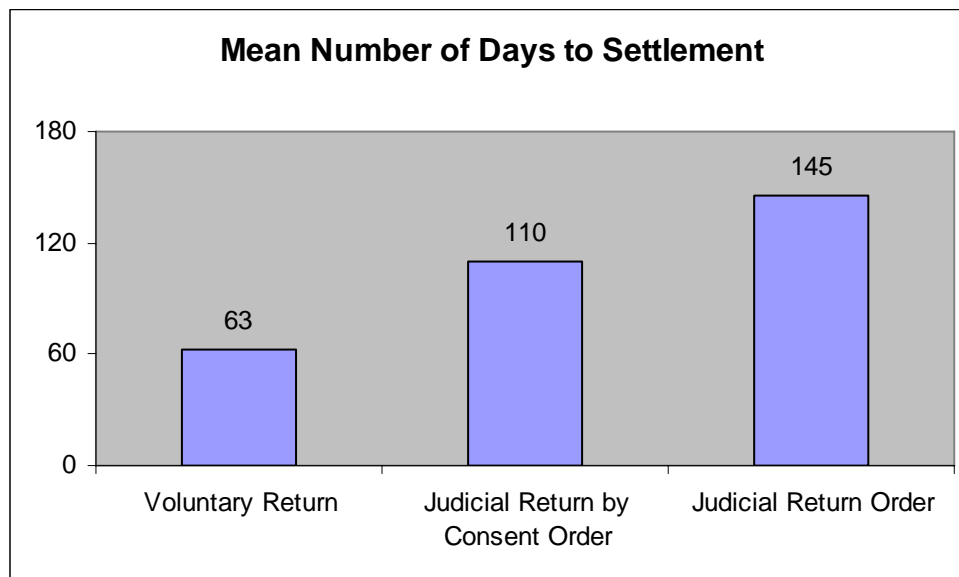
(a) Incoming return applications

Not applicable.

Speed

15. The time between application and outcome

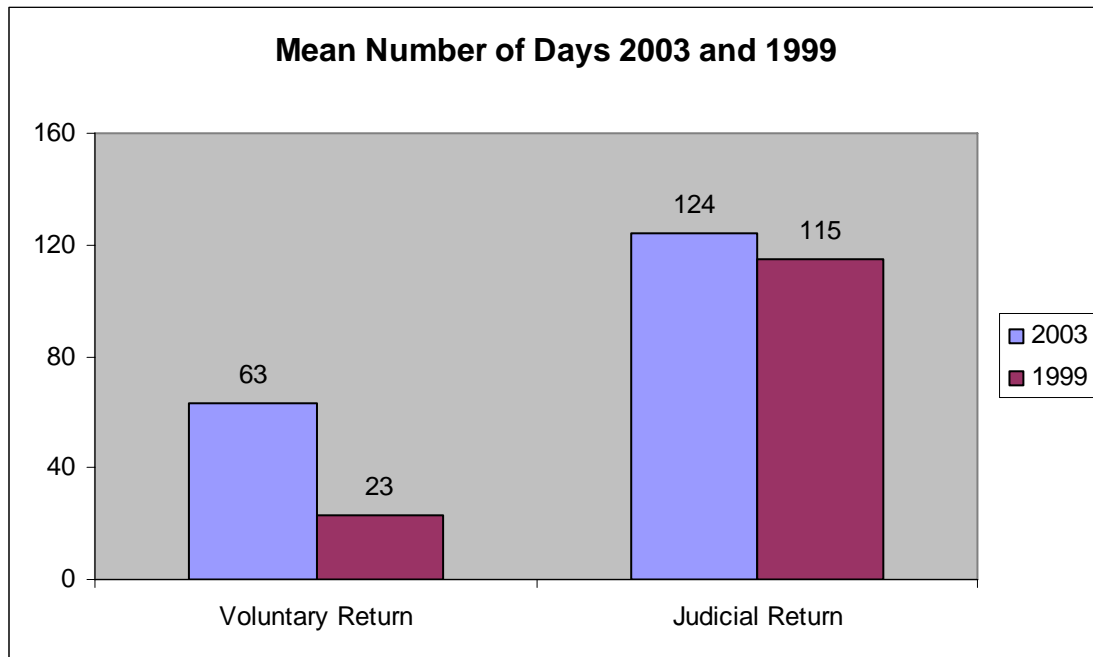
(a) Incoming return applications¹⁰



Predictably, return orders with consent were resolved more quickly than judicial returns, taking on average 110 days compared with 145 days. This can be compared with the 2003 global averages of 85 days and 143 days respectively. The one voluntary return was concluded within 63 days, which was quicker than the global mean of 98 days.

⁹ Recorded as 'other' reason.

¹⁰ This information was not available in relation to 11 voluntary returns.



The chart above shows that judicial returns were resolved in a combined average of 124 days compared with 115 days in 1999. The one voluntary return case took 63 days compared with the 1999 mean average speed of voluntary returns at 23 days. Disposal overall were slightly slower than in 2003 compared with 1999 and were slower than the 2003 global average.

Number of Days Taken to Reach Final Outcome: 2003

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order
Mean	63	110	145
Median	63	111	141
Minimum	63	48	94
Maximum	63	157	203
Number of Cases	1	6	4

The table above gives a more informative picture of the system in Ireland. The slowest judicial decision was reached within 203 days.

Surprisingly, the voluntary return took longer to reach final settlement than the quickest consent order, 63 days compared with 48 days. No application was resolved within the six weeks target set out for future cases by the Brussels II Regulation.

(a) Incoming access applications

One access application was still pending as of 30th June 2005. In the other, the date of the outcome was not known. Similarly, in 1999, no application was available regarding the time taken in the access case.

16. Appeals

None of the judicial decisions were appealed.

ISRAEL

1. The number of applications

Incoming Return Applications	13
Incoming Access Applications	2
Outgoing Return Applications	25
Outgoing Access Applications	3

According to the Central Authority for Israel, they received 13 incoming return and 2 incoming access applications in 2003, making a total of 15 incoming applications. This is a decrease on the 21 incoming applications (19 of which were return applications and 2 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 87% to 13% compares with the global average of 84% to 16%.

Additionally, the Central Authority made 25 outgoing return applications and 3 outgoing access applications in 2003.¹ This can be compared with 30 return applications and 6 access applications made in 1999.

Altogether, therefore, the Central Authority handled 43 new applications in 2003, compared with 57 new applications in 1999.

The overall ratio of incoming to outgoing applications was 35% to 65%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
USA	8	62%
Belgium	2	15%
UK - England & Wales	2	15%
Sweden	1	8%
Total	13	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
USA	8 (62%)	11 (58%)
Belgium	2 (15%)	0 (0%)
UK - England & Wales	2 (15%)	0 (0%)
Sweden	1 (8%)	0 (0%)
Netherlands	0 (0%)	2 (11%)
Canada	0 (0%)	1 (5%)
Denmark	0 (0%)	1 (5%)
Finland	0 (0%)	1 (5%)
France	0 (0%)	1 (5%)

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Italy	0 (0%)	1 (5%)
Zimbabwe	0 (0%)	1 (5%)
Total	13 (100%)	19 (~ 100%)

Israel received applications for return from 4 Contracting States, compared with 8 Contracting States in 1999.

As in 1999, over half of the return applications (8, 62%) came from the USA. This is not surprising given the close connection between the two Contracting States. Belgium and England & Wales each made 2 applications (15%), as opposed to none in 1999. On the other hand, there were no applications from the Netherlands, compared with 2 in 1999.

(b) Incoming access applications

There were 2 access applications, one from Estonia and one from France. In 1999, there were also 2 access applications to Israel, but the Contracting States making them were Germany and Sweden.

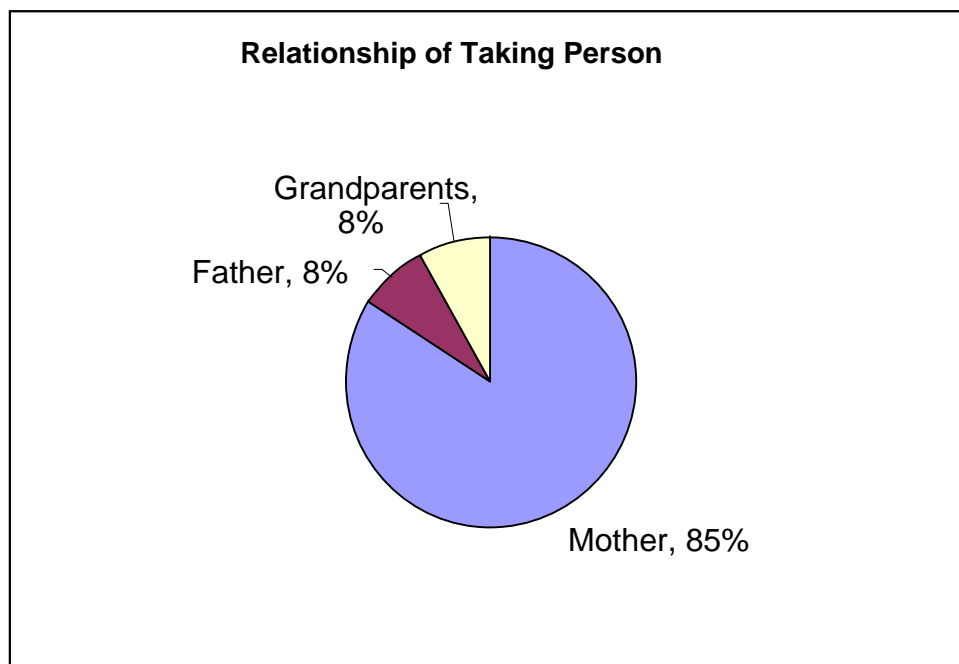
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	11	85%
Father	1	8%
Two Grandparents	1	8%
Total	13	~100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 85% of taking persons were mothers. This is higher than

the global average of 68%, and can be compared with the 1999 survey,² where 63% of taking persons were recorded as female.

In one application (8%) the taking person were the child's grandparents.

(b) Incoming access applications

Both respondents (100%) in the access applications were recorded as the mother of the child. Globally, 79% of respondents were mothers. In 1999, there was one male and one female respondent to the access applications.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications

Information on the status of the taking person as carer in relation to child was available only in relation to 3 out of the 13 applications. Consequently, no reliance should be placed on these findings, though as a matter of interest in all 3 applications the taking person was recorded as the mother and the primary carer of the child.

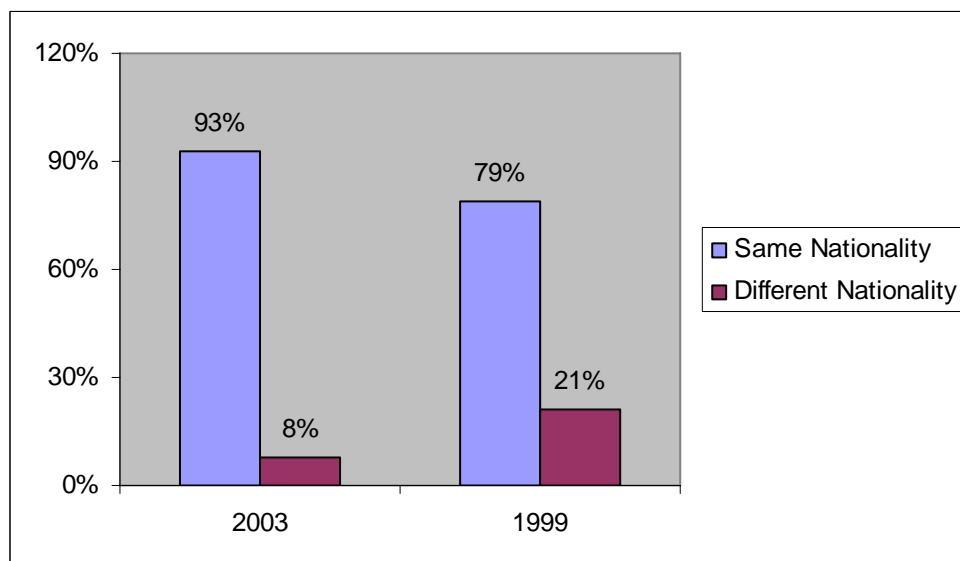
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	12	93%
Different Nationality	1	8%
Total	13	~100%

At 93%, the proportion of taking persons being Israeli citizens (including one taking person with dual nationality) was markedly above the 2003 global average of 55% of taking persons having the same nationality as the requested State.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Israeli citizens taking children to Israel increased from

² Insofar as 'female' can normally be taken to mean 'mother'.

79% in 1999 to 93% in 2003. This can be compared with the 2003 global average of 55%.

(b) Incoming access applications

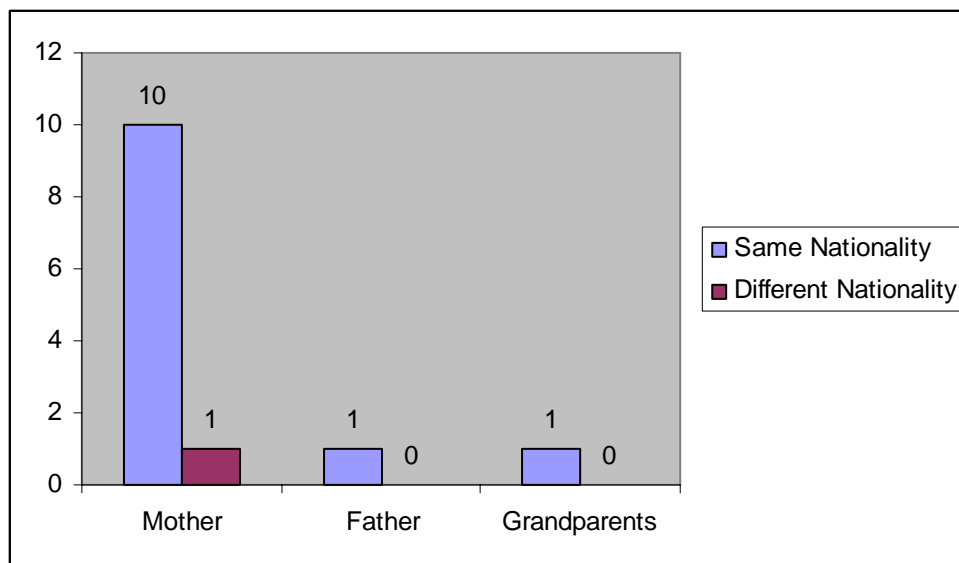
None of the respondents in the access applications had Israeli nationality. Globally in 2003, 53% of respondents in access applications had the same nationality as the requested State. In 1999, one of the 2 respondents had Israeli nationality.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child			Total
	Mother	Father	Both Grandparents	
Same Nationality	10	1	1	12
Different Nationality	1	0	0	1
Total	11	1	1	13



In relation to mothers, the taking person was more often recorded as having the Israeli nationality. Indeed, 10 out of 11 (91%) mothers were Israeli citizens. In relation to fathers, the one taking person was recorded as Israeli national. Globally in 2003, 54% of mothers and 55% of fathers had the nationality of the requested State. The 1999 survey recorded that 92% of female taking persons and 57% of male taking persons were Israeli nationals.

(b) Incoming access applications

See 3(b) and 5(b) above.

The children

7. The total number of children

(a) Incoming return applications

There were 17 children involved in the 13 incoming return applications in 2003. This can be compared with the total of 33 children being involved in the 19 return applications in 1999. In 2003, on average 1.31 children were involved in return applications. Proportionally, this represents a decrease in the average number (1.7) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 2 children involved in the 2 incoming access applications in 2003. This can be compared with the total of 6 children being involved in the 2 access applications in 1999. In 2003, on average one child was involved in access applications. Proportionally, this represents a decrease in the average number of children (3) per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	10	77%
Sibling Group	3	23%
Total	13	100%

Number of Children

	Number	Percent
1 Child	10	77%
2 Children	2	15%
3 Children	1	8%
Total	13	100%

The proportion of single children involved in applications for return, 77%, is higher than the global average of 67% and markedly above the 1999 proportion of 42%. At 92%, the proportion of applications involving no more than 2 children is in line with the 2003 global average of 93%. In 1999, 84% of applications to Israel involved one or 2 children.

(b) Incoming access applications

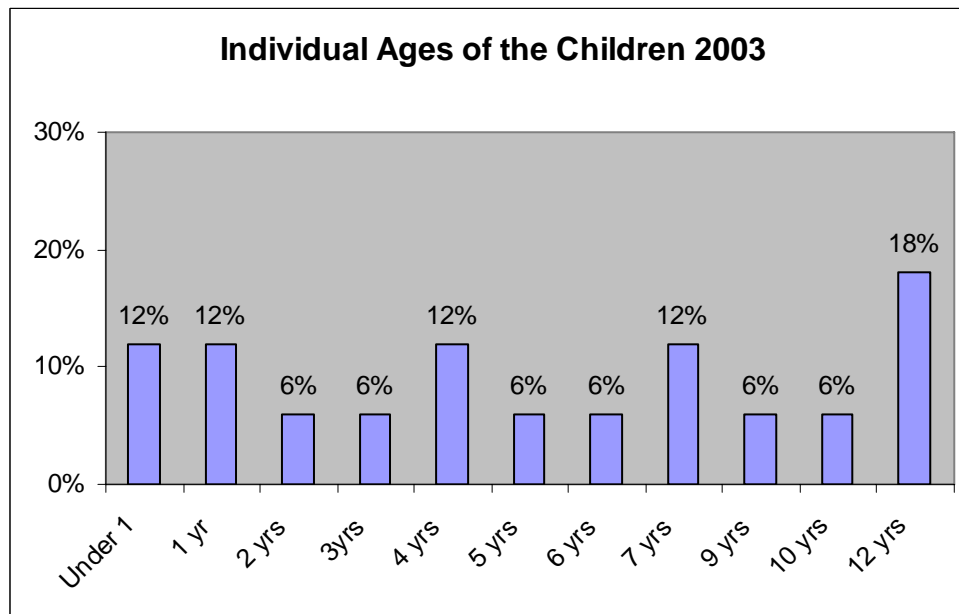
Both the access applications involved single children. Globally in 2003, 71% of access applications involved single children. In 1999, both applications involved sibling groups of which one comprised 4 children and one 2 children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
Under 1	2	12%
1 yr	2	12%
2 yrs	1	6%
3 yrs	1	6%
4 yrs	2	12%
5 yrs	1	6%
6 yrs	1	6%
7 yrs	2	12%
9 yrs	1	6%
10 yrs	1	6%
12yrs	3	18%
Total	17	~100%

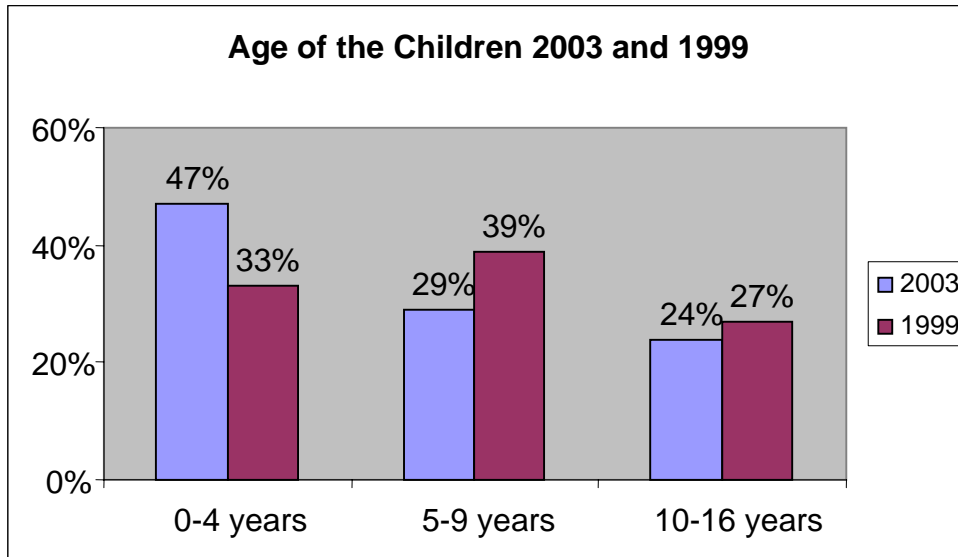


The above table and chart show the ages of the individual children involved. Interestingly, 3 children (18%) were aged 12. 48% of children were aged between ages 1 and 6, compared with the 2003 global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	8	47%
5-9 years	5	29%
10-16 years	4	24%
Total	17	100%



Unlike in 1999, the largest percentage of children were aged between 0-4 years old. Indeed, of the 17 children included, 8 (47%) were aged between 0-4 years. 29% of children were aged between 5-9 years which is lower than the 1999 proportion of 39%. The proportion of older children, aged between 10 and 16 years old, slightly decreased from 27% in 1999 to 24% in 2003.

The division of children between each age group broadly follows the 2003 global averages of 36%, 42% and 22% respectively.

(b) Incoming access applications

One of the children involved was 8 years old and the other child was 9 years old. Globally in 2003, 46% of children involved in access applications were between 5-9 years old. In 1999, only one of the children involved was aged between 5-9 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	6	35%
Male	11	65%
Total	17	100%

As can be seen, there were more male children (65%) involved in return applications than female children (35%). Globally in 2003, 49% of children were male and 51% were female. In 1999, 55% of children involved in the return applications to Israel were male.

(b) Incoming access applications

One of the 2 children involved was female. Globally in 2003, 45% of children involved in access applications were female. In 1999, 5 of the 6 children were female.

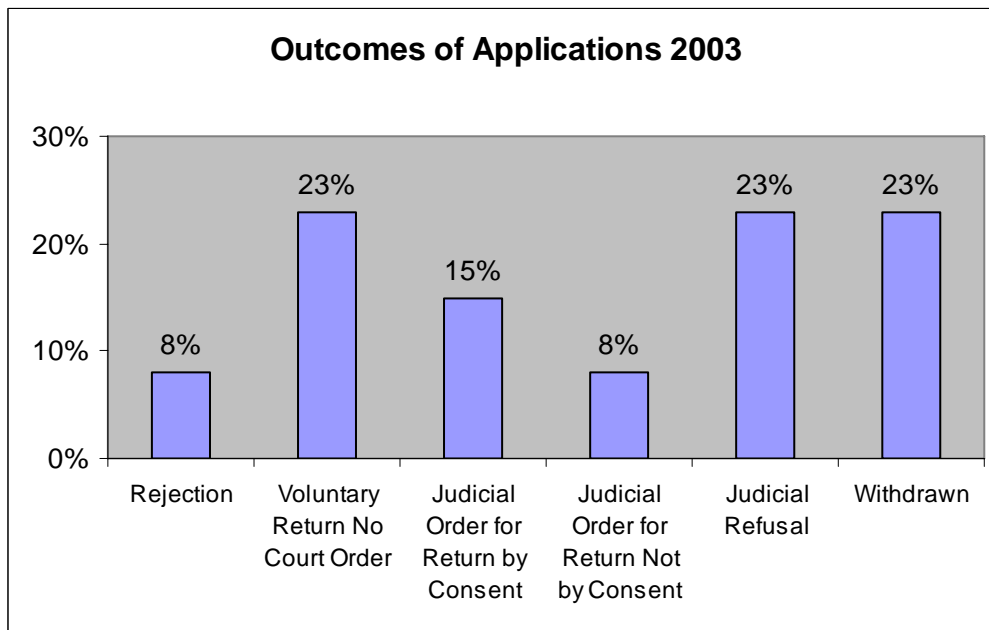
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of the Application

	Number	Percent
Rejection	1	8%
Voluntary Return No Court Orders	3	23%
Judicial Order for Return by Consent	2	15%
Judicial Order for Return Not by Consent	1	8%
Judicial Refusal	3	23%
Withdrawn	3	23%
Total	13	100%



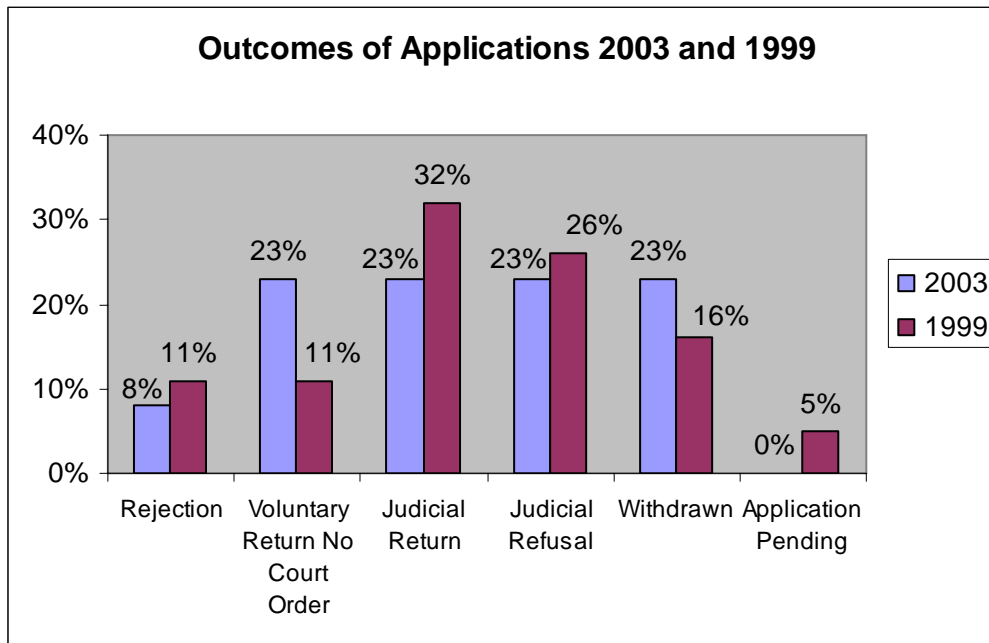
The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Israel, in 2003, 2 (15%) judicial return orders were made with consent and one (8%) without consent.

Overall, 46% of return applications made to Israel ended in the child being returned either by a court order or voluntarily, which is below the 2003 global average of 51%. Similarly, the proportion of judicial returns, 23%, is lower than the 2003 global average of 29%. Nevertheless, at 23%, the proportion of voluntary returns is slightly above the 2003 global average of 22%. 3 (25%) of applications were judicially refused, which is above the 2003 global average of 13%.

6 applications (46%) went to court. Of these cases, 50% resulted in return being ordered and 50% in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.³

At 23%, the withdrawal rate is above the 2003 global average of 15%. As of 30th June 2005, no application was still pending, compared with the global average of 9%.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

As can be seen, the proportion of judicial returns decreased from 32% in 1999 to 23% in 2003. On the other hand, the proportion of voluntary returns increased from 11% in 1999 to 23% in 2003. Consequently, the overall return rate increased, from 43% in 1999 to 46% in 2003. At 23%, the proportion of judicial refusals is above the 1999 findings of 16%.

The rejection rate in Israel fell from 11% in 1999 to 8% in 2003. This is a little closer, though still above, the 2003 global average for rejections of 6%.

(b) Incoming access applications

Both of the incoming access applications were still pending as of 30th June 2005. Globally in 2003, 22% of access applications were pending as of cut-off period for the survey. In 1999, both of the access applications were withdrawn.

12. The reasons for rejection

(a) Incoming return applications

Israel rejected one application (8%), as opposed to 2 applications (11%) in 1999. The reason for rejection was that the child was not located. In 1999, one application was rejected because the child involved was found to be in the area controlled by the Palestinian Authority. The other application was rejected because the child was not habitually resident in the requesting State.

³ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

13. The reasons for judicial refusal

(a) Incoming return applications

Of the 6 applications which went to court, 3 (50%) were refused, which is a slight proportional increase on the 5 out of 11 (45%) applications refused in 1999 and above the 2003 global average of 29%. One refusal was based on the Art 13a consent. The ground for the other refusal was Art 13a acquiescence. The remaining refusal was based on two grounds – lack of the habitual residence of the child in the requesting State and lack of the rights of custody on the side of the applicant.

In 1999, 3 out of 5 applications were refused on the basis of more than one reason.

14. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

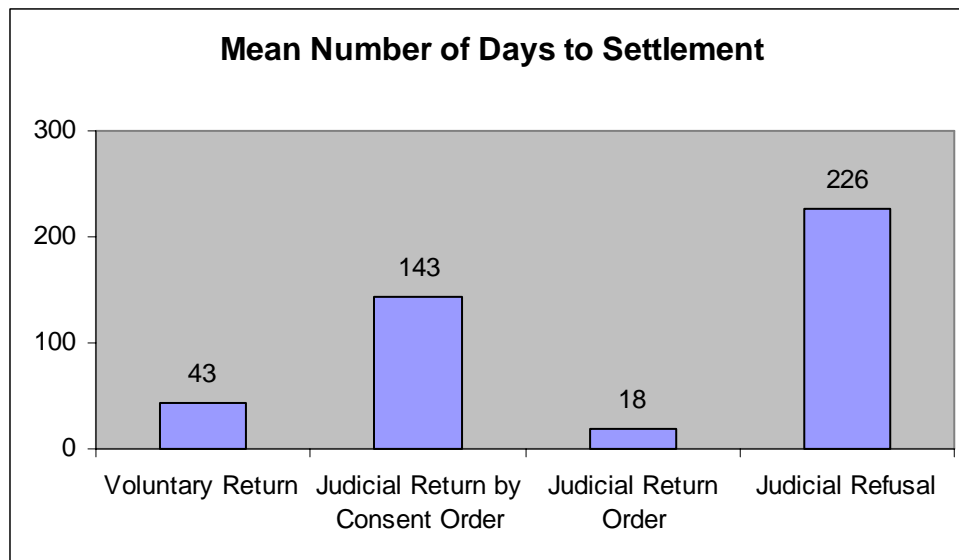
Overall, in 2 of the 3 refusals, 67%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall. In the remaining refusal the taking person were the grandparents of the child. This refusal was based two grounds.

In 1999, all 5 of the applications which were judicially refused involved a female taking person.

Speed

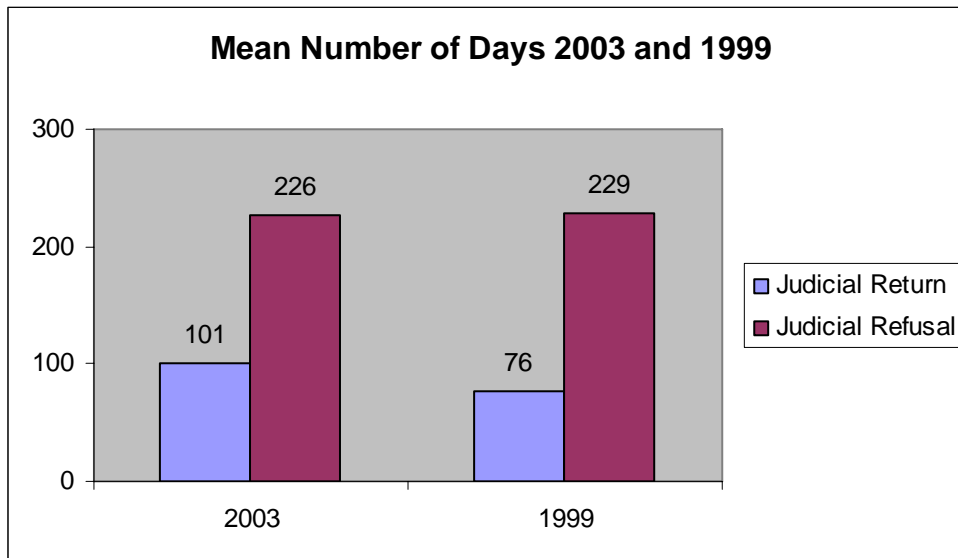
15. The time between application and outcome

(a) Incoming return applications⁴



Surprisingly, return orders without consent were resolved quicker than return orders by consent, in 18 days compared with 143 days. This can be compared with the global averages of 143 days and 85 days respectively. Voluntary returns took on average 43 days to reach final outcome, which is quicker than the global average of 98 days. The speed of judicial refusals, averaging 226 days, was also quicker than the global average of 233 days.

⁴ This information was not available in relation to one voluntary return.



The chart above shows that judicial returns were resolved in a combined average of 101 days compared with 76 days in 1999. Judicial refusals took a mean average of 226 days, which compares with the 229 days recorded in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	43	143	18	226
Median	43	143	18	194
Minimum	14	71	18	178
Maximum	72	214	18	305
Number of cases	2	2	1	3

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Israel. The fastest judicial decision, a judicial return without consent, was made in 18 days, the slowest, a judicial refusal, was made in 305 days. The fastest voluntary return took 14 days and the slowest 72 days to reach an outcome.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	71	18	194
Median	71	18	194
Minimum	71	18	194
Maximum	71	18	194
Number of cases	1	1	1

As can be seen, in relation to judicial refusals the exclusion of appealed cases does not significantly affect the overall mean average taken to reach the final outcome. In relation to judicial returns, after the exclusion of the one appealed case the mean average to reach the final outcome is half the mean average before the exclusion (71 days as opposed to 143 days).

(b) Incoming access applications

Not applicable.

16. Appeals

(a) Incoming return applications

Of the 6 applications which went to court, 3 (50%) were appealed. Globally, just 22% of all cases which went to court were appealed.

2 appellate decisions resulted in a judicial refusal. In both these cases, the appellate court upheld the first instance refusal to return. These cases took 178 days and 305 days to reach the final outcome.

One application for return was judicially granted upon an appeal. It is to be noted that this return order at appellate level was made with consent. It took 214 days to reach the final outcome.

In 1999, 6 decisions were appealed. 4 of the 6 appeal cases were decisions to return and 2 were decisions refusing return.

(b) Incoming access applications

Not applicable.

ITALY

The applications

1. The number of applications

Incoming Return Applications	46
Incoming Access Applications	3
Outgoing Return Applications	52
Outgoing Access Applications	22

According to the Central Authority for Italy, they received 46 incoming return and 3 incoming access applications in 2003, making a total of 49 incoming applications. This is a slight increase on the 45 incoming applications (41 of which were return applications and 4 of which were for access) made in 1999. The ratio of incoming return applications to access applications, 94% to 6%, compares with the global average of 84% to 16%.

Additionally, the Central Authority made 52 outgoing return applications¹ and 22 outgoing access applications in 2003. This is a slight increase from 48 return applications and 21 access applications made in 1999.

Altogether, the Central Authority handled 123 new applications in 2003, compared with 114 new applications in 1999.

The overall ratio of incoming to outgoing applications was 40% to 60%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number of Applications	Percent
Switzerland	9	20%
Germany	7	15%
UK - England & Wales	4	9%
USA	4	9%
Argentina	3	7%
Australia	3	7%
Belgium	2	4%
Canada	2	4%
France	2	4%
Portugal	2	4%
Brazil	1	2%
Denmark	1	2%
Finland	1	2%
Netherlands	1	2%
Norway	1	2%
Poland	1	2%
Romania	1	2%
Spain	1	2%
Total	46	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 findings

	Number of Applications 2003	Number of Applications 1999
Switzerland	9 (20%)	3 (7%)
Germany	7 (15%)	12 (29%)
UK - England & Wales	4 (9%)	3 (7%)
USA	4 (9%)	2 (5%)
Argentina	3 (7%)	1 (2%)
Australia	3 (7%)	1 (2%)
Belgium	2 (4%)	1 (2%)
Canada	2 (4%)	1 (2%)
France	2 (4%)	2 (5%)
Portugal	2 (4%)	0 (0%)
Brazil	1 (2%)	0 (0%)
Denmark	1 (2%)	0 (0%)
Finland	1 (2%)	1 (2%)
Netherlands	1 (2%)	1 (2%)
Norway	1 (2%)	0 (0%)
Poland	1 (2%)	4 (10%)
Romania	1 (2%)	0 (0%)
Spain	1 (2%)	4 (10%)
Czech Republic	0 (0%)	2 (5%)
Hungary	0 (0%)	2 (5%)
Ecuador	0 (0%)	1 (2%)
Total	46 (~100%)	41 (~100%)

Italy received applications for return from 18 Contracting States, compared with 16 in 1999.

The number of applications from Switzerland increased considerably, from 3 in 1999 to 9 in 2003. Germany, despite a reduction in applications compared with 1999, still made a high proportion of applications to Italy (15%). The number of applications from countries such as Poland and Spain markedly decreased.

Requesting States within the EU 2003

	Number of Applications	Percent
Germany	7	32%
UK - England & Wales	4	18%
Belgium	2	9%
France	2	9%
Portugal	2	9%
Denmark	1	5%
Finland	1	5%
Netherlands	1	5%
Poland	1	5%
Spain	1	5%
Total	22	~100%

The above chart shows the number of applications received from countries that are now part of the EU. These countries account for 22 of the 46 applications received by Italy, a

total of nearly 48% of all cases. This is a decrease from the 1999 survey in which EU countries accounted for 32 out of 41 applications (78%).²

(b) Incoming access applications

Italy received 3 access applications, 2 of which came from Denmark. This is surprising as Denmark only made one return application. The other application was from Germany. In 1999 Italy received one access applications from each of 4 Contracting States, Austria, Canada, the Czech Republic and the USA.

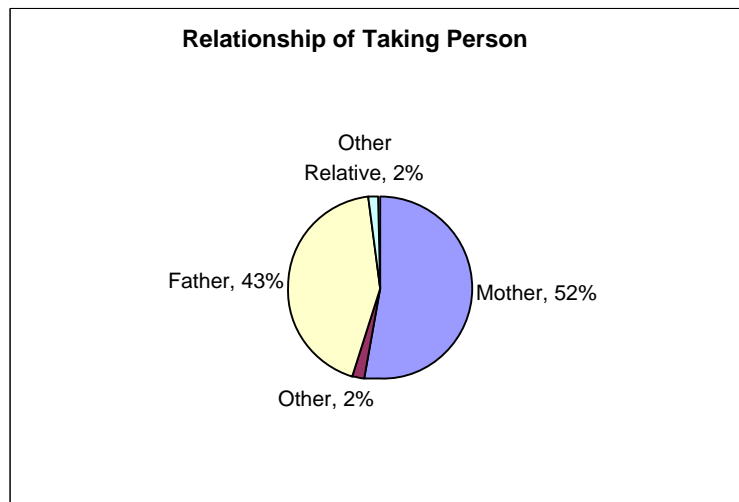
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	24	52%
Father	20	43%
Other Relative	1	2%
Other	1	2%
Total	46	~100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 52% of taking persons were mothers. This is below the global average of 68%, and is an increase in respondent mothers since 1999,³ where 41% of taking persons were recorded as female.

In one application the taking person was the father's girlfriend⁴ and in another the taking persons were the child's brothers.⁵

² Both of these figures are based on the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, the Netherlands and United Kingdom.

³ Insofar as 'female' can normally be taken to mean 'mother'.

⁴ Recorded as 'other'.

⁵ Recorded as 'other relative'.

(b) Incoming access application

In all 3 access applications the respondent was the mother. This differs from the 1999 results which involved 2 females and 2 males. Globally in 2003, 79% of respondents in access applications were mothers.

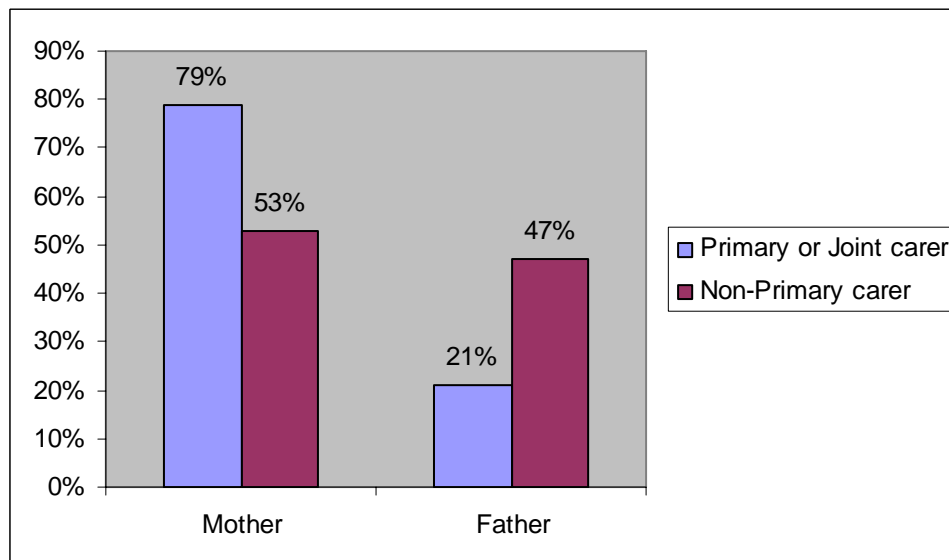
4. The status of the taking person as carer in relation to the child**(a) Incoming return applications⁶****Status of Taking Person as Carer**

	Number	Percent
Primary or Joint Carer	23	65%
Non-Primary Carer	12	34%
Total	35	100%

The table above shows that in 65% of cases, the taking person was the primary carer or joint primary carer of the child. This compares with 68% globally. 12 taking persons were thought to be primary carers (34%) and 11 were thought to be joint primary carers (31%).

Status as Carer and Relationship of the Taking Person to Child

	Relationship of Taking Person to Child			Total
	Mother	Father	Other	
Primary Carer	15	8	0	23
Non-Primary Carer	4	7	1	12
Total	19	15	1	35



The above table shows that where the status as carer and the relationship of the taking person were known⁷, the majority of mothers (15 out of 19 cases, 79%) were either the primary carer or a joint primary carer of the child. This can be compared with only 53% (8 out of 15) of fathers being a joint or primary carer.

⁶ In 11 applications the status of the taking person in relation to the child was not stated.

⁷ In 5 cases the mothers' status was not known and in 5 cases the fathers' status was not known.

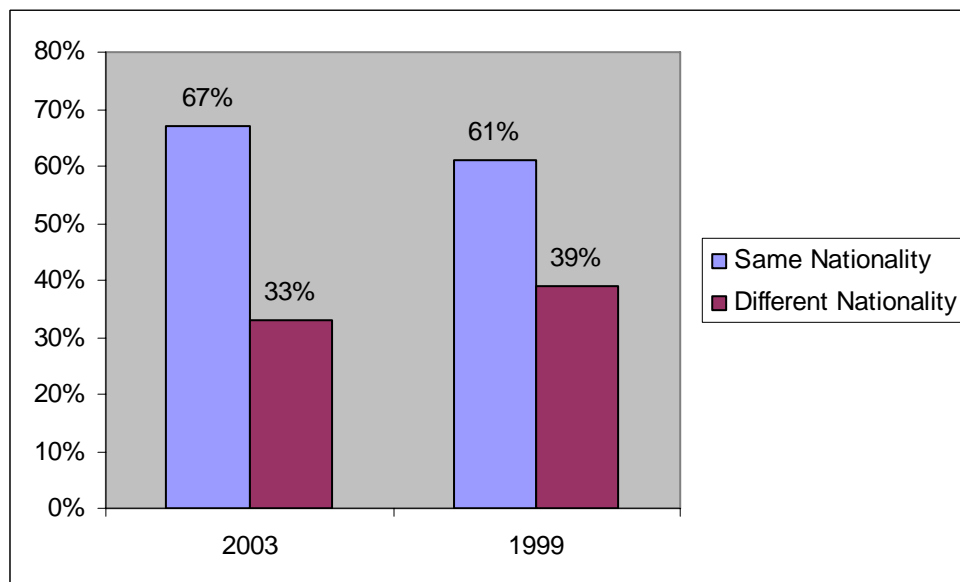
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	31	67%
Different Nationality	15	33%
Total	46	100%

This table shows that in 67% of applications, the taking person was Italian (including 2 cases of dual nationality) and in 33% of applications the taking persons had a different nationality. This compares with the global averages of 55% of taking persons known to have the same nationality as the requested State and 45% who had a different nationality.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Italians taking children to Italy rose from 61% to 67%. This is above the 2003 global average of 55% of taking persons having the same nationality as the requested State.

(b) Incoming access applications

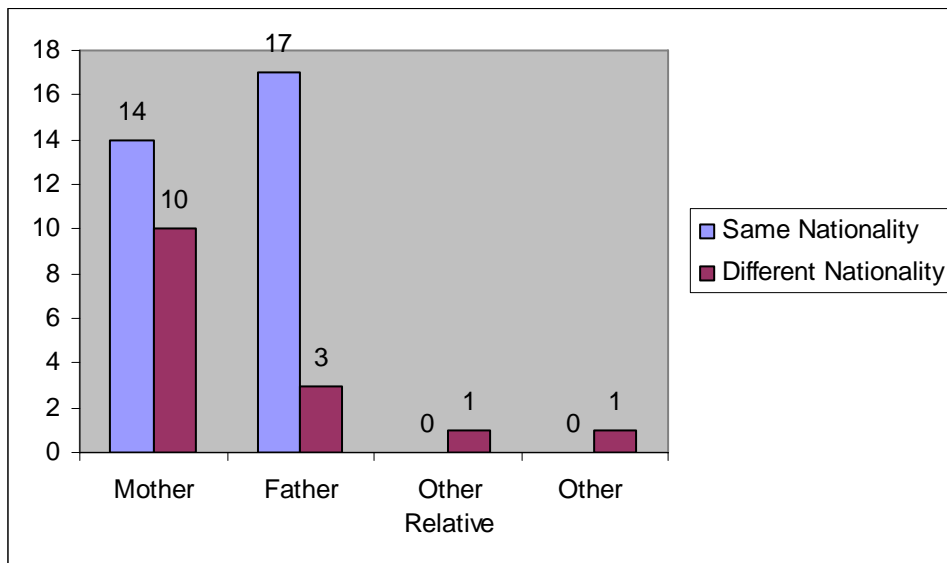
In the access applications, none of the 3 respondents was Italian. This reflects the 1999 results which showed that all 4 respondents were a different nationality. Globally in 2003, 47% of respondents in access application had a different nationality from the requested State.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child				Total
	Mother	Father	Other Relative	Other	
Same Nationality	14	17	0	0	31
Different Nationality	10	3	1	1	15
Total	24	20	1	1	46



In relation to 14 out of 24 (58%) mothers and 17 out of 20 (85%) fathers the taking person was Italian. This may indicate that they were attempting to take the child 'home' when they take the child from their country of habitual residence. This can be compared with global figures of 54% and 55% of taking persons being nationals of the requested State, in relation to mothers and fathers respectively and is in stark contrast to the 1999 survey which recorded that 29% of females and 83% of males were Italian. The 'other relative' and 'other' taking person were not Italian.

(b) Incoming access applications

See 3(b) and 5(b).

The children

7. The total number of children

(a) Incoming return applications

There were 61 children involved in the 46 incoming return applications in 2003. This can be compared with the total of 57 children being involved in the 42 return applications in 1999. In 2003, on average 1.33 children were involved in return applications. Proportionally, this represents a decrease in the average number (1.36) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 3 children involved in the 3 incoming access applications in 2003. This can be compared with the total of 5 children being involved in the 4 access applications in 1999. In 2003, on average one child was involved in access applications. Proportionally, this is a slight decrease in the average number (1.25) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	36	78%
Sibling Group	10	22%
Total	46	100%

Number of Children

	Number	Percent
1 Child	36	78%
2 Children	6	13%
3 Children	3	7%
4 Children	1	2%
Total	46	100%

The proportion of single children involved in applications for return, 78%, compares with the global average of 67% and the 1999 proportion of 66%. Also, like the 2003 global average of 93%, the vast majority of applications (91%) involved no more than 2 children.

(b) Incoming access applications

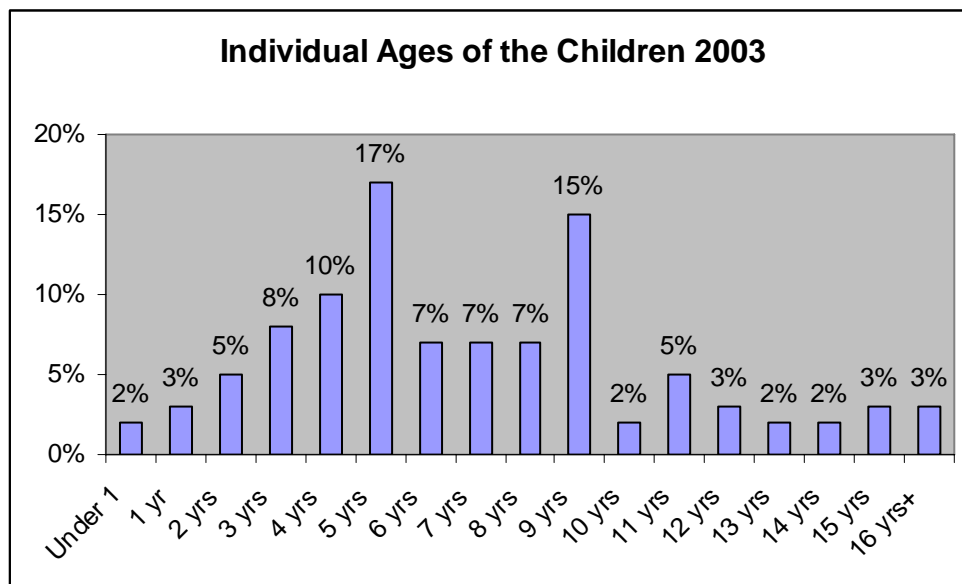
All 3 access applications involved single children. This compares with 71% globally. In 1999, 3 single children and one sibling group of 2 children were subject of the access applications.

9. The age of the children

(a) Incoming return applications⁸

Individual Ages 2003

	Number	Percent
Under 1	1	2%
1 yr	2	3%
2 yrs	3	5%
3 yrs	5	8%
4 yrs	6	10%
5 yrs	10	17%
6 yrs	4	7%
7 yrs	4	7%
8 yrs	4	7%
9 yrs	9	15%
10 yrs	1	2%
11 yrs	3	5%
12 yrs	2	3%
13 yrs	1	2%
14 yrs	1	2%
15 yrs	2	3%
16 yrs or older	2	3%
Total	60	~100%



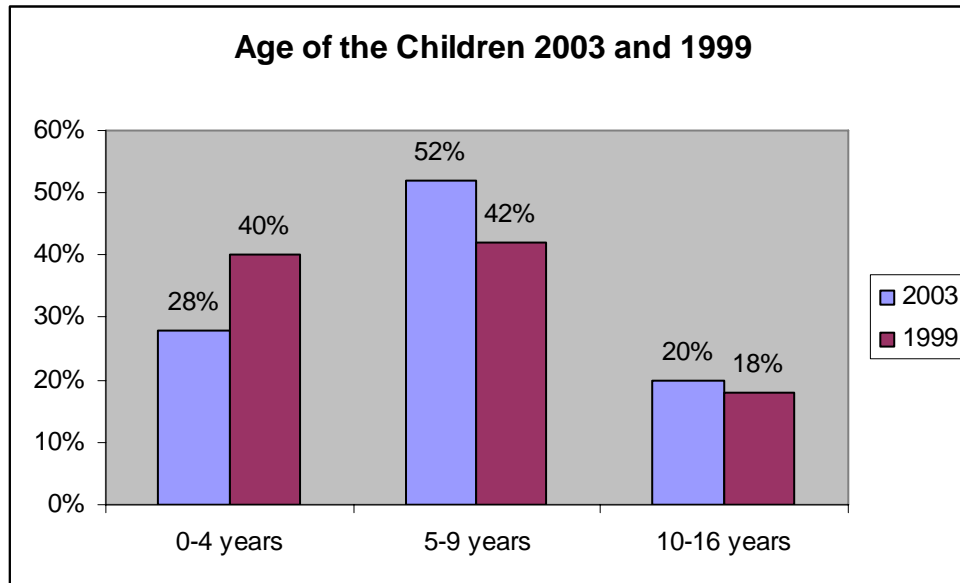
The above table and chart show the ages of the individual children involved. 50% of children were aged between ages 1 and 6, compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

⁸ This information was not available in relation to one child.

Age Band of the Children 2003

	Number	Percent
0-4 years	17	28%
5-9 years	31	52%
10-16 years	12	20%
Total	60	100%



Unlike in 1999, the largest percentage of children were aged between 5-9 years old. Indeed, of the 60 children included, 31 (52%) were aged between 5-9 years. 28% of children were aged between 0-4 years which compares with the proportion of 40% in 1999. The proportion in the two lower age band groups is different from the 2003 global averages of 42% and 36% respectively. The proportion of older children, aged between 10 and 16 years old, increased from 18% in 1999 to 20% in 2003 which is similar to the global average of 22%.

(b) Incoming access applications

The 3 children involved access applications were aged 2, 4 and 9 years. Globally, 20% of children involved in access applications were aged between 0 and 4 years and 46% were aged between 5 and 9 years. In 1999, one child was between 0 and 4 years, 3 were aged between 5 and 9 years and one was aged between 10 and 16 years.

10. The gender of the children**(a) Incoming return applications****Gender of the Children**

	Number	Percent
Female	31	52%
Male	29	48%
Total	60	100%

The proportion of male and female children is similar to the global averages of 51% and 49% respectively and differs little from the 1999 survey which recorded 54% and 46% respectively.

(b) Incoming access applications

All 3 children involved in access applications were female, as opposed to 45% globally. In 1999, there were 2 male and 3 female children.

The outcomes

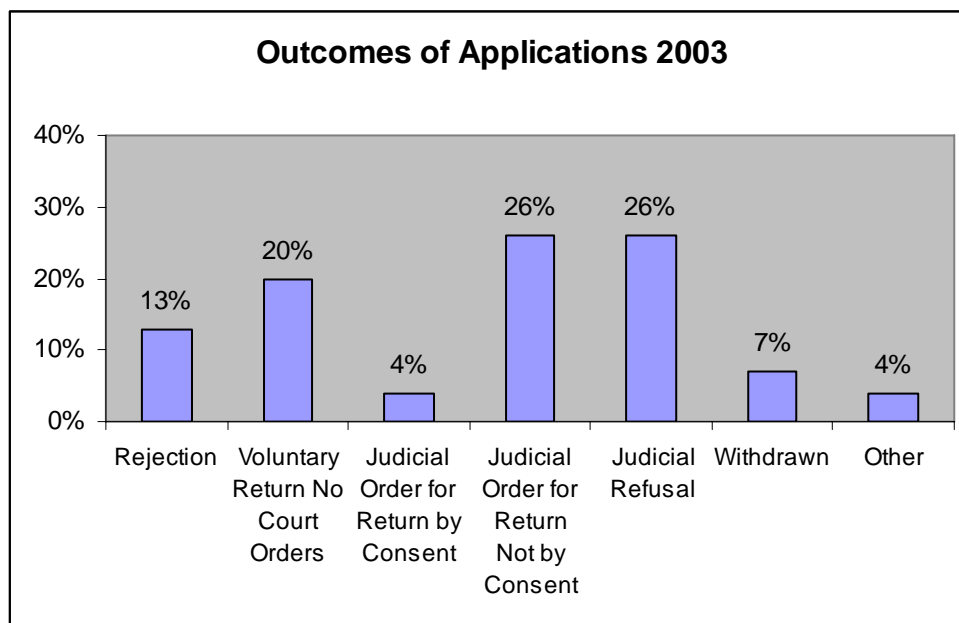
11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	6	13%
Voluntary Return No Court Orders	9	20%
Judicial Order for Return by Consent	2	4%
Judicial Order for Return Not by Consent	12	26%
Judicial Refusal	12	26%
Withdrawn	3	7%
Other	2	4%
Total	46	100%

Outcomes of Applications 2003



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Italy, in 2003, 2 (4%) judicial return orders were made with consent and 12 (26%) without consent.

Overall, 50% of applications made to Italy ended in the child being returned either by a court order or voluntarily, which compares with the global average return rate of 51%. Similarly, the proportion of voluntary returns (20%) and judicial returns (30%) compares

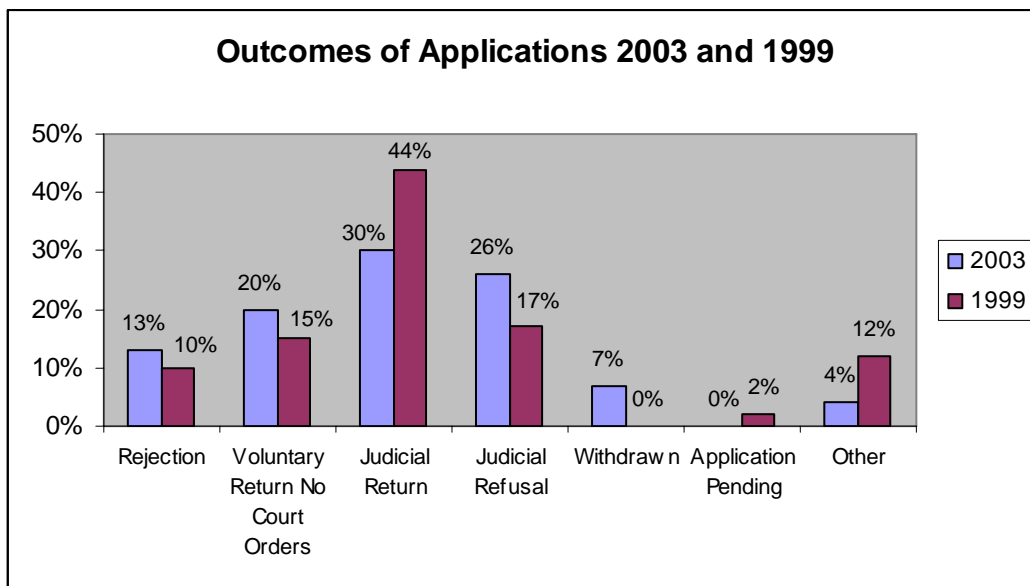
with the global averages of 22% and 29% respectively. On the other hand, the proportion of judicial refusals (26%) is above the global average of 13%.

26 applications (57%) went to court. Of these cases, 54% resulted in return being ordered and 46% in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁹

At 7%, the withdrawal rate was below the global average of 15%.

In one application there were different outcomes for different children, namely a voluntary agreement was reached where one child stayed and the other 2 returned.¹⁰

There were, notably, no pending cases, as of 30th June 2005, compared with 9% globally.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

As in 1999, at 30%, judicial return was the most common outcome for an application though well below the 44% recorded in 1999. As can be seen, the proportion of voluntary returns and judicial refusals both increased, from 15% in 1999 to 20% in 2003 and from 17% in 1999 to 26% in 2003 respectively. The overall return rate decreased, from 59% in 1999 to 50% in 2003.

The rejection rate and the withdrawal rate in Italy both rose, from 10% in 1999 to 13% in 2003 and from 0% in 1999 to 7% in 2003 respectively. Globally in 2003, 6% of applications were rejected and 15% were withdrawn.

(b) Incoming access applications

All 3 access applications resulted in consent orders for access. The applications were dealt with as a Hague application. Globally in 2003, 4% of access applications ended in consent orders for access. In 1999, each access application had a different outcome. In one application access was granted pending the court hearing; in 2 access was judicially granted; the fourth application was judicially refused.

⁹ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

¹⁰ Recorded as 'other'.

12. The reasons for rejection

(a) Incoming return applications

Reason for Rejection by the Central Authority

	Number	Percent
Child Located in Another Country	2	33%
Child Not Located	2	33%
Other	2	34%
Total	6	100%

Italy rejected 6 (13%) applications as against the global average of 6%. In 1999, 4 (10%) of applications were rejected. 2 applications were rejected because the child was located in another country and another 2 applications were rejected because the child was not located. Globally, 24% of rejections were grounded on the former and 27% on the latter.

The remaining 2 rejected applications were recorded as 'other'. In one of these cases the application had already been filed under Article 29. The second 'other' reason for rejection was not available.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications¹¹

Overall Reason for Judicial Refusal per Application

	Number	Percent
Child Not Habitually Resident in Requesting State	2	18%
Applicant had No Rights of Custody	1	9%
Art 13a Not Exercising Rights of Custody	2	18%
Article 13 a Consent	1	9%
Art 13b	4	36%
Child's Objections	1	9%
Total	11	~100%

Of the 26 applications which went to court, 12 (46%) were refused, which is an increase on the 7 out of 25 (28%) applications refused in 1999 and well above the 2003 global average of 29%. The most common reason for refusal was Article 13 *b*) (4, 36%), compared with 18% globally. In 1999, 2 refusals (29%) were grounded on this reason.

¹¹ In one application the reason for refusal was not available.

14. The reasons for judicial refusal and the relationship of the taking person

(a) Incoming return applications¹²

The Relationship of the Taking Person and the Reason for Refusal

	Relationship of Taking Person to Child		Total
	Mother	Father	
Child Not Habitually Resident in Requesting State	2	0	2
Applicant had No Rights of Custody	1	0	1
Art 13a Not Exercising Rights of Custody	2	0	2
Article 13 a Consent	1	0	1
Art 13b	1	3	4
Child's Objections		1	1
Total	7	4	11

Overall, in 7 of the 11 refusals (where the reason for refusal was available), 63%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall.

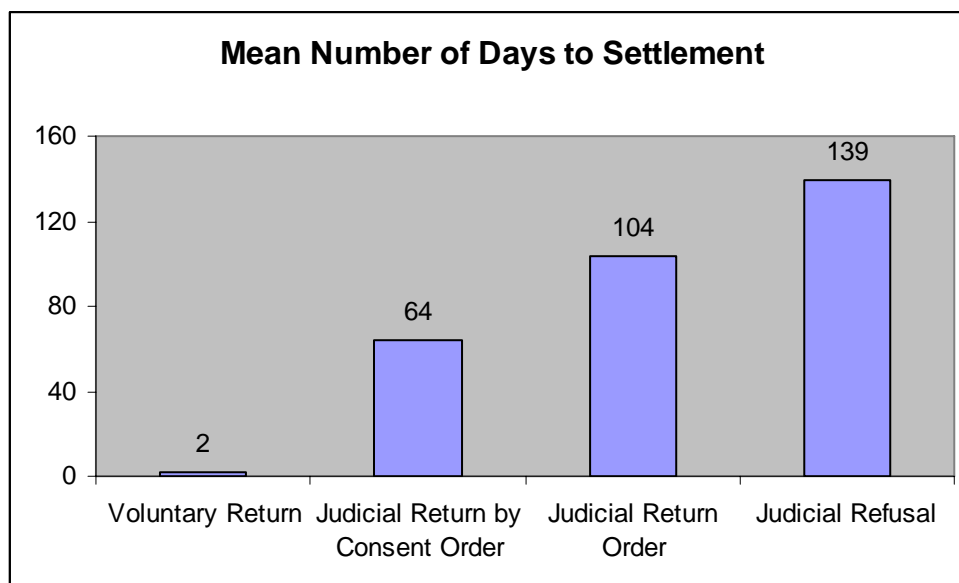
Conversely, in the 4 out of 11 refusals, 36%, the taking person was father. Globally in 2003, 21% of refusals involved fathers.

In 1999, in 4 out of 7 applications to Italy which resulted in judicial refusal the taking person was recorded as male.

Speed

15. The time between application and outcome

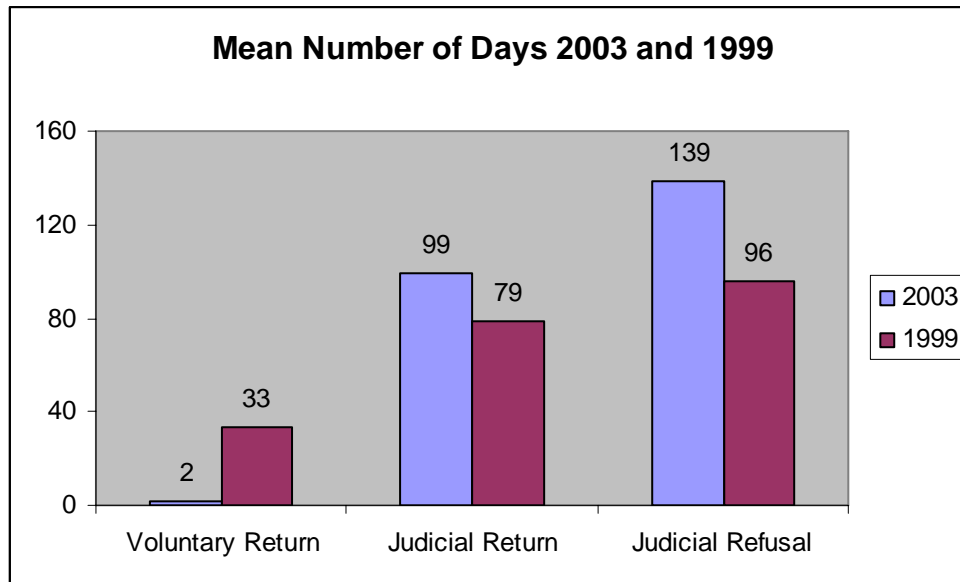
(a) Incoming return applications¹³



¹² In one application this information was not available.

¹³ This information was not available in relation to 8 voluntary returns and 2 judicial refusals.

Predictably, return orders by consent were resolved quicker than return orders without consent, in 64 days compared with 104 days. This compares with the global averages of 85 days and 143 days respectively. The one voluntary return where timing was available took 2 days to reach a final outcome, which compares favourably with the global average of 98 days. The speed of judicial refusals, averaging 139 days, was quicker than the global average of 233 days.



The chart above shows that judicial returns were resolved in a combined average of 99 days compared with 79 days in 1999. Judicial refusals took a mean average of 139 days as against 96 days in 1999. The one voluntary return took 2 days to reach the outcome, compared with the average of 33 days in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	2	64	104	139
Median	2	64	82	109
Minimum	2	60	38	41
Maximum	2	67	315	303
Number of cases	1	2	12	10

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Italy. The fastest judicial decision, a judicial return order, was made in 38 days, the slowest, again a judicial return order, was made in 315 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Refusal
Mean	122
Median	107
Minimum	41
Maximum	303
Number of cases	9

As can be seen, in relation to judicial refusals, there is a difference of 17 days in the mean average before and after the exclusion of appealed cases.

(b) Incoming access applications

The 3 consent orders were made in an average of 172 days, as opposed to 266 days globally.

16. 16. Appeals

(a) Incoming return applications

Of the 26 applications which went to court, only one (4%) was appealed. Globally, 22% of all cases which went to court were appealed.

In this decision the appellate court upheld first instance refusal to return. It took 292 days to reach the final outcome. In 1999, none of the judicial decisions were appealed.

(b) Incoming access applications

Not applicable.

MALTA**The applications****1. The number of applications**

Incoming Return Applications	4
Incoming Access Applications	0
Outgoing Return Applications	0
Outgoing Access Applications	0

According to the Central Authority for Malta, they received 4 incoming return and 0 incoming access applications in 2003. The Central Authority did not made any outgoing return applications or any outgoing access applications in 2003.

Malta did not participate in the 1999 statistical survey as they were not then a Contracting State.

2. The Contracting States which made the application**Requesting States 2003**

	Number	Percent
Germany	1	25%
Netherlands	1	25%
New Zealand	1	25%
UK - England & Wales	1	25%
Total	4	100%

Malta received applications for return from 4 Contracting States, each making one application.

All but one of the applications were received from Contracting States within the EU.

The taking person**3. The relationship of the taking person****Relationship of the Taking Person**

	Number	Percent
Mother	3	75%
Father	1	25%
Total	4	100%

In 3 of the 4 (75%) applications, the taking person in the survey was the mother of the child. This compares with the global average of 68%.

4. The status of the taking person as carer in relation to the child

Malta did not provide information regarding the carer of children.

5. The nationality of the taking person**Taking Person Same Nationality as Requested State**

	Number	Percent
Same Nationality	3	75%
Different Nationality	1	25%
Total	4	100%

In 3 of the 4 (75%) incoming return applications, the taking person was Maltese. This compares with the global average of 55% of taking persons having the same nationality as the requested State and 45% a different nationality.

6. The relationship and nationality of the taking person combined

Nationality and the Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	2	1	3
Different Nationality	1	0	1
Total	3	1	4

2 of the 3 mothers were found to be Maltese nationals. The one father was also recorded being Maltese. This compares with the global averages of 54% and 55% respectively.

The children

7. The total number of children

There were 5 children involved in the 4 incoming return applications in 2003. This is an average of 1.17 children per application. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Number of Children

	Number	Percent
1 Child	3	75%
2 Children	1	25%
Total	4	100%

3 of 4 (75%) applications involved single child, compared with the global average of 67%. All of the applications involved either one or two children, compared with the global average of 93%.

9. The age of the children

Individual Ages 2003

	Number	Percent
4 yrs	2	40%
11 yrs	1	20%
13 yrs	1	20%
14 yrs	1	20%
Total	5	100%

The above table and chart show the ages of the individual children involved. Only 2 of the 5 children involved (40%) were aged 1 - 6, compared with a global average of 55%.

Age Band of the Children 2003

	Number	Percent
0-4 years	1	20%
5-9 years	1	20%
10-16 years	3	60%
Total	5	100%

Of the 5 children included, 3 (60%) were aged between 10-16 years. This compares with the global average of 22%.

10. The gender of the children**Gender of the Children 2003**

	Number	Percent
Female	2	40%
Male	3	60%
Total	5	100%

The proportion of female (40%) and male (60%) children compares with global averages of 51% and 49% respectively.

The outcomes**11. Overall outcomes****Outcome of Application**

	Number	Percent
Judicial Order for Return by Consent	1	25%
Judicial Refusal	1	25%
Application Pending	1	25%
Withdrawn	1	25%
Total	4	100%

The above chart shows the outcome of all applications in 2003.

There was one judicial return by consent, one judicial refusal, one withdrawal and one application still pending as at 30th June 2005. This compares with the global averages of 9%, 13%, 15% and 9% respectively.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

One application was refused under Article 13 *b*). Globally, 18% of refusals were based on this reason.

14. The reasons for judicial refusals and the relationship of the taking person

The taking person in the one refused application was the mother of the child. Globally, 77% of refusals involved mothers.

Speed**15. The time between application and outcome**

The one judicial return by consent was handled in 108 days, compared with a global average of 85 days. The judicial refusal took 308 days, compared with the global average of 233 days.

16. Appeals

None of the judicial decisions were appealed.

MEXICO

1. The number of applications

Incoming Return Applications	27
Incoming Access Applications	0
Outgoing Return Applications	91
Outgoing Access Applications	5

According to the Central Authority for Mexico, they received 27 incoming return applications but no incoming access applications in 2003. This is a decrease on the 41 incoming applications (of which all were for return) made in 1999. It is to be noted that the ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made 91 outgoing return applications¹ and 5 outgoing access applications in 2003. This is a significant increase on the 55 outgoing applications (of which all were for return) made in 1999.

Altogether, the Central Authority handled 123 new applications in 2003 compared with 96 new applications in 1999.

The overall ratio of incoming to outgoing applications was 22% to 78%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
USA	23	85%
Argentina	2	7%
Hungary	1	4%
Spain	1	4%
Total	27	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
USA	23 (85%)	35 (85%)
Argentina	2 (7%)	0 (0%)
Hungary	1 (4%)	0 (0%)
Spain	1 (4%)	0 (0%)
Germany	0 (0%)	1 (2%)
Italy	0 (0%)	1 (2%)
Norway	0 (0%)	1 (2%)
Portugal	0 (0%)	1 (2%)
Colombia	0 (0%)	1 (2%)
Cuba	0 (0%)	1 (2%)
Total	27 (100%)	41 (~100%)

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

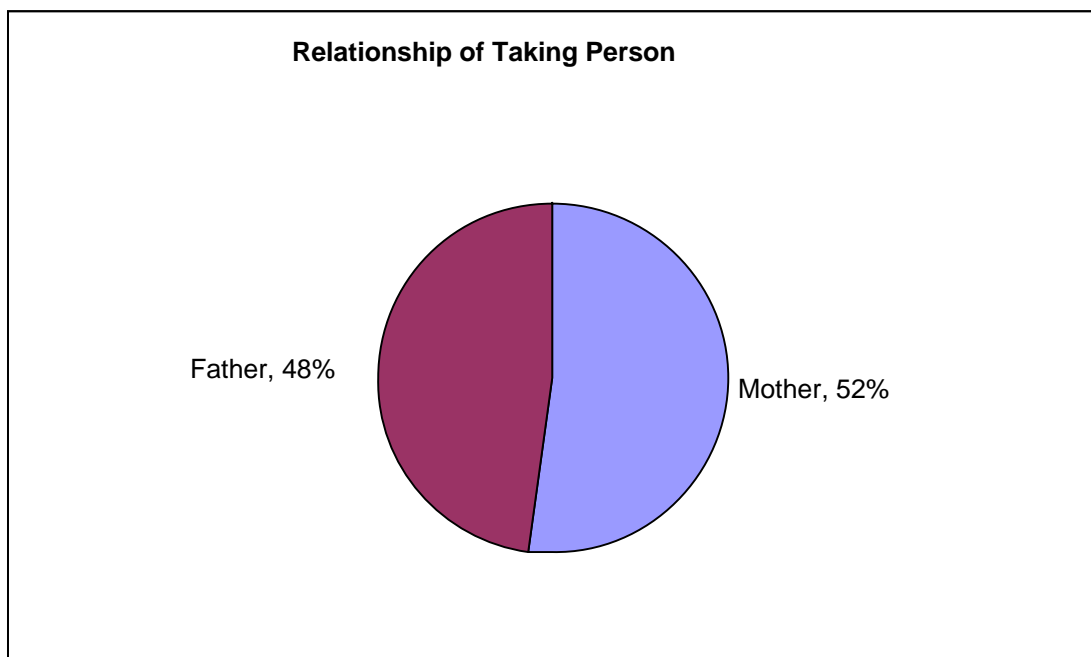
As in 1999, 85% of applications were received from the USA. Similarly, the highest proportion of incoming return applications to the USA, 34%, was from Mexico. 2 applications (7%) came from Argentina as opposed to none in 1999. Hungary and Spain made one (4%) application each.

The taking person

3. The relationship of the taking person

Relationship of the Taking Person

	Number	Percent
Mother	14	52%
Father	13	48%
Total	27	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Proportionally, fewer mothers were taking persons than the global average, 52% as opposed to 68%. In 1999, 48% of taking persons were recorded as female.

4. The status of the taking person as carer in relation to the child

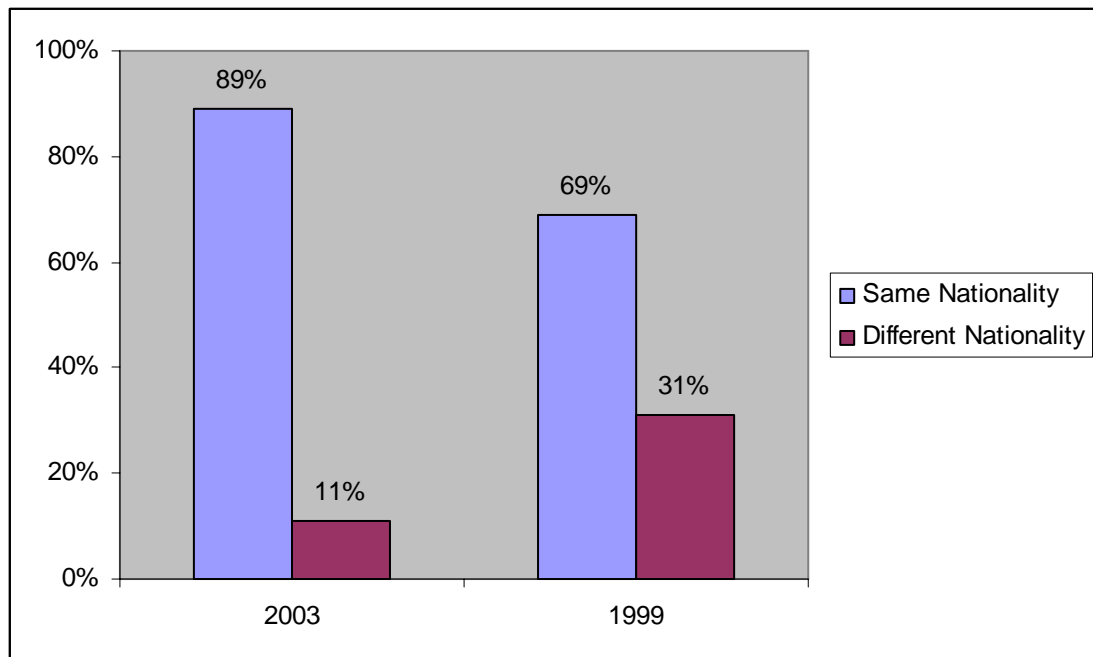
Mexico did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	24	89%
Different Nationality	3	11%
Total	27	100%

At 89%, the proportion of taking persons being Mexican citizens (including one taking person with dual nationality) was appreciably higher than the 2003 global average of 55%.

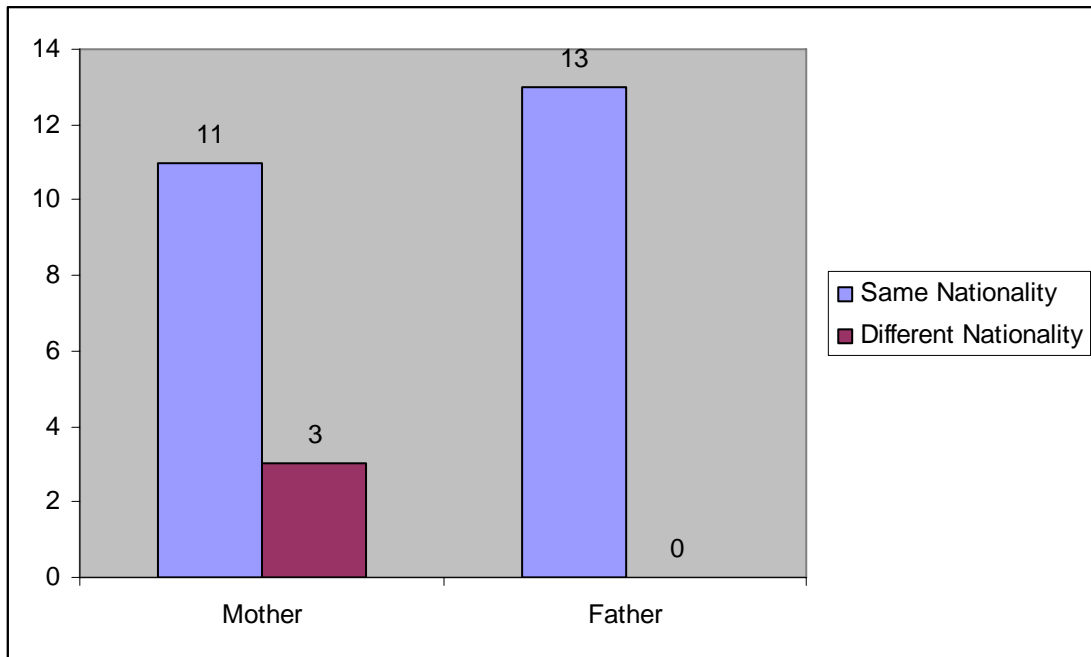


The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Mexican citizens taking children to Mexico has risen from 69% in 1999 to 89% in 2003.

6. The relationship and nationality of the taking person combined

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	11	13	24
Different Nationality	3	0	3
Total	14	13	27



All 13 taking persons recorded as the father of the child (100%) had Mexican nationality. In relation to mothers, the taking person was more often recorded as being a Mexican citizen. Indeed, 11 out of 14 (79%) mothers had Mexican nationality. This can be compared with the 2003 global averages of 54% of mothers and 55% of fathers having the nationality of the requested State. The 1999 survey recorded that 69% of male taking persons and 75% of female taking persons were Mexican citizens.

The children

7. The total number of children

There were 36 children involved in the 27 incoming return applications in 2003. This can be compared with the total of 58 children being involved in the 41 return applications in 1999. In 2003, on average 1.33 children were involved in return applications. Proportionally, this represents a decrease in the average number (1.41) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	20	74%
Sibling Group	7	26%
Total	27	100%

Number of Children

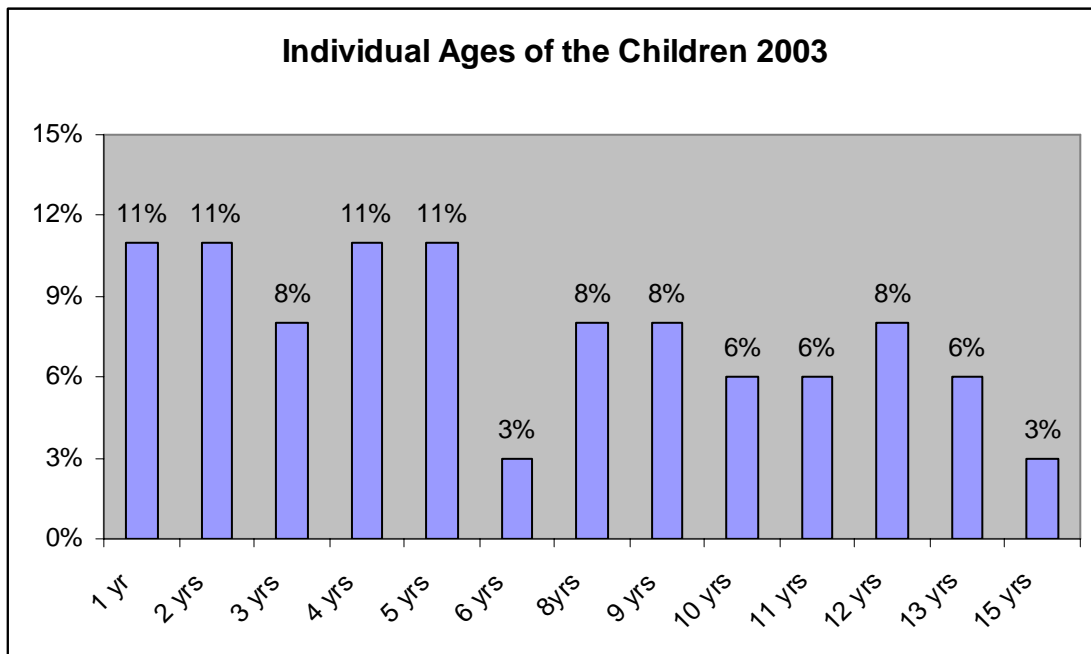
	Number	Percent
1 Child	20	74%
2 Children	5	19%
3 Children	2	7%
Total	27	100%

The proportion of single children involved in applications for return, 74%, is slightly higher than the 2003 global average of 67% but almost identical with the 1999 proportion of 73%. In line with the 2003 global average of 93%, the vast majority of applications (93%) involved no more than 2 children.

9. The age of the children

Individual Ages 2003

	Number	Percent
1 yr	4	11%
2 yrs	4	11%
3 yrs	3	8%
4 yrs	4	11%
5 yrs	4	11%
6 yrs	1	3%
8 yrs	3	8%
9 yrs	3	8%
10 yrs	2	6%
11 yrs	2	6%
12 yrs	3	8%
13 yrs	2	6%
15 yrs	1	3%
Total	36	100%

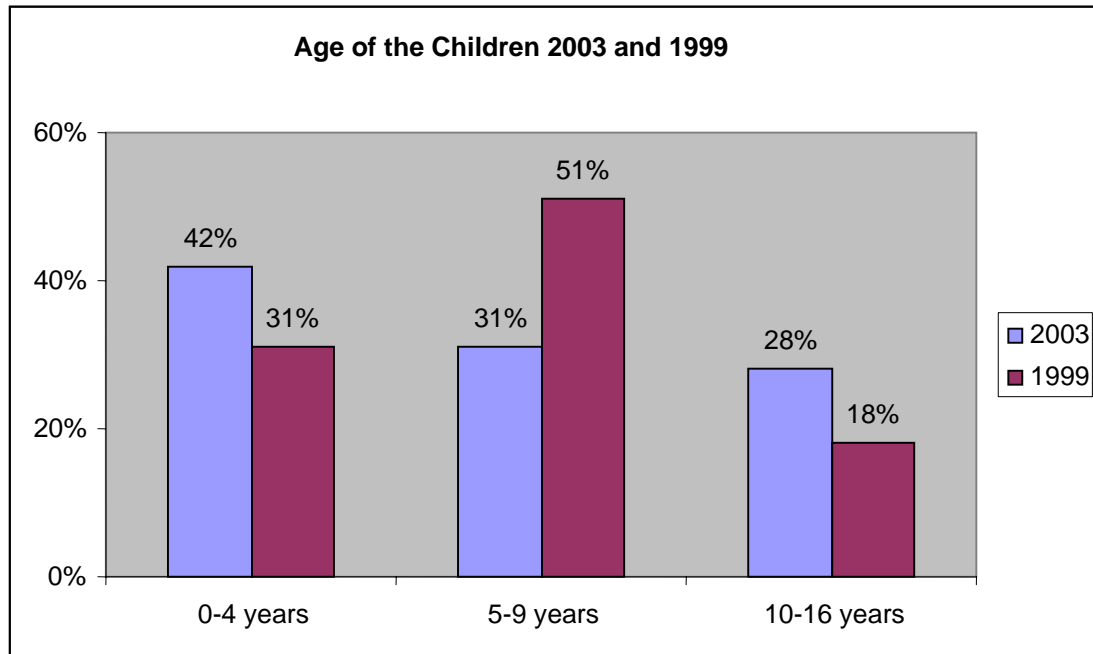


The above table and chart show the ages of the individual children involved. 55% of children were aged between ages 1 and 6, which is the same as the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	15	42%
5-9 years	11	31%
10-16 years	10	28%
Total	36	~100%



Unlike in 1999, the largest percentage of children were aged between 0-4 years old. Indeed, of the 36 children included, 15 (42%) were aged between 0-4 years. The proportion of children aged between 5-9 years decreased from 51% in 1999 to 31% in 2003. On the other hand, the proportion of older children, aged between 10 and 16 years old, increased from 18% in 1999 to 28% in 2003.

The division of children between each age group can be compared with the 2003 global averages of 36%, 42% and 22% respectively.

10. The gender of the children**Gender of the Children**

	Number	Percent
Female	23	64%
Male	13	36%
Total	36	100%

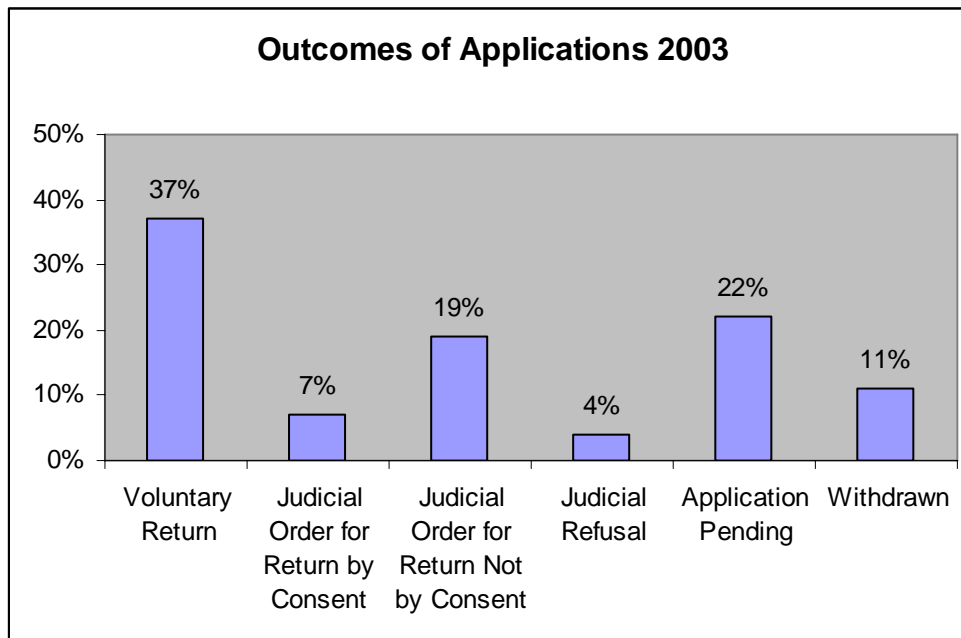
As can be seen, females accounted for 64% and males for 36% of all children involved in the return applications. Globally in 2003, 51% of children were female and 49% were male. In 1999, 47% of children involved in the return applications to Mexico were female.

The outcomes

11. Overall outcomes

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	10	37%
Judicial Order for Return by Consent	2	7%
Judicial Order for Return Not by Consent	5	19%
Judicial Refusal	1	4%
Application Pending	6	22%
Withdrawn	3	11%
Total	27	100%



The above table and chart show the outcome of all applications in 2003.

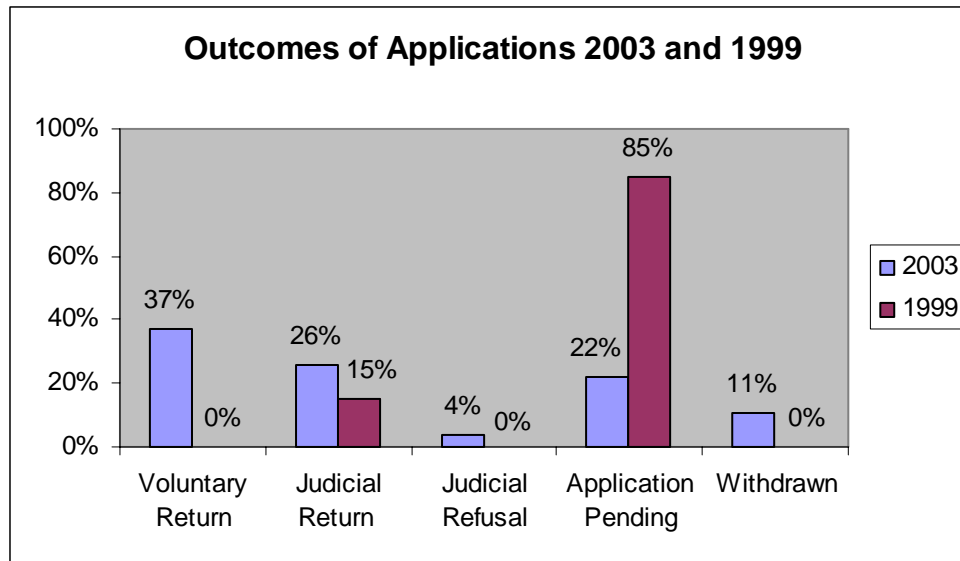
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Mexico, in 2003, 2 (7%) judicial return orders were made with consent and 5 (19%) without consent.

Overall, 63% of applications made to Mexico ended in the child being returned either by a court order or voluntarily, which is well above the 2003 global average return rate of 51%. Similarly, at 37%, the proportion of voluntary returns is higher than the 2003 global average of 21%. Only one application (4%) was judicially refused, as opposed to 13% globally.

8 applications (30%) went to court. Of these cases, 88% ended in a judicial return and 12% in a judicial refusal. Globally in 2003, 66% of applications going to court resulted in return being ordered and 29% were judicially refused.²

² Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

At 11%, the withdrawal rate is below the global average of 15%. On the other hand, the proportion of pending applications, 22%, is above the global average of 9%.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Unlike in 1999, at 37%, voluntary return was the most common outcome for an application. As can be seen, the proportion of voluntary returns increased from none in 1999 to 37% in 2003. Similarly, the proportion of judicial returns increased from 15% in 1999 to 26% in 2003. Consequently, the overall return rate rose dramatically from 15% in 1999 to 63% in 2003.

4% of applications ended in a judicial refusal and 11% were withdrawn, as opposed to none in 1999. On the other hand, the proportion of pending applications fell from 85% in 1999 to 22% in 2003.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

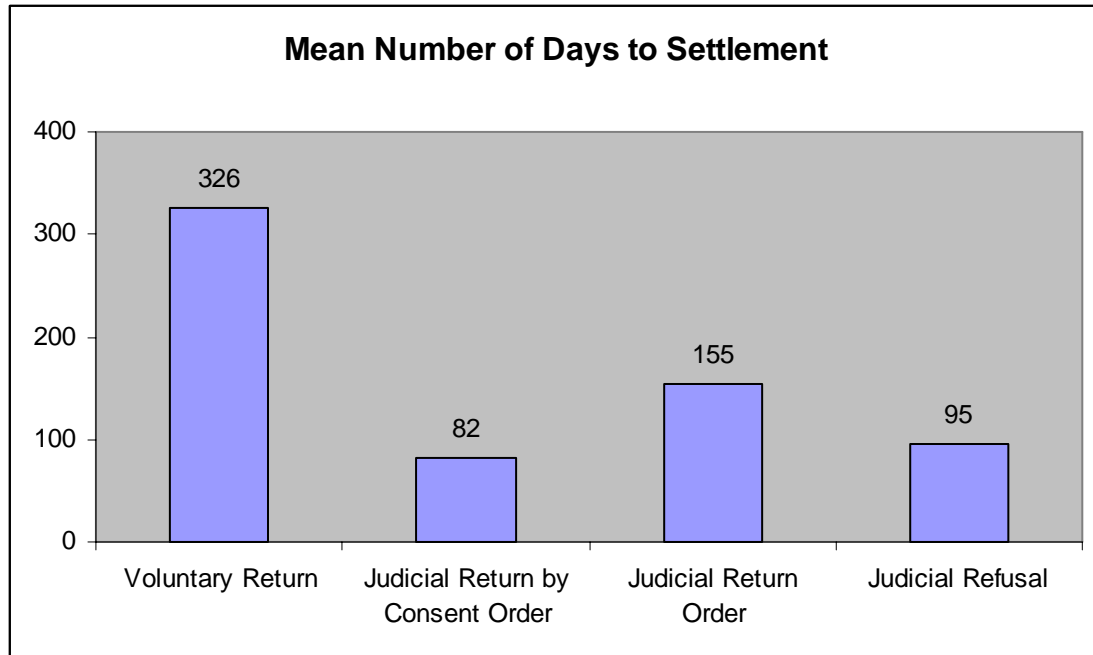
Of the 8 applications which went to court, only one (12%) was refused, as opposed to 28% globally. In 1999, no application was judicially refused. The one refusal was based on two grounds: Article 13 *b*) and child's objections. Globally in 2003, 17% of refusals were based on the former and 9% on the latter reason.

14. The reasons for judicial refusals and the relationship of the taking person

The taking person involved in the one judicial refusal was recorded as the mother of the child. Globally in 2003, 77% of refusals involved mothers.

Speed

15. The time between application and outcome³



Predictably, the one return order by consent where information on speed was available was resolved quicker than return orders without consent, in 82 days compared with 155 days. This can be compared with the 2003 global averages of 85 days and 143 days respectively. Voluntary returns took on average 326 days to reach final outcome, which is significantly longer than the global average of 98 days. On the other hand, the speed of the one judicial refusal was quicker than the 2003 global average, 95 days compared with 233 days.

In 1999, no information was available regarding timing. Nevertheless, considering the fact that in 1999, 85% of applications were still pending as of the cut-off period for the survey, it is apparent that the speed in resolving the applications has significantly improved.

Number of Days Taken to Reach Final Outcome: 2003

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	326	82	155	95
Median	347	82	73	95
Minimum	75	82	40	95
Maximum	534	82	434	95
Number of cases	6	1	4	1

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Mexico. The fastest judicial decision, a judicial return without consent, was made in 40 days, the slowest, again a judicial return, was made in 434 days. Interestingly, there was one voluntary return case which took an

³ In relation to 4 voluntary returns, one judicial return by consent and one judicial return without consent this information was not stated.

extremely long time (534 days) to reach an outcome. The fastest voluntary return was resolved in 75 days.

16. Appeals

As in 1999, no judicial decisions were appealed.

MÉXICO

1. El número de solicitudes

Solicitudes de restitución recibidas	27
Solicitudes de derecho de visita recibidas	0
Solicitudes de restitución efectuadas	91
Solicitudes de derecho de visita efectuadas	5

De acuerdo con la Autoridad Central de México, ésta recibió 27 solicitudes de restitución pero ninguna solicitud de derecho de visita en el 2003. Esta es una disminución de las 41 solicitudes recibidas (todas las cuales eran de restitución) en 1999. Debe notarse que el ratio de solicitudes de restitución recibidas con relación a solicitudes de derecho de visita (100%) se encuentra por encima del promedio global de 84% a 16%.

Asimismo, la Autoridad Central efectuó 91 solicitudes de restitución¹ y 5 solicitudes de derecho de visita en el 2003. Este es un incremento significativo de las 55 solicitudes efectuadas (todas las cuales eran solicitudes de restitución) en 1999.

En conjunto, la Autoridad Central tramitó 123 solicitudes nuevas en el 2003 en comparación con las 96 solicitudes nuevas de 1999.

El ratio general de solicitudes recibidas y efectuadas fue de 22% a 78%.

2. Los Estados contratantes que efectuaron la solicitud

Estados requeridos 2003

	Número	Porcentaje
EE.UU.	23	85%
Argentina	2	7%
Hungría	1	4%
España	1	4%
Total	27	100%

Estados requirentes comparados con las cifras de 1999

	Número de solicitudes 2003	Número de solicitudes 1999
EE.UU.	23 (85%)	35 (85%)
Argentina	2 (7%)	0 (0%)
Hungría	1 (4%)	0 (0%)
España	1 (4%)	0 (0%)
Alemania	0 (0%)	1 (2%)
Italia	0 (0%)	1 (2%)
Noruega	0 (0%)	1 (2%)
Portugal	0 (0%)	1 (2%)
Colombia	0 (0%)	1 (2%)
Cuba	0 (0%)	1 (2%)
Total	27 (100%)	41 (~100%)

Tal como en 1999, el 85% de solicitudes recibidas provenían de EE.UU. Igualmente, el más alto porcentaje de solicitudes de restitución recibidas por EE.UU., 34%, provenían de México. Dos solicitudes (7%) provenían de Argentina frente a ninguna en 1999. Hungría y España efectuaron una (4%) solicitud cada uno.

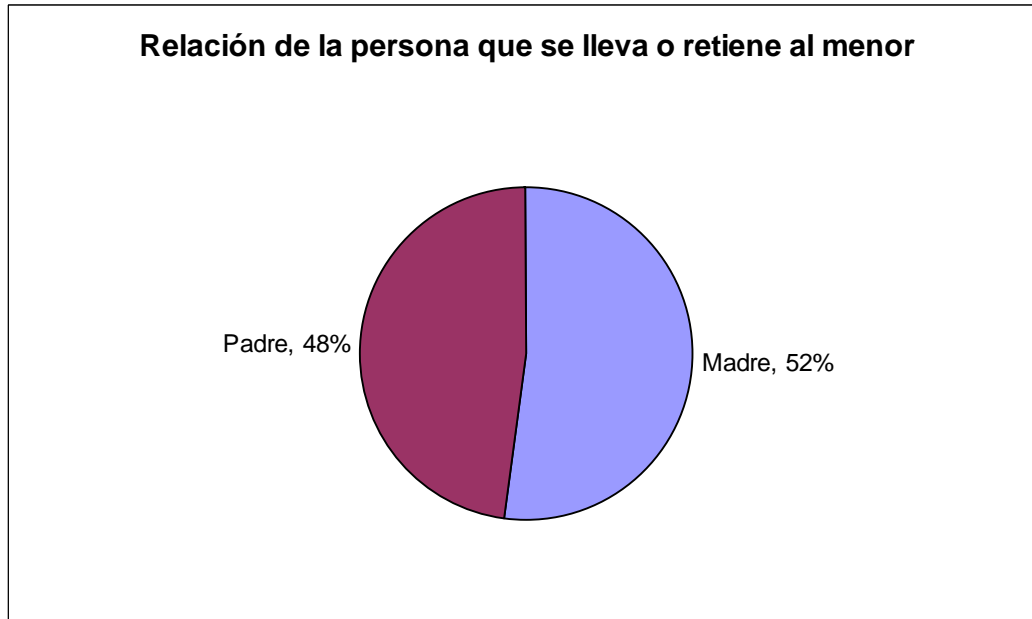
¹ Este es el número total de solicitudes basándonos en lo informado por la Autoridad Central, i.e.; el número de solicitudes que efectuaron. Estos casos pueden no haber sido remitidos a las Autoridades Centrales extranjeras en el 2003, i.e.; algunos pudieron haber sido retirados antes de la remisión, o no remitidos a (o recibidos por) la Autoridad Central extranjera al 31 de diciembre de 2003.

La persona que se lleva o retiene al menor

3. La relación entre el menor y la persona que se lo lleva o lo retiene

Relación de la persona que se lleva o retiene al menor

	Número	Porcentaje
Madre	14	52%
Padre	13	48%
Total	27	100%



El estudio de 2003 obtuvo datos sobre la relación entre el menor y la persona que se lo llevó o lo retuvo, en vez del sexo de ésta última (i.e.; simplemente masculino/femenino o los dos), tal como se registró en el estudio de 1999. En términos porcentuales, menos madres se llevaron o retuvieron menores, 52%, frente al promedio global de 68%. En 1999, el 48% de personas que se llevaron o retuvieron menores fueron registradas como mujeres.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

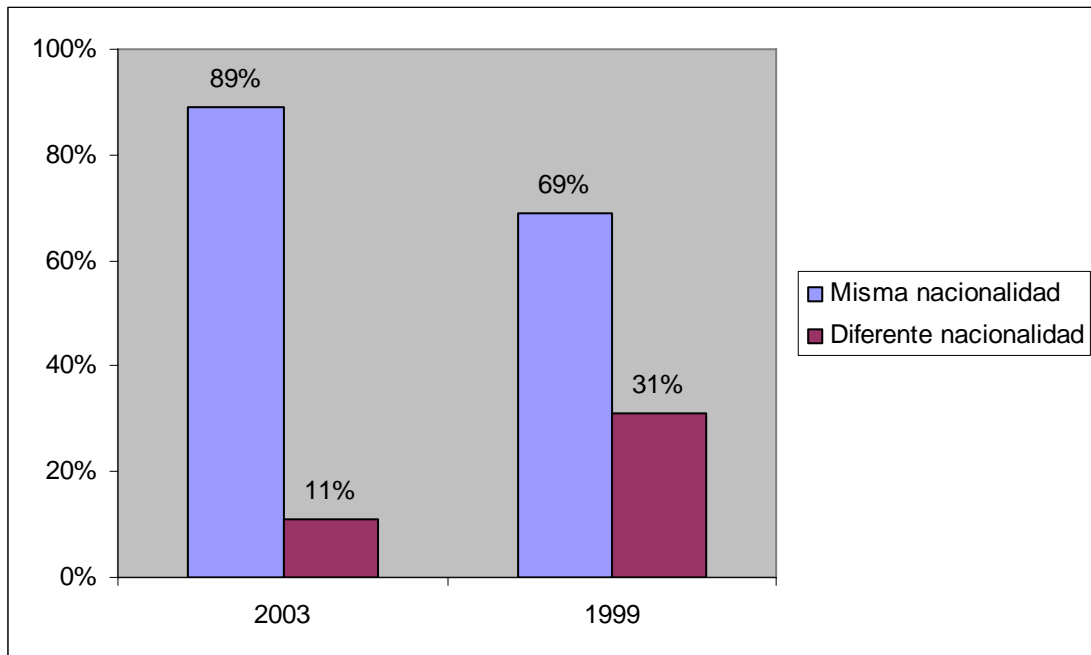
México no proporcionó información sobre la situación de la persona que se llevo o retuvo al menor en el ejercicio de su cuidado.

5. La nacionalidad de la persona que se lleva o retiene al menor

La persona que se lleva o retiene al menor tiene la nacionalidad

	Número	Porcentaje
Misma nacionalidad	24	89%
Diferente nacionalidad	2	11%
Total	27	100%

El porcentaje de 89% de personas que se llevaron o retuvieron menores que eran ciudadanos mexicanos (incluida una persona con doble nacionalidad) fue apreciablemente alto que el promedio global de 55%.

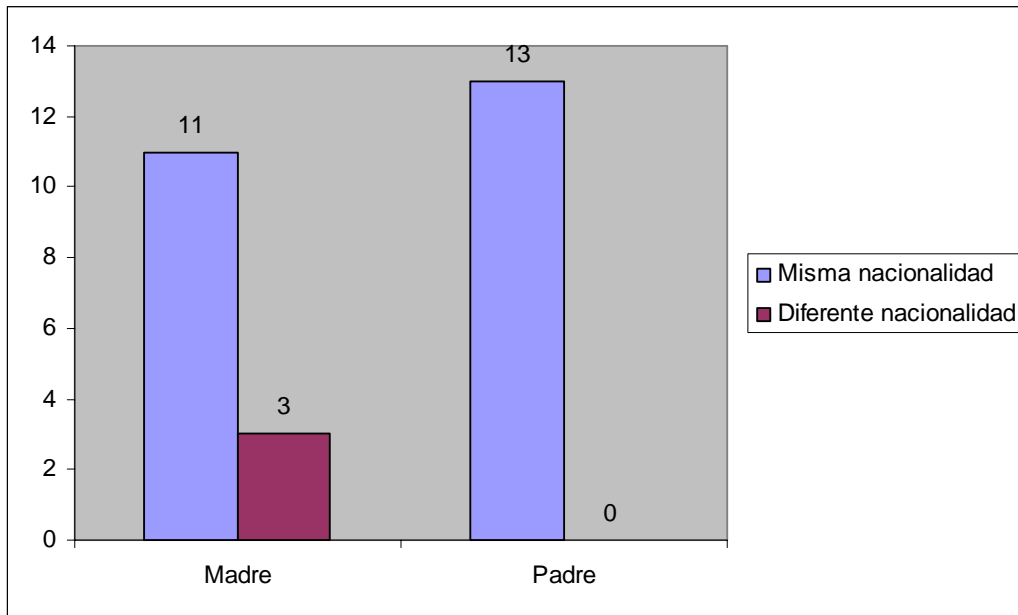


El gráfico de arriba compara los hallazgos de 2003 sobre nacionalidad con el estudio de 1999. Tal como lo muestra el gráfico, el porcentaje de ciudadanos mexicanos que trasladaron menores a México ascendió de 69% en 1999 a 89% en el 2003.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor combinadas

Nacionalidad y relación entre el menor y la persona que se lo lleva o lo retiene

	Relación entre el menor y la persona que se lo lleva o lo retiene		Total
	Madre	Padre	
Misma nacionalidad	11	13	24
Diferente nacionalidad	3	0	3
Total	14	13	27



Las 13 personas que se llevaron o retuvieron menores registradas como padres (100%) tenían nacionalidad mexicana. Con respecto a las madres que se llevaron o retuvieron menores éstas fueron registradas con frecuencia como ciudadanas mexicanas. En efecto, 11 de 14 (79%) madres tenían nacionalidad mexicana. Esto puede compararse con los promedios globales de 2003 de 54% de madres y 55% de padres que tenían la nacionalidad del Estado requerido. El estudio de 1999 registró que el 69% de varones que se llevaron o retuvieron menores y el 75% de mujeres que se llevaron o retuvieron menores eran ciudadanos mexicanos.

Los menores

7. El número total de menores

Hubo 36 menores comprendidos en 27 solicitudes de restitución recibidas en el 2003. Esto puede compararse con el total de 58 menores comprendidos en 41 solicitudes de restitución en 1999. En el 2003, en promedio 1.33 menores estuvieron comprendidos en solicitudes de restitución. En términos porcentuales esto representa una disminución en el número promedio (1.41) de menores por solicitud de restitución recibida en 1999. A nivel global en el 2003, un promedio de 1.4 menores estuvieron comprendidos en solicitudes de restitución.

8. Un menor o grupo de hermanos

Un menor o grupo de hermanos

	Número	Porcentaje
Un menor	20	74%
Grupo de hermanos	7	26%
Total	27	100%

Número de menores

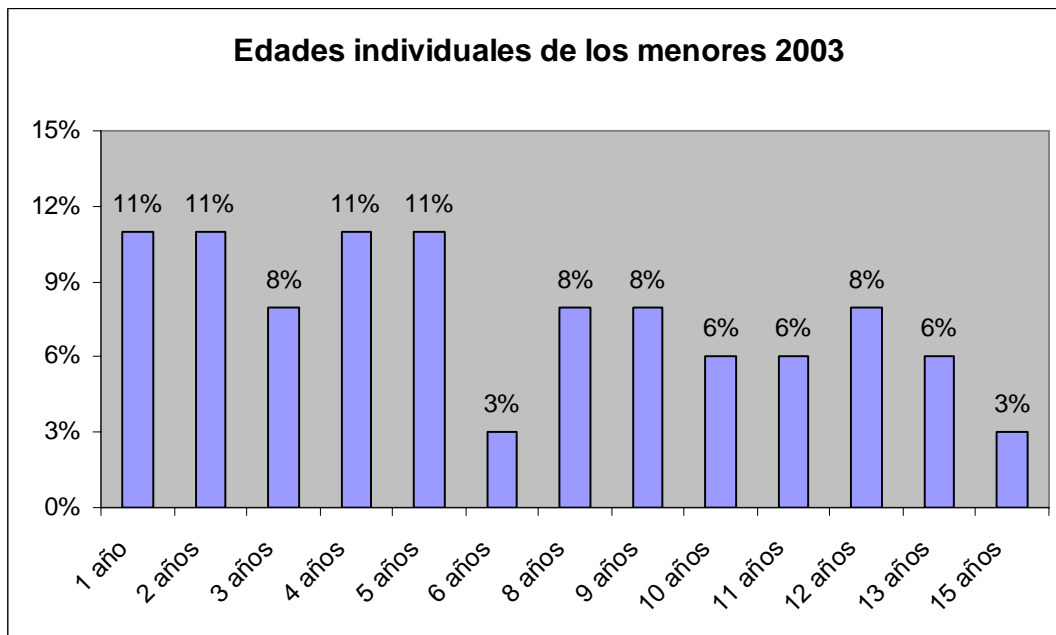
	Número	Porcentaje
1 menor	20	74%
2 menores	5	19%
3 menores	2	7%
Total	27	100%

El porcentaje de un menor comprendido en las solicitudes de restitución, 74%, es ligeramente más alto que el promedio global de 2003 de 67%, pero casi idéntico al porcentaje de 1999 de 73%. En línea con el promedio global de 2003 de 93%, la vasta mayoría de solicitudes (93%) comprendieron no más de 2 menores.

9. La edad de los menores

Edades individuales

	Número	Porcentaje
1 año	4	11%
2 años	4	11%
3 años	3	8%
4 años	4	11%
5 años	4	11%
6 años	1	3%
8 años	3	8%
9 años	3	8%
10 años	2	6%
11 años	2	6%
12 años	3	8%
13 años	2	6%
15 años	1	3%
Total	36	100%

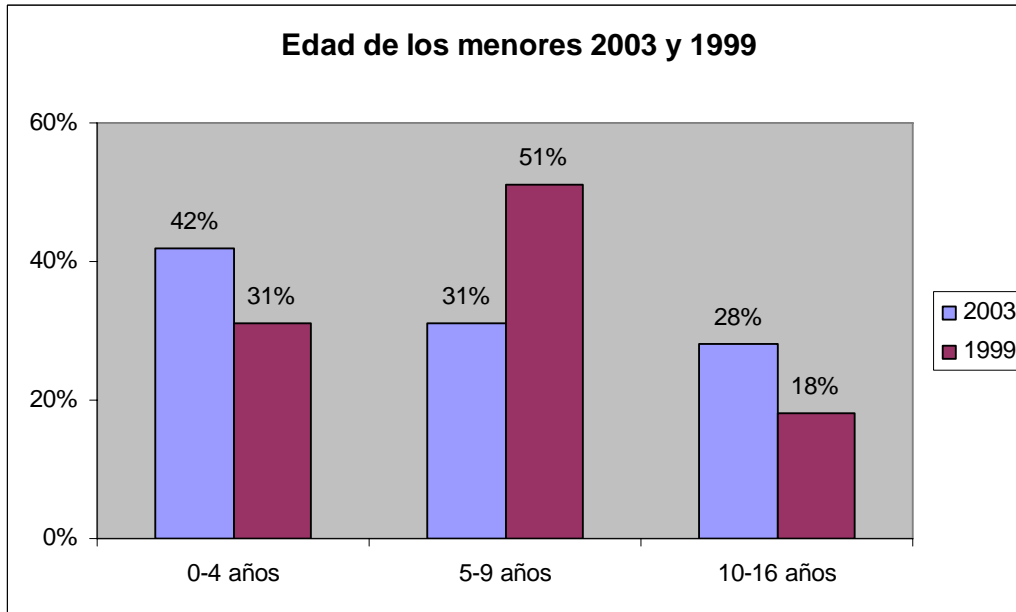


La tabla y gráfico de arriba muestran las edades de los menores comprendidos en las solicitudes. El 55% de menores tenían entre 1 y 6 años, lo cual es similar al promedio global de 55%.

No contamos con este nivel de detalle en el estudio de 1999 para poder comparar estos resultados. En cambio, sí contamos con información comparable sobre los rangos de edades de los menores

Rango de edad de los menores 2003

	Número	Porcentaje
0-4 años	15	42%
5-9 años	11	31%
10-16 años	10	28%
Total	36	~100%



A diferencia de 1999, el mayor porcentaje de menores tenía entre 0 y 4 años. En efecto, de los 36 menores comprendidos, 15 (42%) tenían entre 0 y 4 años. El porcentaje de menores entre 5 y 9 años descendió de 51% en 1999 a 31% en el 2003. Por otro lado, el porcentaje de menores entre 10 y 16 años, se incrementó de 18% en 1999 a 28% en el 2003.

La división de menores en cada grupo de edad puede compararse con los promedios globales de 2003 de 36%, 42% y 22%, respectivamente.

10. El sexo de los menores**Sexo de los menores**

	Número	Porcentaje
Femenino	23	64%
Masculino	13	36%
Total	36	100%

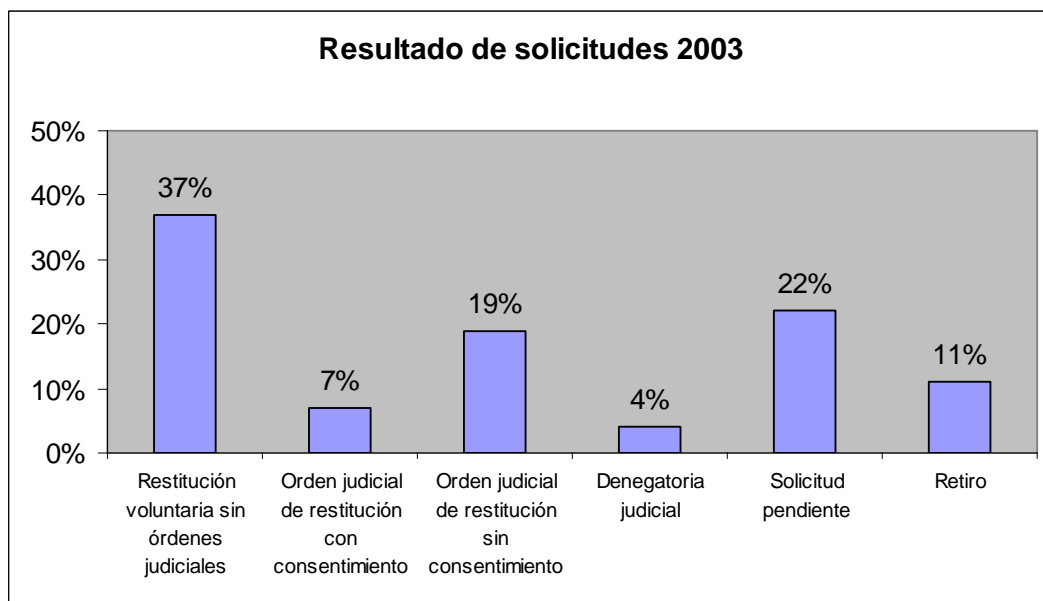
Como puede apreciarse, el 64% de menores comprendidos en solicitudes de restitución eran mujeres y el 36% varones. A nivel global en el 2003, el 51% de menores eran mujeres y el 49% eran varones. En 1999, el 47% de menores comprendidos en solicitudes de restitución efectuadas a México eran mujeres.

Los resultados

11. Los resultados totales

Resultado de la solicitud

	Número	Porcentaje
Restitución voluntaria sin órdenes judiciales	10	37%
Orden judicial de restitución con consentimiento	2	7%
Orden judicial de restitución sin consentimiento	5	19%
Denegatoria judicial	1	4%
Solicitud pendiente	6	22%
Retiro	3	11%
Total	27	100%



La tabla y el gráfico anteriores muestran los resultados de todas las solicitudes de 2003.

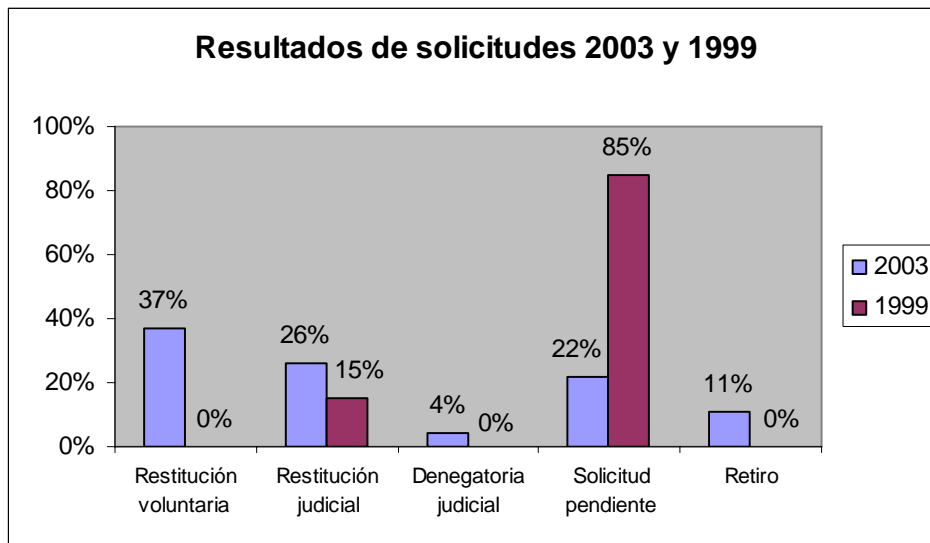
A diferencia del estudio de 1999, el estudio de 2003 muestra la división entre órdenes judiciales de restitución con y sin consentimiento. En México, en el 2003, 2 (7%) de órdenes judiciales fueron efectuadas con consentimiento y 5 (19%) sin consentimiento.

En general, el 63% de solicitudes efectuadas a México concluyeron con la restitución del menor por medio de una orden judicial o de manera voluntaria, lo que se encuentra muy por encima del promedio global de 2003 de 51%. Igualmente, al 37%, el porcentaje de solicitudes voluntarias es más alto que el promedio global de 2003 de 21%. Solamente una solicitud (4%) fue judicialmente denegada en frente al 13% a nivel global.

8 solicitudes (30%) se ventilaron judicialmente. De estos casos, el 88% concluyeron con una restitución judicial y 12% con una denegatoria judicial. A nivel global en el 2003, el 66% de solicitudes ventiladas judicialmente concluyeron con una orden de restitución y 29% fueron denegadas judicialmente.²

² A nivel global, el 66% terminó con una restitución, el 5% con un derecho de visita y, el 29% con una denegatoria judicial. Véase la Parte I del Informe de 2003, p. 32.

Al 11%, el índice de retiros está por debajo del promedio global de 15%. Por otro lado, el porcentaje de solicitudes pendientes, 22%, está por debajo del promedio global de 9%.



El gráfico anterior clasifica los resultados de manera que sean comparables con las cifras de 1999. Por tanto, 'restitución judicial' incluye a las órdenes efectuadas con y sin consentimiento.

A diferencia de 1999, la restitución voluntaria fue el resultado más común de una solicitud con 37%. Como puede apreciarse, el porcentaje de restituciones voluntarias se incrementó de cero en 1999 a 37% en el 2003. Igualmente, el porcentaje de restituciones judiciales se incrementó de 15% en 1999 a 26% en el 2003. En consecuencia, el índice general de restituciones subió dramáticamente de 15% en 1999 a 63% en el 2003.

El 4% de solicitudes concluyeron con una denegatoria judicial y el 11% de solicitudes fueron retiradas frente al cero por ciento de 1999. Por otro lado, el porcentaje de solicitudes pendientes disminuyó de 85% en 1999 a 22% en el 2003.

12. Las razones de rechazo

No aplicable.

13. Las razones de denegatoria judicial

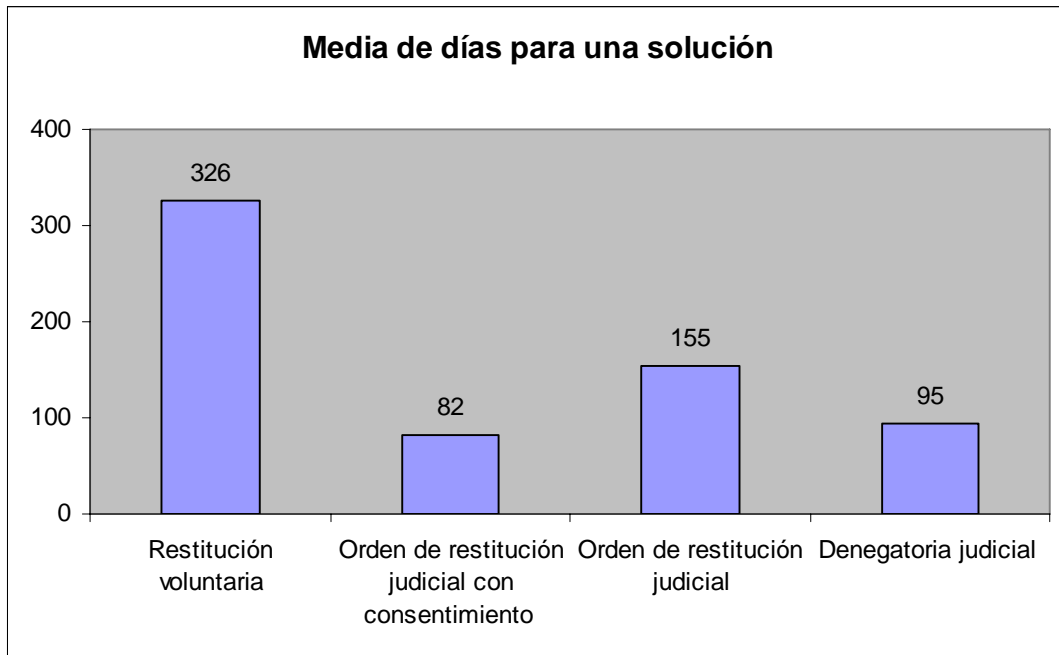
De las 8 solicitudes que se ventilaron judicialmente solamente una (12%) fue denegada, frente al 28% a nivel global. En 1999, ninguna solicitud fue denegada judicialmente. La única denegatoria se basó en dos motivos: el artículo 13b y las objeciones del menor. A nivel global en el 2003, el 17% de denegatorias se sustentaron en el primer motivo y el 9% en el segundo.

14. Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene

La persona que se llevo o retuvo al menor comprendida en la única denegatoria judicial fue registrada como la madre. A nivel global en el 2003, el 77% de denegatorias comprendieron a madres.

Celeridad

15. El tiempo entre la solicitud y el resultado³



De manera predecible, la única orden de restitución con consentimiento sobre la cual se tuvo información disponible respecto de la celeridad fue resuelta más rápido que las órdenes de restitución sin consentimiento; 82 días frente a 155 días. Esto puede compararse con los promedios globales de 2003 de 85 días y 143 días, respectivamente. Las restituciones voluntarias tomaron en promedio 326 días en alcanzar un resultado final, lo cual es significativamente más largo que el promedio global de 98 días. Por otro lado, la celeridad de una denegatoria judicial fue más rápida que el promedio global de 2003, 95 días frente a 233 días.

En 1999, no hubo información disponible sobre la duración de las solicitudes. No obstante, teniendo en cuenta el hecho de que en 1999 el 85% de solicitudes se encontraban pendientes a la fecha de corte del estudio, es evidente que la celeridad en la resolución de solicitudes ha mejorado significativamente.

Número de días para alcanzar un resultado final: 2003

	Restitución voluntaria sin órdenes judiciales	Órdenes judiciales de restitución con consentimiento	Orden judicial de restitución	Denegatoria judicial
Media	326	82	155	95
Mediana	347	82	73	95
Mínimo	75	82	40	95
Máximo	534	82	434	95
Número de casos	6	1	4	1

La tabla anterior demuestra la variación en el tiempo que tomaron los resultados y ofrece un cuadro más informativo del sistema en México. La decisión judicial más rápida, una

³ No se indicó esta información respecto de 4 restituciones voluntarias, una restitución judicial con consentimiento y una restitución judicial sin consentimiento.

restitución judicial sin consentimiento, tomó 40 días; la decisión judicial más lenta, también una restitución judicial, tomó 434 días. De manera interesante, un caso de restitución voluntaria tomó demasiado tiempo (534 días) en alcanzar un resultado. La restitución voluntaria más rápida tomó 75 días.

16. Apelaciones

Tal como en 1999, ninguna decisión judicial fue apelada.

THE NETHERLANDS

The applications

1. The number of applications

Incoming Return Applications	26
Incoming Access Applications	6
Outgoing Return Applications	71
Outgoing Access Applications	11

According to the Central Authority for the Netherlands, they received 26 incoming return¹ and 6 incoming access applications in 2003, making a total of 32 incoming applications. This is a slight decrease on the 34 incoming applications (26 of which were return applications and 8 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 81% to 19% compares with the global average of 84% to 16%.

The Central Authority made 71 outgoing return applications and 11 outgoing access applications in 2003.² This is a substantial increase on the 21 return applications and 3 access applications made in 1999.

Altogether, therefore, the Central Authority handled 114 new applications in 2003, compared with 58 new applications in 1999.

The overall ratio of incoming to outgoing applications was 28% to 72%.

2. The Contracting States which made the applications

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Italy	4	15%
USA	4	15%
Belgium	2	8%
Germany	2	8%
Greece	2	8%
Poland	2	8%
UK - England & Wales	2	8%
Non-Convention Country	2	8%
Australia	1	4%
Canada	1	4%
Czech Republic	1	4%
France	1	4%
Israel	1	4%
UK - Cayman Islands	1	4%
Total	26	~100%

¹ Including two from non-Convention countries – see below.

² This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Italy	4 (15%)	3 (12%)
USA	4 (15%)	2 (8%)
Belgium	2 (8%)	0 (0%)
Germany	2 (8%)	2 (8%)
Greece	2 (8%)	1 (4%)
Poland	2 (8%)	1 (4%)
UK - England & Wales	2 (8%)	5 (19%)
Non-Convention Country	2 (8%)	0 (0%)
Australia	1 (4%)	1 (4%)
Canada	1 (4%)	1 (4%)
Czech Republic	1 (4%)	0 (0%)
France	1 (4%)	0 (0%)
Israel	1 (4%)	1 (4%)
UK - Cayman Islands	1 (4%)	0 (0%)
Portugal	0 (0%)	2 (8%)
Slovakia	0 (0%)	1 (4%)
Spain	0 (0%)	1 (4%)
Switzerland	0 (0%)	1 (4%)
Colombia	0 (0%)	1 (4%)
Cyprus	0 (0%)	1 (4%)
New Zealand	0 (0%)	1 (4%)
South Africa	0 (0%)	1 (4%)
Total	26 (~100%)	26 (~100%)

The Netherlands received applications for return from 13 Contracting States compared with 17 Contracting States in 1999.

The highest number of applications came from Italy and the USA (4, 15% from each). In 1999, Italy made 3 applications (12%) and the USA 2 applications (8%). England & Wales only made 2 applications compared with 5 in 1999. Belgium, Germany, Greece and Poland also each made 2 applications (8%). In 1999, each of these Contracting States, except for Belgium, made at least one return application to the Netherlands. One application was recorded as having been made by Iran and one by the Republic of Surinam, notwithstanding that they are not Contracting States to the Convention.³

Requesting States within the EU 2003

	Number	Percent
Italy	4	25%
Belgium	2	13%
Germany	2	13%
Greece	2	13%
Poland	2	13%
UK - England & Wales	2	13%
Czech Republic	1	6%
France	1	6%
Total	16	~100%

³ Recorded as Non-Convention Countries.

The above chart shows the number of applications received from countries that are now part of the EU.⁴ These countries account for 16 of the 26 applications (62%) received by the Netherlands. This can be compared with the 1999 survey where EU countries made up a total of 17 of the 26 applications (65%).

(b) Incoming access applications

Requesting States 2003

	Number	Percent
USA	2	33%
Finland	1	17%
Germany	1	17%
Hungary	1	17%
Portugal	1	17%
Total	6	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
USA	2 (33%)	1 (13%)
Germany	1 (17%)	0 (0%)
Hungary	1 (17%)	1 (13%)
Portugal	1 (17%)	0 (0%)
Finland	1 (17%)	1 (13%)
Australia	0 (0%)	1 (13%)
Canada	0 (0%)	1 (13%)
France	0 (0%)	1 (13%)
Spain	0 (0%)	1 (13%)
South Africa	0 (0%)	1 (13%)
Total	6 (~100%)	8 (~100%)

The Netherlands received access applications from 5 Contracting States compared with 8 Contracting States in 1999.

The highest number of applications (2, 33%) came from the USA, compared with one application (13%) in 1999. No other Contracting State made more than one access application to the Netherlands in 2003.

The taking person / respondent

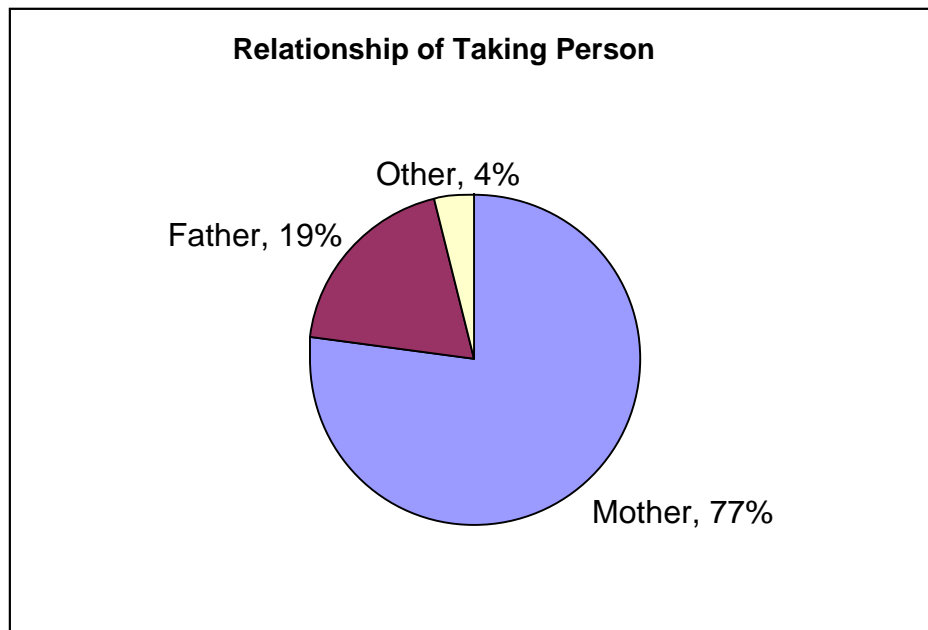
⁴ This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	20	77%
Father	5	19%
Other	1	4%
Total	26	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Proportionally, more mothers were taking persons than the global average, 77% as opposed to 68%. This is similar to the 1999 findings, where 73% of taking persons were recorded as female.

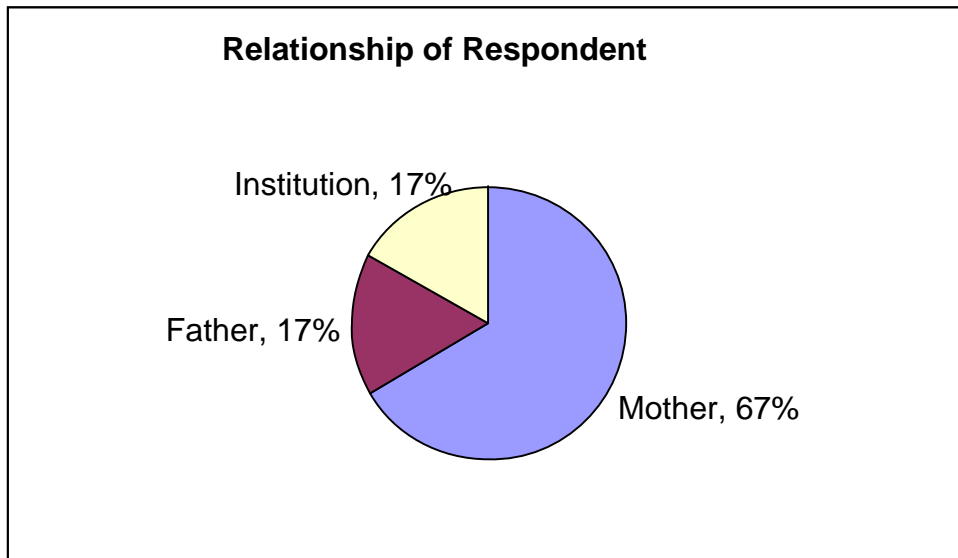
In one case the child was wrongfully removed or retained by the foster family.⁵

(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	4	67%
Father	1	17%
Institution	1	17%
Total	6	~100%

⁵ Recorded as 'other'.



In 4 out of 6 (67%) access applications the respondent was the mother, as opposed to the 2003 global average of 79%. In 1999, all the respondents (where data on gender were available)⁶ were recorded as female.

In one application the respondent was a youth welfare service (foster house).⁷

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications⁸

Information on the status of the taking person as carer in relation to child was available only in relation to 3 out of the 26 applications. Consequently, no reliance should be placed on these findings, though as a matter of interest in all 3 applications the taking person was recorded as the mother and the non-primary carer of the child.

5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

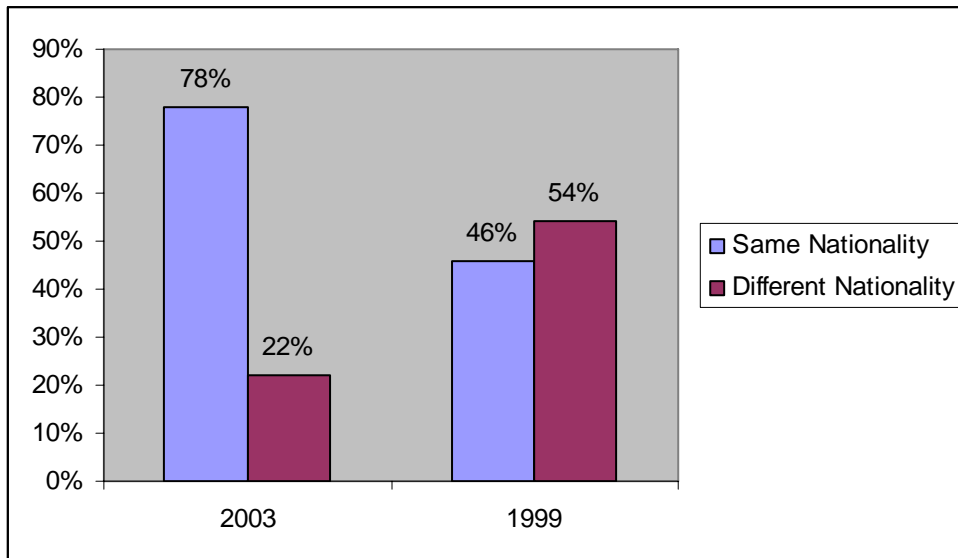
	Number	Percent
Same Nationality	18	78%
Different Nationality	5	22%
Total	23	100%

At 78%, the proportion of taking persons being Dutch citizens (including one taking person with dual nationality) was markedly above the 2003 global average of 55%.

⁶ Data was available in 4 out of 8 applications.

⁷ Recorded as 'institution'.

⁸ This information was not available in 23 applications.



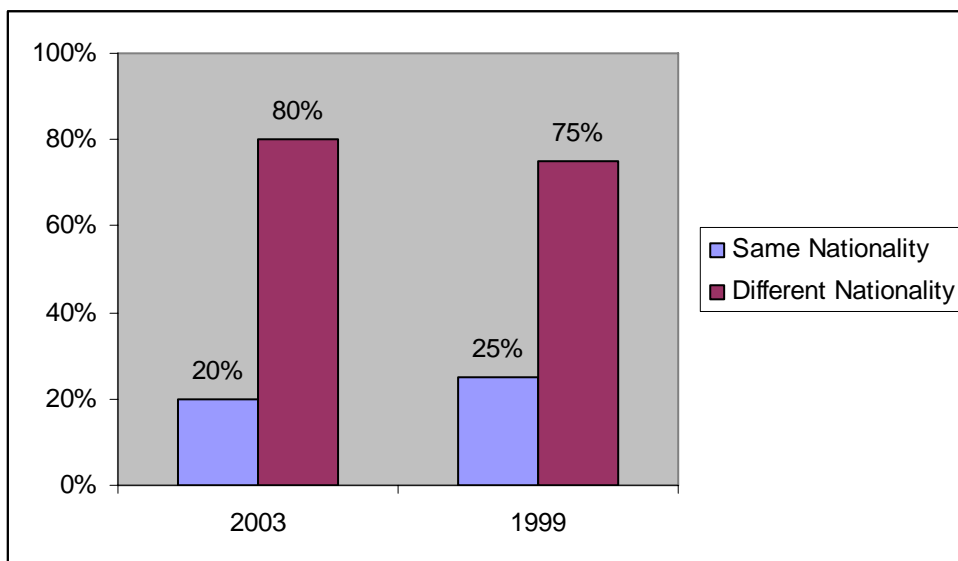
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Dutch citizens taking children to the Netherlands rose from 46% in 1999 to 78% in 2003.

(a) Incoming access applications⁹

Respondent Same Nationality as the Requested State

	Number	Percent
Same Nationality	1	20%
Different Nationality	4	80%
Total	5	100%

Unlike in applications for return, the proportion of respondents having the nationality of the requested State, 20%, was lower than the global average of 53%, though the number of applicants was small.



⁹ In the application where the respondent was recorded as 'institution' the data on nationality was not applicable.

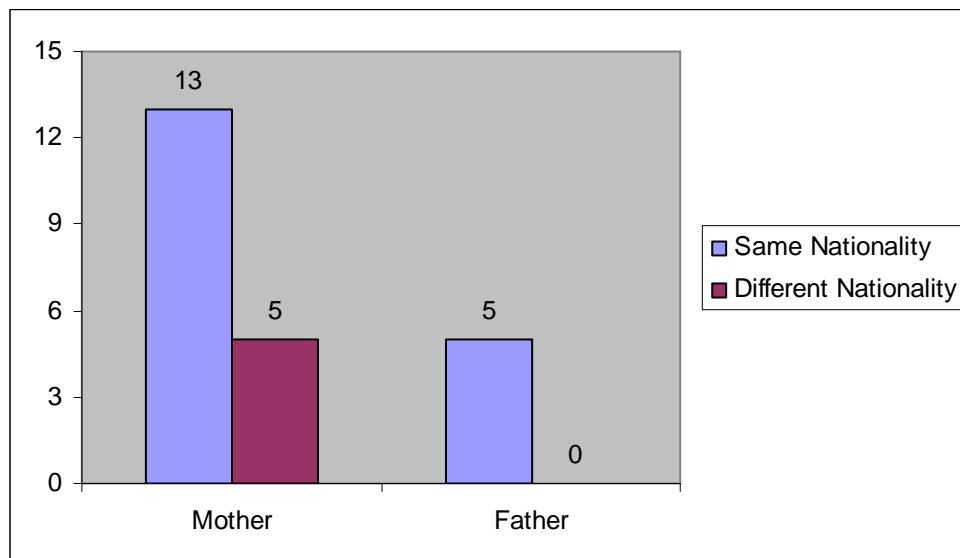
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having Dutch nationality slightly decreased, from 25% in 1999 to 20% in 2003.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications¹⁰

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	13	5	18
Different Nationality	5	0	5
Total	18	5	23



In relation to mothers, the taking person was more often recorded as having the Dutch nationality. Indeed, 13 out of 18 (72%) mothers were Dutch citizens. In relation to fathers, all 5 (100%) taking persons were recorded as Dutch nationals. This pattern differs from the 2003 global averages where 54% of mothers and 55% of fathers had the nationality of the requested State. The 1999 survey recorded that 47% of female taking persons and 43% of male taking persons were Dutch citizens.

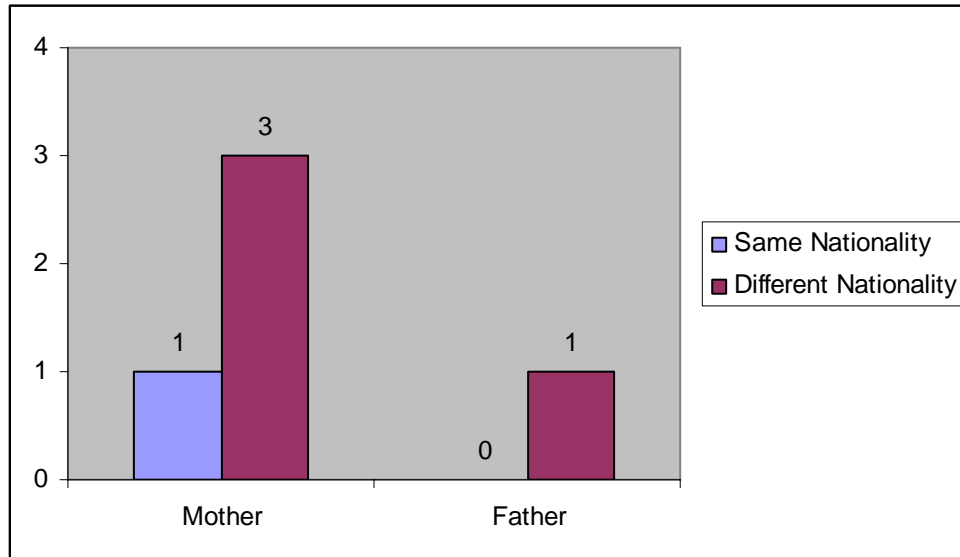
(b) Incoming access applications¹¹

Nationality and Relationship of Taking Person to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	1	0	1
Different Nationality	3	1	4
Total	4	1	5

¹⁰ This information was not available in relation to 3 applications.

¹¹ In one application this data was not applicable. See n. 9.



In the access applications received by the Netherlands, only one of the 4 respondent mothers (25%) was a Dutch national. The one respondent father had a different nationality than the requested State. This compares with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 43 children involved in the 26 incoming return applications in 2003. This can be compared with the total of 38 children being involved in the 26 return applications in 1999. In 2003, on average 1.65 children were involved in return applications. Proportionally, this was an increase in the average number (1.46) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 7 children involved in the 6 incoming access applications in 2003. This can be compared with the total of 10 children being involved in the 8 access applications in 1999.

In 2003, on average 1.17 children were involved in access applications. Proportionally, this was a slight decrease in the average number (1.25) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	11	44%
Sibling Group	14	56%
Total	25	100%

Number of Children

	Number	Percent
1 Child	11	44%
2 Children	11	44%
3 Children	2	8%
4 Children	1	4%
Total	25	100%

The proportion of single children involved in applications for return, 44%, is below the 2003 global average of 67%. In 1999, 58% of return applications involved a single child. However, like the 2003 global average of 93% and the 1999 average of 96%, the vast majority of applications (88%) involved no more than 2 children. 2 applications (8%) involved a sibling group of 3 children, as opposed to one application (4%) in 1999. One application (4%) concerned a sibling group of 4 children, as against none in 1999.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	5	83%
Sibling Group	1	17%
Total	6	100%

Number of Children

	Number	Percent
1 Child	5	83%
2 Children	1	17%
Total	6	100%

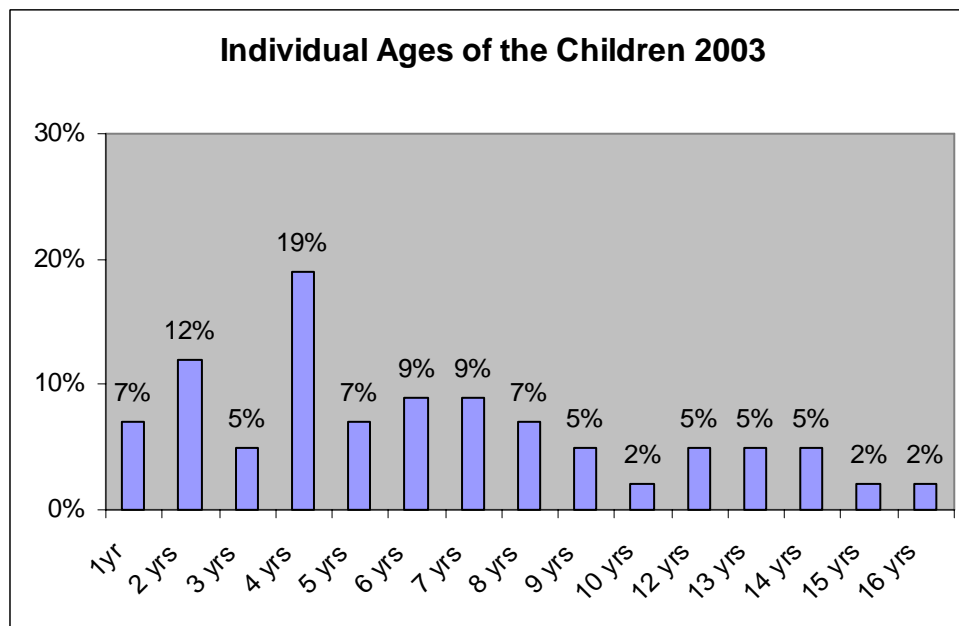
The proportion of single children involved in access applications, 83%, was higher than the 2003 global average of 71% and an increase on the 75% recorded in 1999.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	3	7%
2 yrs	5	12%
3 yrs	2	5%
4 yrs	8	19%
5 yrs	3	7%
6 yrs	4	9%
7 yrs	4	9%
8 yrs	3	7%
9 yrs	2	5%
10 yrs	1	2%
12 yrs	2	5%
13 yrs	2	5%
14 yrs	2	5%
15 yrs	1	2%
16 yrs or older	1	2%
Total	43	~100%

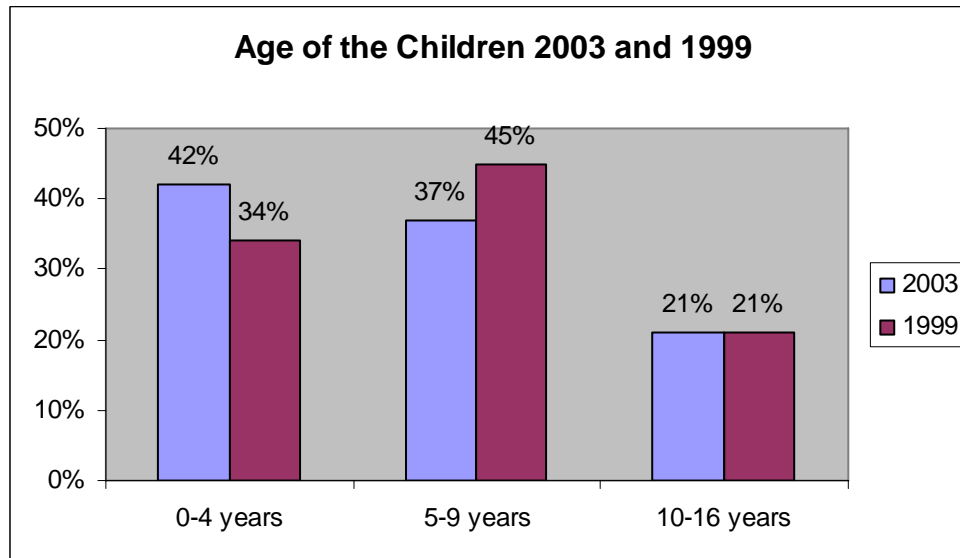


The above table and chart show the ages of the individual children involved. 8 children (19%) were 4 years old which is proportionally higher than any other age. 59% of children were aged between ages 1 and 6, compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	18	42%
5-9 years	16	37%
10-16 years	9	21%
Total	43	100%

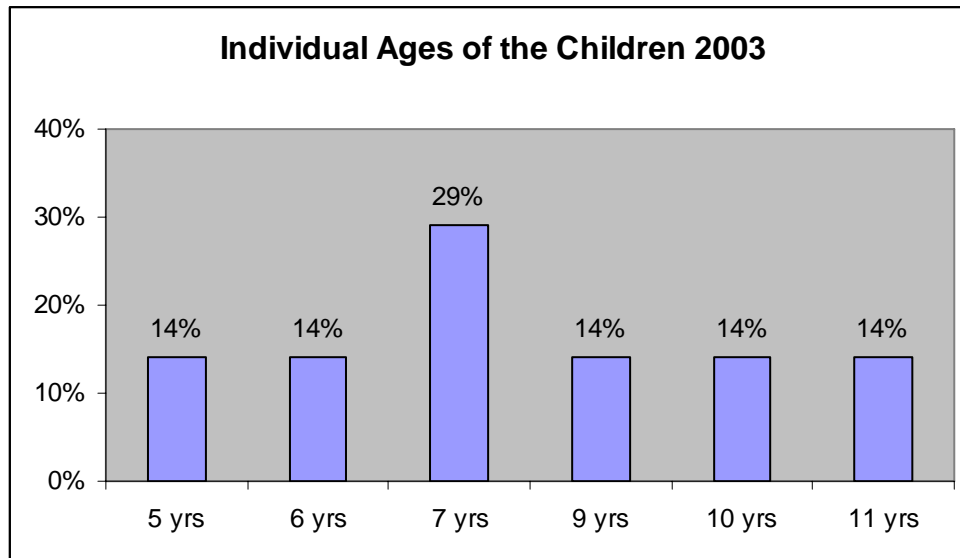


Unlike in 1999, the largest percentage of children were aged between 0-4 years old. Indeed, of the 43 children included, 18 (42%) were aged between 0-4 years. The proportion of children aged between 5-9 years decreased from 45% in 1999 to 37% in 2003. On the other hand, at 21%, the proportion of older children, aged between 10 and 16 years old, was the same as in 1999.

This can be compared with the 2003 global averages of 36%, 42 % and 22% respectively.

(b) Incoming access applications**Individual Ages 2003**

	Number	Percent
5 yrs	1	14%
6 yrs	1	14%
7 yrs	2	29%
9 yrs	1	14%
10 yrs	1	14%
11 yrs	1	14%
Total	7	~100%

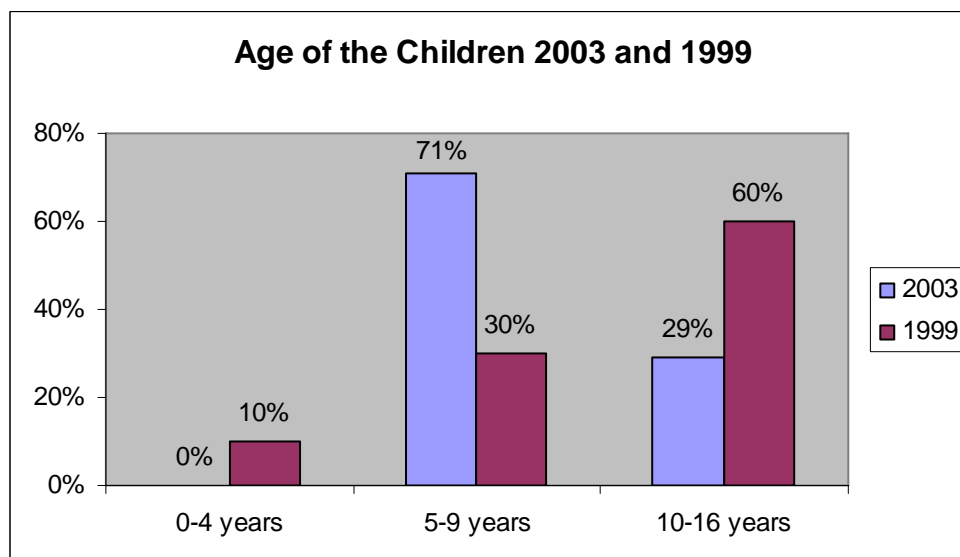


The above chart and table show ages of the individual children involved. 28% of access applications involved 1 – 6 years olds, compared with 35% globally. No child was aged under 5.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
5-9 years	5	71%
10-16 years	2	29%
Total	7	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 71% of children were aged between 5 and 9 years old compared with only 30% in 1999. On the other hand, the number of children aged between 10-16 years decreased, from 60% to 29%. These figures can be compared with the 2003 global averages of 46% and 34% respectively. There were no children aged between 0-4 years old, as opposed to 10% in 1999 and the 2003 global average of 20%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	24	56%
Male	19	44%
Total	43	100%

As can be seen, there were more female children (56%) involved in return applications than male children (44%). Globally in 2003, 51% of children were female and 49% were male. In 1999, 42% of children involved in the return applications to the Netherlands were female.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	5	71%
Male	2	29%
Total	7	100%

As can be seen, 71% of children involved in access applications to the Netherlands were female. This can be compared with the 2003 global average of 45%. In 1999, the gender of the children in return applications was evenly split between males and females.

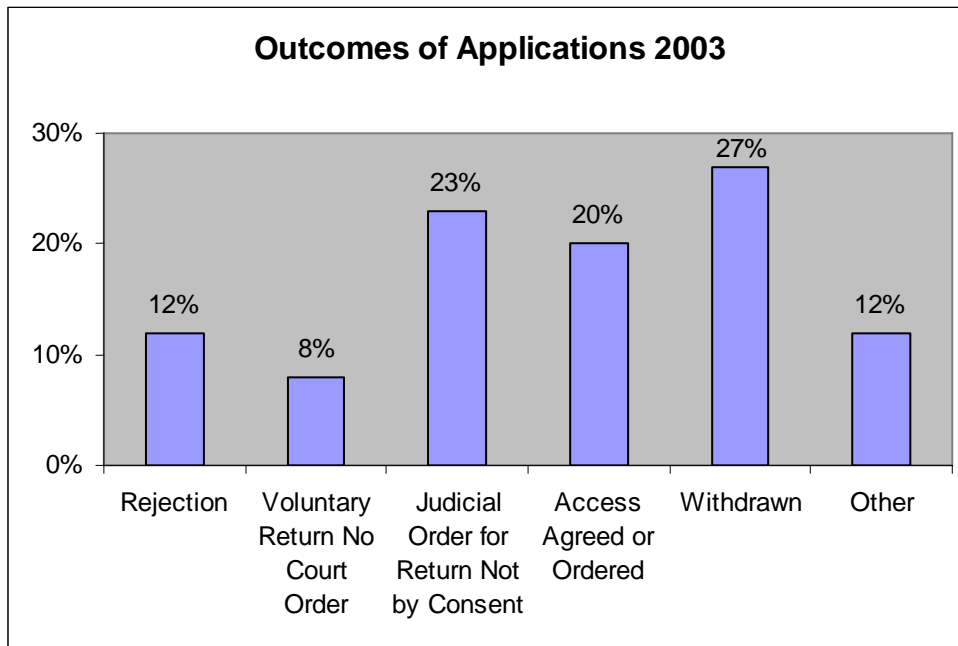
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of the Application

	Number	Percent
Rejection	3	12%
Voluntary Return No Court Orders	2	8%
Judicial Order for Return Not by Consent	6	23%
Access Agreed or Ordered	5	20%
Withdrawn	7	27%
Other	3	12%
Total	26	~100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. However, in the Netherlands, in 2003, no judicial return order was made with consent and 6 (23%) were made without consent.

Overall, 31% of applications made to the Netherlands ended in the child being returned either by a court order or voluntarily, which is below the global average of 51%. Similarly, at 8%, the proportion of voluntary returns is lower than the 2003 global average of 22%. Nevertheless, at 23%, the proportion of judicial returns is above the 2003 global average of 20%.

8 applications (31%) went to court. Of these, 6 (75%) ended in a judicial return, one (13%) ended with access being ordered and one (13%) resulted in a consent order for access being made. Globally in 2003, 66% of applications going to court resulted in the child's return being ordered and 5% in access being granted.¹² None of the applications was judicially refused.

7 applications were withdrawn and, at 27%, the withdrawal rate is above the global average of 15%. It is to be noted that as of 30th June 2005, no application was pending, as opposed to 9% globally.

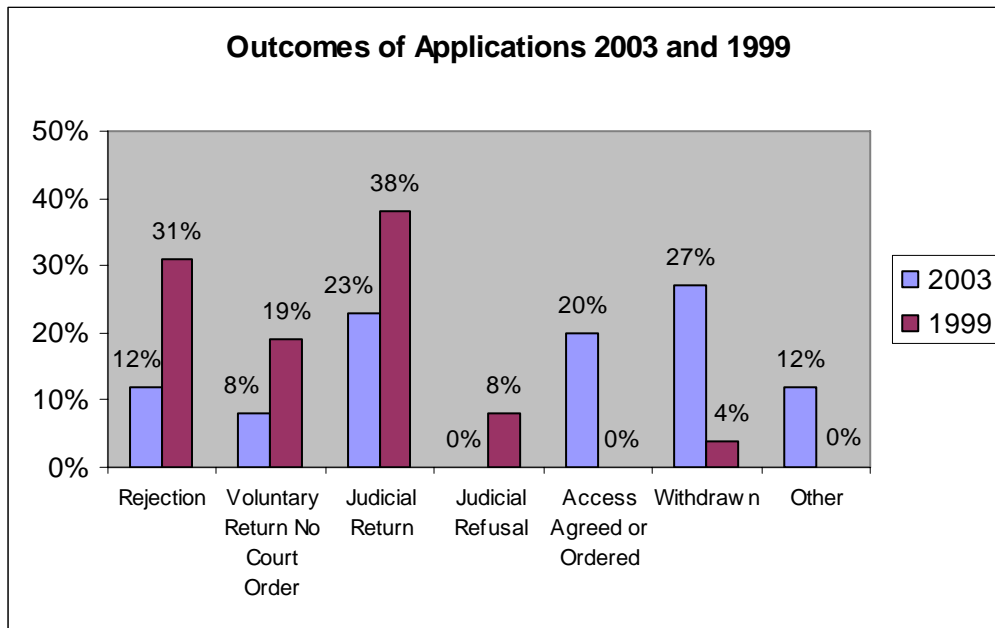
In one application involving 2 children there were different outcomes for the children concerned.¹³ In relation to one of the children, the application was rejected as the child was over 16 years old and, in relation to the other child, the application was withdrawn.

In 2 applications, the file was closed following the applicant's relocation to the Netherlands and the agreement between the parents on co-parenting.¹⁴

¹² Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

¹³ Recorded as 'other'.

¹⁴ Both recorded as 'other'.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

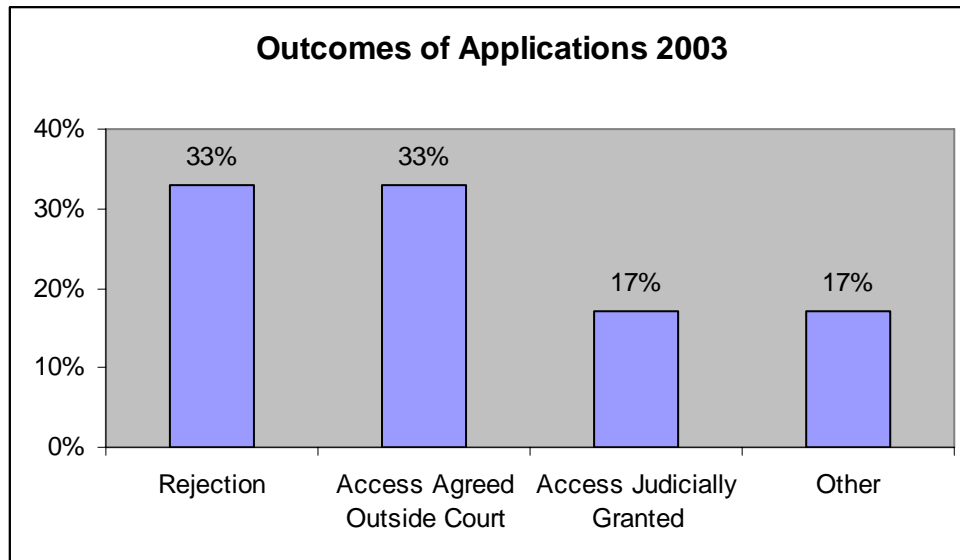
As can be seen, the proportion of judicial returns decreased from 38% in 1999 to 23% in 2003. Similarly, the proportion of voluntary returns dropped from 19% in 1999 to 8% in 2003. Consequently, the overall return rate decreased, from 57% in 1999 to 31% in 2003.

A considerably higher proportion of cases than in 1999 ended in the application being withdrawn, 27% compared with 4%. On the other hand, no application was judicially refused, as opposed to 2 (8%) in 1999. 5 applications (20%) ended in access being ordered or agreed and 3 applications (12%) resulted in 'other' outcome, as opposed to none in 1999. It is to be noted that as in 1999, there were no pending applications as of cut-off period for the survey.

(b) Incoming access applications

Outcome of the Application

	Number	Percent
Rejection	2	33%
Access Agreed Outside Court Proceedings	2	33%
Access Judicially Granted	1	17%
Other	1	17%
Total	6	100%



3 out of 6 applications (50%) ended with access being granted or agreed, which compares with the 1999 proportion of 50%. This is markedly above the 2003 global average of 33%. The proportion of applications in which access was judicially granted, 17%, is lower than the 1999 proportion of 38%. On the other hand, there was an increase in voluntary settlements of access, from 13% in 1999 to 33% in 2003. This can be compared with the 2003 global averages of 16% and 13% respectively. All the applications in which access was granted were resolved as Hague applications.

In one application, the file was closed following a divorce proceeding being initiated by the applicant in the Netherlands.¹⁵ Access was to be regulated as a part of these proceedings.

12. The reasons for rejection

(a) Incoming return applications

The Netherlands rejected 3 (12%) applications as against a global average of 6%. In 1999, 8 (31%) of applications to the Netherlands were rejected. The most common ground for rejection was that the applicant had no rights of custody (2, 50%). Interestingly, in 1999, no rejection was based on this reason. Globally in 2003, 19% of applications were rejected on this ground. The remaining rejection was based on the fact that the habitual residence of the child was in the Netherlands.¹⁶

(b) Incoming access applications

Both rejections in access cases were because the child was located in another country. Globally, 20% of access applications were rejected because of this reason. In 1999, one access application was rejected. This rejection was due to the fact that both parents were in the Netherlands.

13. The reasons for judicial refusal

(a) Incoming return applications

Not applicable.

¹⁵ Recorded as 'other'.

¹⁶ Recorded as 'other'.

14. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

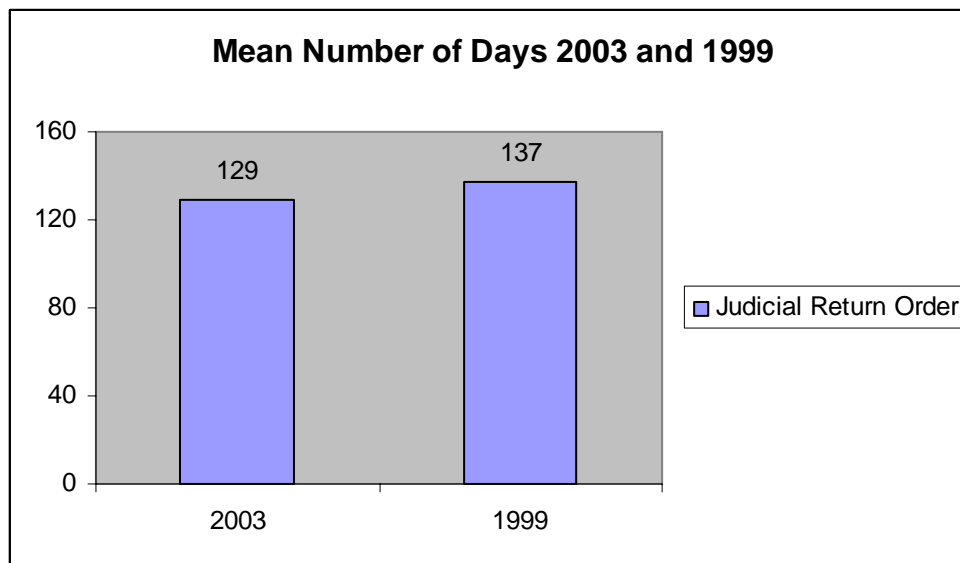
Not applicable.

Speed

15. The time between application and outcome

(a) Incoming return applications¹⁷

Information on speed of disposal was not available in either of the 2 voluntary returns. Judicial returns took on average 129 days to reach a final outcome. This compares with the 2003 global average of 143 days.



The chart above shows that judicial returns were resolved in an average of 129 days compared with 137 days in 1999.

Number of Days Taken to Reach Final Outcome: 2003 (including appealed cases)

	Judicial Return Order
Mean	129
Median	120
Minimum	56
Maximum	225
Number of cases	6

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in the Netherlands. As can be seen, the fastest judicial order for return was made in 56 days whereas the slowest took 225 days.

¹⁷ This information was not available in relation to any of the 2 voluntary returns.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return
Mean	110
Median	110
Minimum	56
Maximum	165
Number of cases	5

As can be seen, the exclusion of appealed cases reduces the average time to make a judicial return order from 129 days to 110 days.

(b) Incoming access applications¹⁸

The one application where access was judicially granted took a mean average of 293 days to reach the final outcome which compares with the 2003 global average of 266 days.

16. Appeals

(a) Incoming return applications

2 out of the 10 applications made to court (20%) were appealed. This compares with the global average of 22%. One of these decisions resulted in a judicial return. This took 225 days to reach a final outcome. In the other case, a consent order for access was made in course of the appeal proceedings.

In 1999, 3 of the judicial returns and one judicial refusal (accounting together for 33% of the judicial decisions) were the result of appeals.

(b) Incoming access applications

The one judicial decision was not appealed.

¹⁸ This information was not available to any of the 2 voluntary settlements of access.

NEW ZEALAND

The applications

1. The number of applications

Incoming Return Applications	27
Incoming Access Applications	6
Outgoing Return Applications	25
Outgoing Access Applications	10

According to the Central Authority for New Zealand, they received 27 incoming return and 6 incoming access applications in 2003, making a total of 33 incoming applications. This is a significant decrease on the 43 incoming applications (39 of which were return applications and 4 of which were for access) made in 1999. The ratio of incoming return applications to access applications, 82% to 18%, compares with the global average of 84% to 16%.

Additionally, the Central Authority made 25 outgoing return applications¹ and 10 outgoing access applications in 2003. This is a slight decrease from 29 return applications and a slight increase from 7 access applications made in 1999.

Altogether, the Central Authority handled 68 new applications in 2003, compared with 79 new applications in 1999.

The overall ratio of incoming to outgoing applications was 49 to 51%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Australia	18	67%
USA	5	19%
Chile	1	4%
Croatia	1	4%
South Africa	1	4%
UK- Scotland	1	4%
Total	27	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Australia	18 (67%)	31 (79%)
USA	5 (19%)	4 (10%)
Chile	1 (4%)	0 (0%)
Croatia	1 (4%)	0 (0%)
South Africa	1 (4%)	0 (0%)
UK- Scotland	1 (4%)	0 (0%)
UK - England and Wales	0 (0%)	3 (8%)
Greece	0 (0%)	1 (3%)
Total	27 (100%)	39 (100%)

New Zealand received applications for return from 6 Contracting States, compared with 4 in 1999.

As in 1999 the majority (67%) of return applications were received from neighbouring Australia but there was a significant decline in numbers from 31 in 1999 to 18 in 2003, which more than accounts for the overall decline in the number of applications received.

New Zealand made 14 applications to Australia which accounted for 56% of all of New Zealand's outgoing applications. They made 22 in 1999.

Interestingly, England and Wales made no applications to New Zealand in 2003 compared with 3 in 1999.

(b) Incoming access applications**Requesting States 2003**

	Number	Percent
Australia	3	50%
Denmark	1	17%
South Africa	1	17%
UK - England & Wales	1	17%
Total	6	~100%

New Zealand received 6 access applications, 3 of which were from Australia. In 1999, only 4 applications were received and strikingly none were from Australia.

New Zealand made 9 access applications to Australia which accounted for 90% of all of New Zealand's outgoing access applications. They made 3 in 1999.

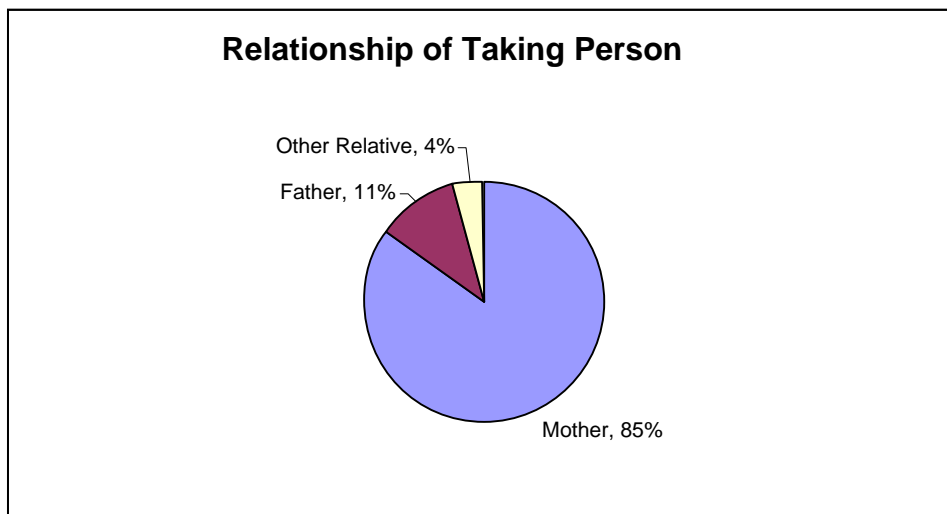
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	23	85%
Father	3	11%
Other Relative	1	4%
Total	27	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 85% of taking persons were mothers. This is higher than the global average of 68%, and is an increase in respondent mothers since 1999,² where 74% of taking persons were recorded as female.

In one application the taking person was the child's aunt and uncle.³

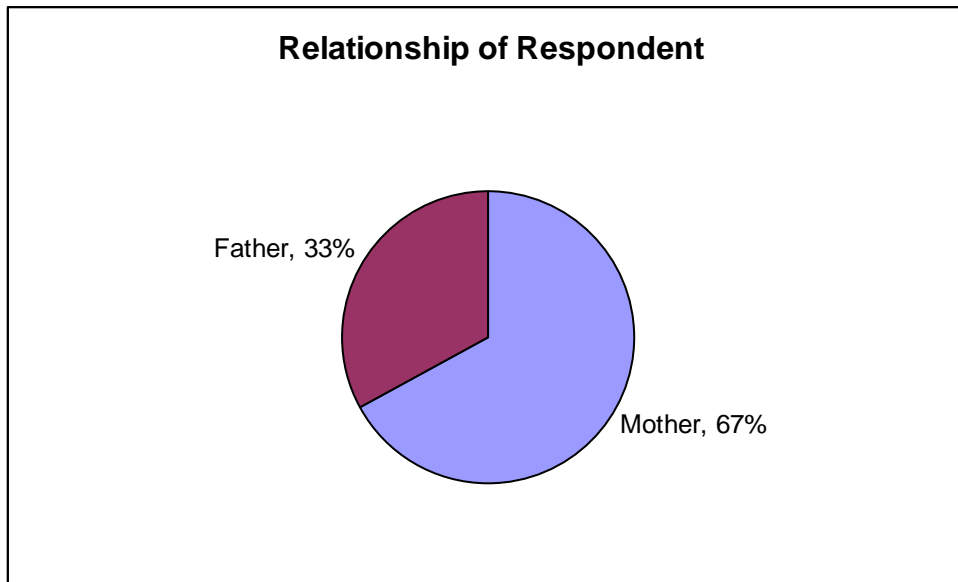
(b) Incoming access application

Relationship of the Respondent

	Number	Percent
Mother	4	67%
Father	2	33%
Total	6	100%

² Insofar as 'female' can normally be taken to mean 'mother'.

³ Recorded as 'other'.



In 4 of the 6 (67%) access applications the respondent was the mother. This differs from the 1999 survey where all 4 respondents were mothers. Globally in 2003, 79% of respondents in access applications were mothers.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications⁴

Status of the Taking Person as Carer

	Number	Percent
Primary or Joint Primary Carer	19	95%
Non-Primary Carer	1	5%
Total	20	100%

The table above shows that in an overwhelming majority of applications, 95%, the taking person was the primary carer of the child.⁵ This is considerably above the global average of 68%. Indeed, in only one of the 20 applications was the taking person the non-primary carer. However, in a further 7 applications the status of the taking person in relation to the child was not stated.

Status as Carer and the Relationship of the Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary Carer	19		19
Non-Primary Carer		1	1
Total	19	1	20

The above table shows that where the status as carer and the relationship of the taking person were known, all of the respondent mothers were the primary carer of the child.

⁴ This information was not available in 7 applications.

⁵ None of the cases were recorded as involving a joint primary carer.

The status was not known in 5 applications involving mothers. This can be compared with one father, who was recorded as not being the primary carer of the child. The status as carer was not, however, known in the 2 other cases involving fathers.

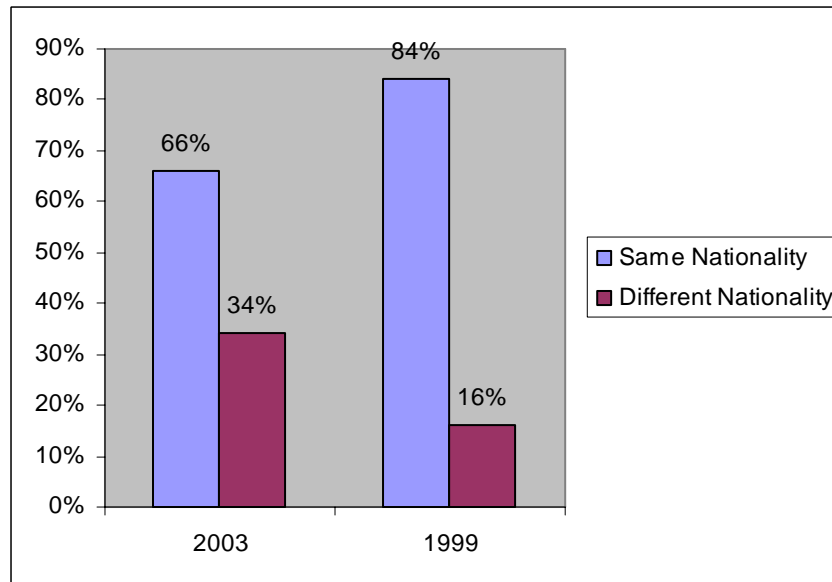
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	18	66%
Different Nationality	9	34%
Total	27	100%

This table shows that in 66% of applications, the taking person was a New Zealander (including 2 cases of dual nationality) and in 34% of applications the taking persons having a different nationality. This compares with the global average of 55% of taking persons having the same nationality as the requested State and 45% who had a different nationality.



The chart above compares the 2003 findings on nationality with the 1999 survey.⁶ As the chart shows, the proportion of New Zealanders taking children to New Zealand dropped from 84% to 66%. This is a little closer to the 2003 global average of 55% of taking persons having the same nationality as the requested State.

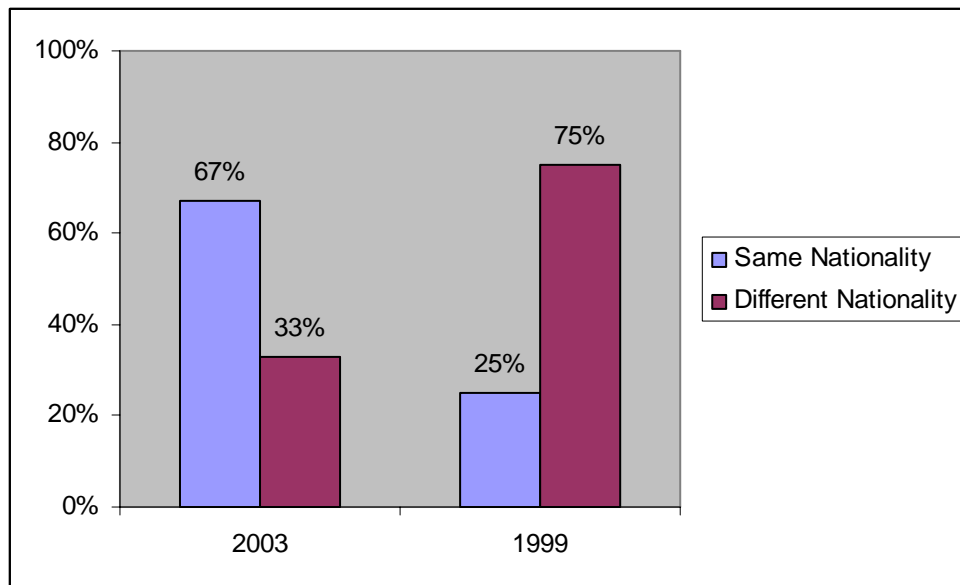
(b) Incoming access applications

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	4	67%
Different Nationality	2	33%
Total	6	100%

⁶ Although it is unclear how such cases were recorded in 1999, if anything one may expect that the 2003 survey may show more respondents with the same nationality. In New Zealand it does not.

In 4 of the 6 (67%) of access applications, the respondents were New Zealanders. This compares with the 2003 global average where of 53% of respondents were recorded as having the same nationality as the requested State.



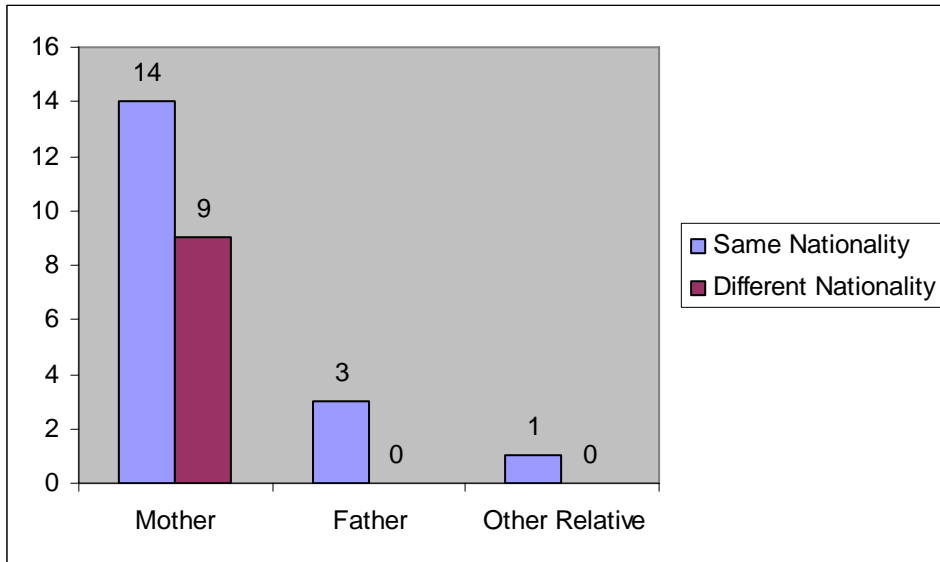
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having New Zealand nationality increased from 25% in 1999 to 67% in 2003.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child			Total
	Mother	Father	Other Relative	
Same Nationality	14	3	1	18
Different Nationality	9	0	0	9
Total	23	3	1	27

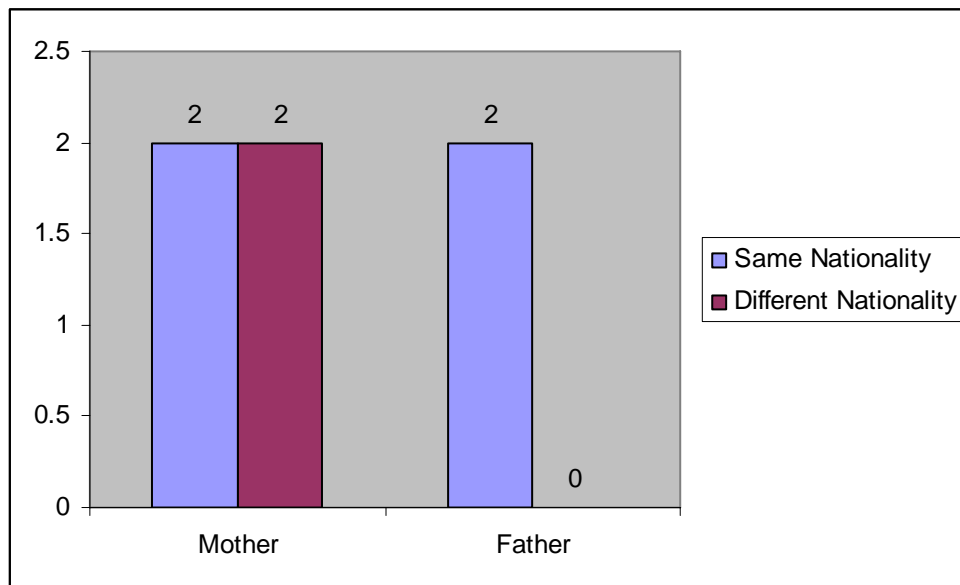


As can be seen, 14 out of 23 (61%) mothers, all 3 fathers and the other relative were New Zealanders. This compares with the 2003 global average where 54% of mothers and 55% of fathers had the nationality of the requested State. The 1999 survey recorded that 89% of females and 80% of males were New Zealand nationals.

(b) Incoming access applications

Nationality and Relationship or Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	2	2	4
Different Nationality	2	0	2
Total	4	2	6



In the access applications received by New Zealand, 2 out of 4 (50%) respondent mothers and both respondent fathers were a New Zealander. This can be compared with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 46 children involved in the 27 incoming return applications in 2003. This compares with a total of 60 children being involved in 39 return applications in 1999. In 2003, on average 1.89 children were involved in return applications. Proportionally, this is an increase in the average number (1.53) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 10 children involved in the 6 incoming access applications in 2003. This compares with a total of 4 children being involved in the 4 access applications in 1999. In 2003, on average 1.67 children were involved in access applications. Proportionally, this is an increase in the average number (1.0) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single child or Sibling Group

	Number	Percent
Single Child	14	52%
Sibling Group	13	48%
Total	27	100%

Number of Children

	Number	Percent
1 Child	14	52%
2 Children	8	30%
3 Children	4	15%
4 Children	1	4%
Total	27	~100%

The proportion of single children involved in applications for return, 52%, compares with the global average of 67% and is similar to the 1999 proportion of 56%. Like the 2003 global average of 93% and the 1999 average of 97%, the vast majority of applications (82%) involved no more than 2 children. There was a slight increase in cases involving 3 children, namely, 4 (15%) out of 27 applications received in 2003 as opposed to only 2 (5%) out of 39 applications in 1999.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	2	33%
Sibling Group	4	67%
Total	6	100%

Number of Children

	Number	Percent
1 Child	2	33%
2 Children	4	67%
Total	6	100%

For access applications the proportion of single children, 33%, differs markedly from the global average of 71%.

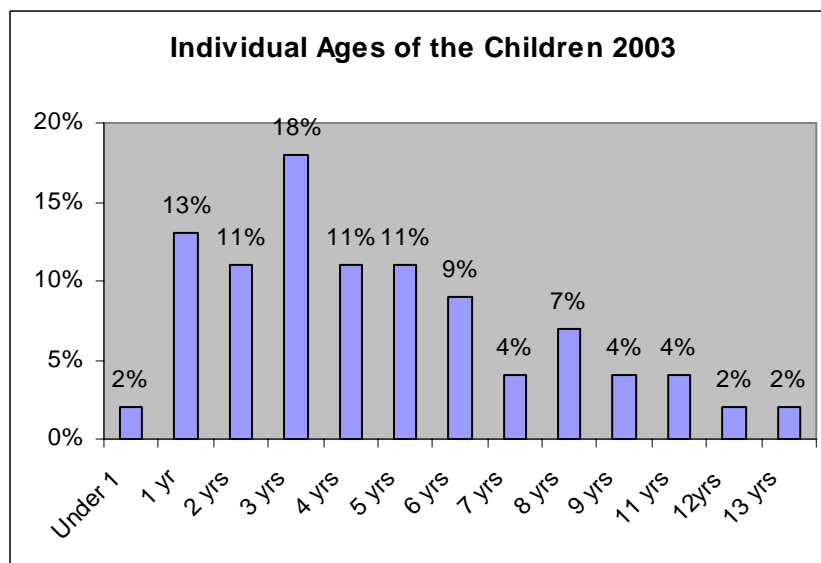
There were 2 access applications involving single children and 4 applications involving 2 children. Globally in 2003, 93% of applications involved one or 2 children. In 1999, all 4 of the access applications involved a single child.

9. The age of the children

(a) Incoming return applications⁷

Individual Ages 2003

	Number	Percent
Under 1	1	2%
1 yr	6	13%
2 yrs	5	11%
3 yrs	8	18%
4 yrs	5	11%
5 yrs	5	11%
6 yrs	4	9%
7 yrs	2	4%
8 yrs	3	7%
9 yrs	2	4%
11 yrs	2	4%
12 yrs	1	2%
13 yrs	1	2%
Total	45	~100%



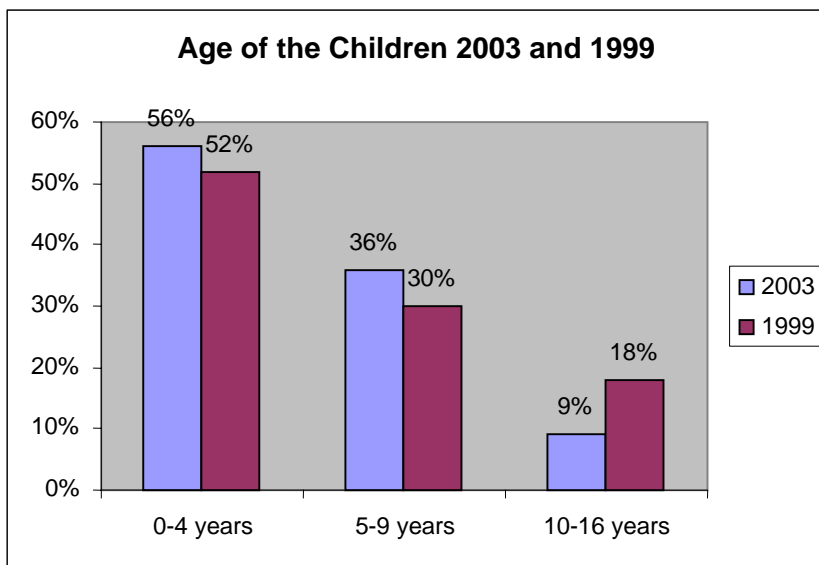
⁷ This information was not available in relation to one application.

The above table and chart show the ages of the individual children involved. 73% of children were aged between ages 1 and 6, compared with the global average of 55%. There were no applications involving children over 13 years old.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	25	56%
5-9 years	16	36%
10-16 years	4	9%
Total	45	~100%

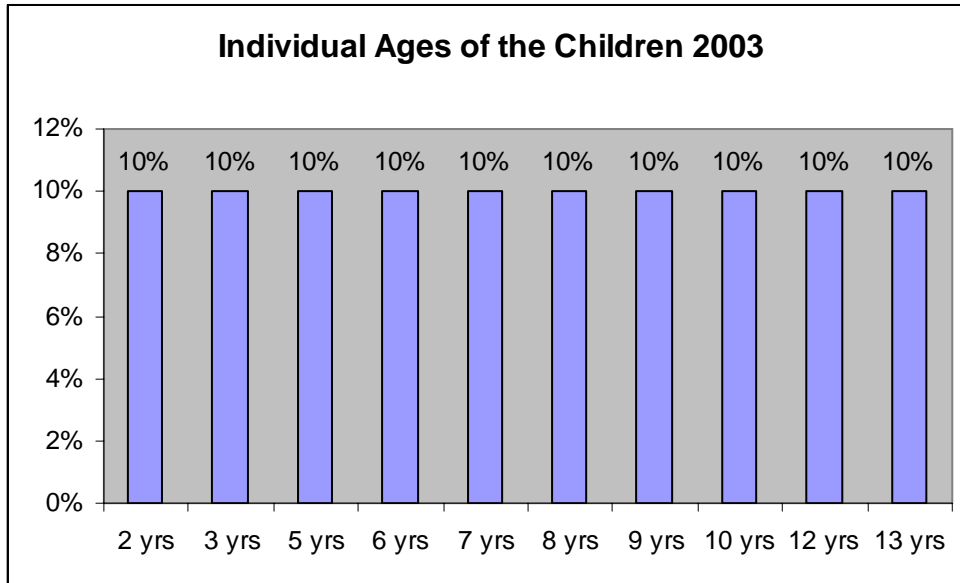


Of the 45 children included, 25 (56%) were aged between 0-4 years, compared with 52% in 1999. This is much higher than the 2003 global average of 36%. The proportion of children aged between 10-16 years decreased from 18% to 9%. This is much lower than the global average of 22%. This overall pattern of a shift in favour of younger children is contrary to the global trend for 2003.

(b) Incoming access applications

Individual Ages 2003

	Number	Percent
2 yrs	1	10%
3 yrs	1	10%
5 yrs	1	10%
6 yrs	1	10%
7 yrs	1	10%
8 yrs	1	10%
9 yrs	1	10%
10 yrs	1	10%
12 yrs	1	10%
13 yrs	1	10%
Total	6	100%

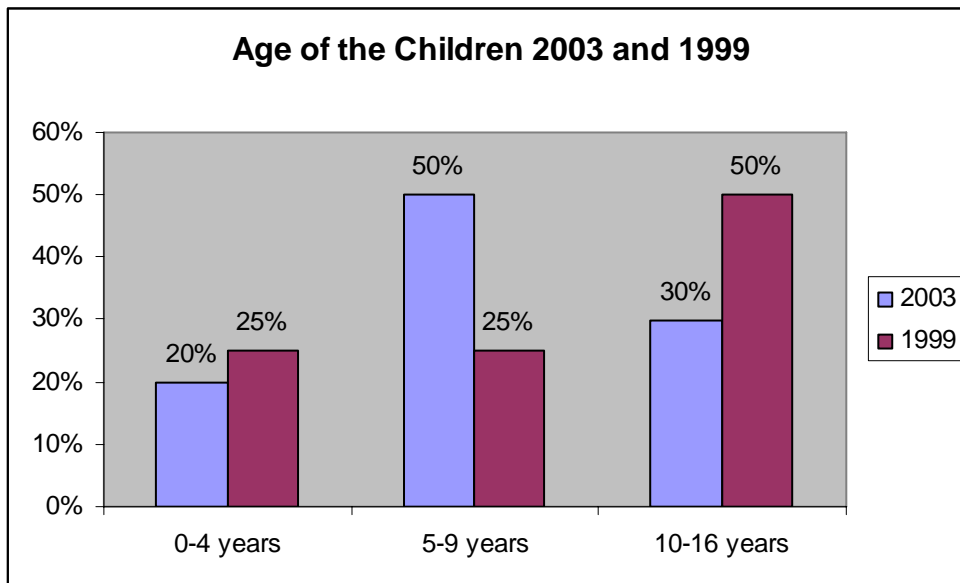


The above chart and table show ages of the individual children involved. 40% of access applications involved 1 – 6 years olds, compared with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	2	20%
5-9 years	5	50%
10-16 years	3	30%
Total	10	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 50% of children were aged between 5 and 9 years old compared with 25% in 1999. Globally in 2003, 46% of children were aged between 5 and 9 years. The

number of children aged between 0-4 years and 10-16 years both decreased from 25% to 20% and 50% to 30% respectively. These figures can be contrasted to the 2003 global averages of 20% and 34%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	25	54%
Male	21	46%
Total	46	100%

The proportion of female and male children is similar to the global averages of 51% and 49% respectively and is the same as that recorded in the 1999 survey.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	5	50%
Male	5	50%
Total	10	100%

5 out of the 10 children (50%) were female. This compares with the global average of 45%. In 1999, 3 out of the 4 children were female.

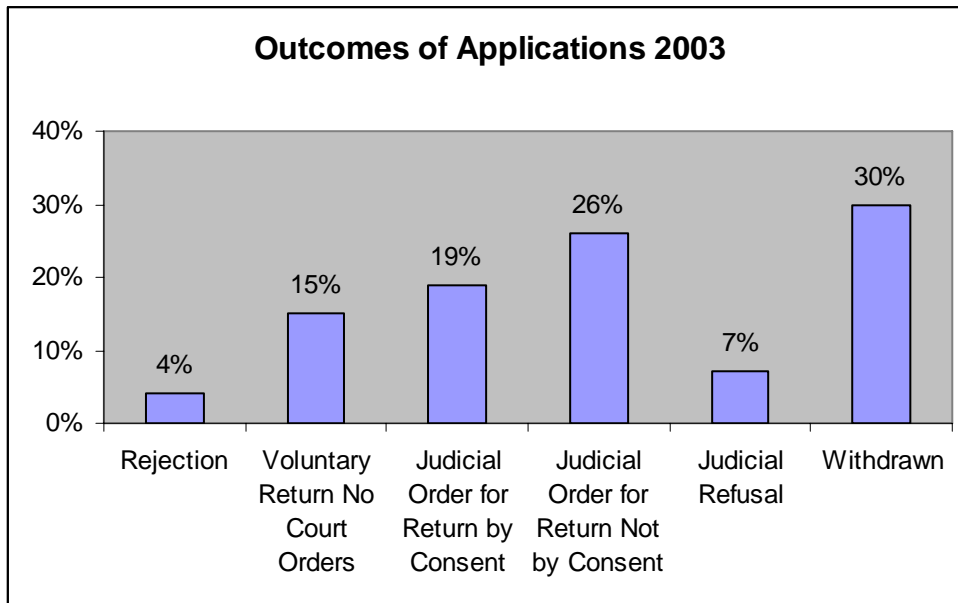
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	1	4%
Voluntary Return No Court Orders	4	15%
Judicial Order for Return by Consent	5	19%
Judicial Order for Return Not by Consent	7	26%
Judicial Refusal	2	7%
Withdrawn	8	30%
Total	27	~100%



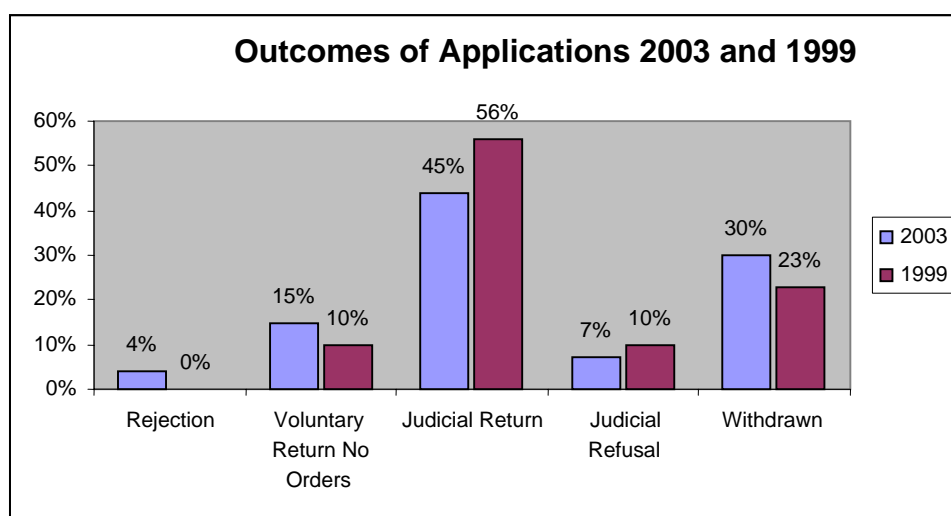
The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In New Zealand, in 2003, 5 (19%) judicial return orders were made with consent and 7 (26%) without consent.

Overall, 60% of applications made to New Zealand ended in the child being returned either by a court order or voluntarily, which is above the global average return rate of 51%. Similarly, at 45%, the proportion of judicial returns is well above the global average of 29%. On the other hand, the proportion of voluntary returns, 15%, is below the global average of 22%. At 7%, the refusal rate is lower than the global average of 13%.

14 applications (52%) went to court. Of these cases, 86% resulted in return being ordered and 14% in judicial refusal. This compares with the 2003 global averages of 66% and 29% respectively.⁸

At 30%, the withdrawal rate is above the global average of 15%.



⁸ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

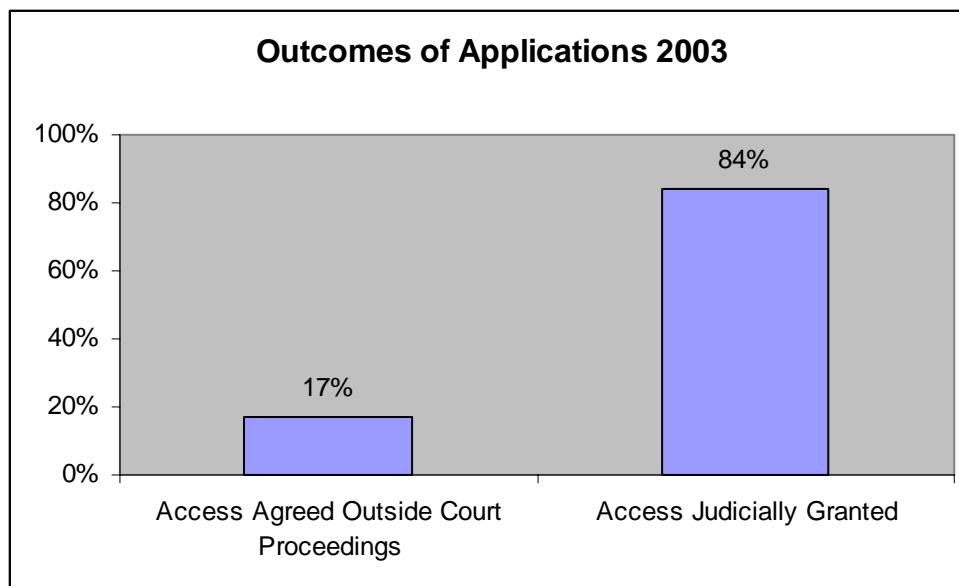
Proportionally, the figures show that a judicial order for return (including by consent) was the most common outcome for an application, with a total of 12 cases (45%). This compares with 56% in 1999. The proportion of voluntary returns increased from 10% in 1999 to 15% in 2003. Correspondingly, the proportion of judicial refusals decreased from 10% in 1999 to 7% in 2003. The overall return rate decreased, from 66% in 1999 to 60% in 2003.

The withdrawal rate in New Zealand increased from 23% in 1999 to 30% in 2003.

(b) Incoming access applications

Outcome of Application

	Number	Percent
Access Agreed Outside Court Proceedings	1	17%
Access Judicially Granted	5	84%
Total	6	~100%



In 4 of the 6 applications access was judicially granted as a Hague application. In a further case access was granted under domestic law. In the final case, access was agreed outside of court proceedings. Globally in 2003, 16% of access applications ended in access being judicially granted and 13% ended in a voluntary settlement of access. In 1999, one application was withdrawn; one application was resolved voluntarily and in 2 applications access was judicially granted.

12. The reasons for rejection

(a) Incoming return applications

The one case rejected by New Zealand was an application from Croatia. The application was rejected as the Convention was not in force at the time as between the 2 States. Globally in 2003, 8% of rejections were based on this ground.

(b) Incoming access applications

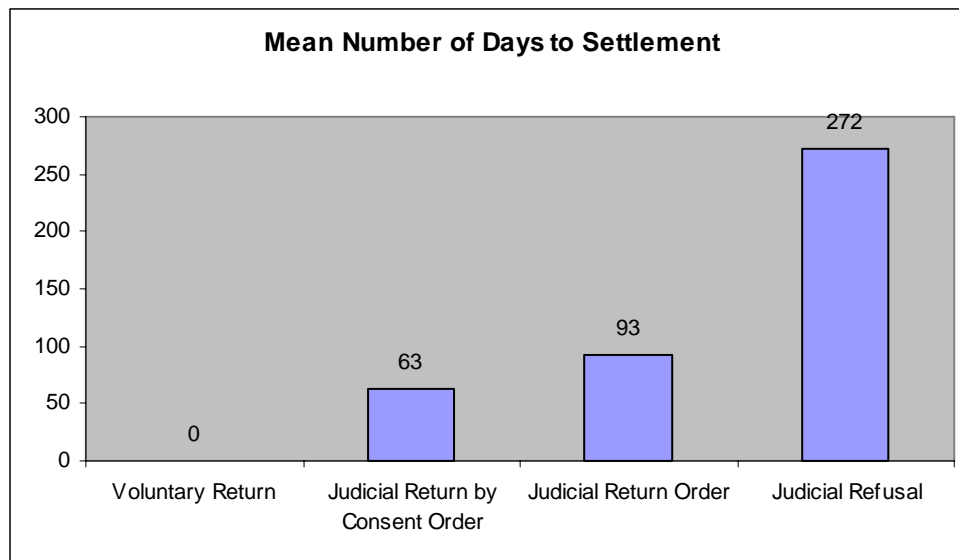
Not applicable.

13. The reasons for judicial refusal**(a) Incoming return applications**

Of the 14 applications which went to court, only 2 (14%) were refused. This compares favourably with the global average of 29%. The reason for refusing the application was not stated in one application made by a father. The other application was refused as the applicant father had no rights of custody. Globally, 8% of refusals were based on this ground. In 1999, none of the 4 refusals was based on this reason.

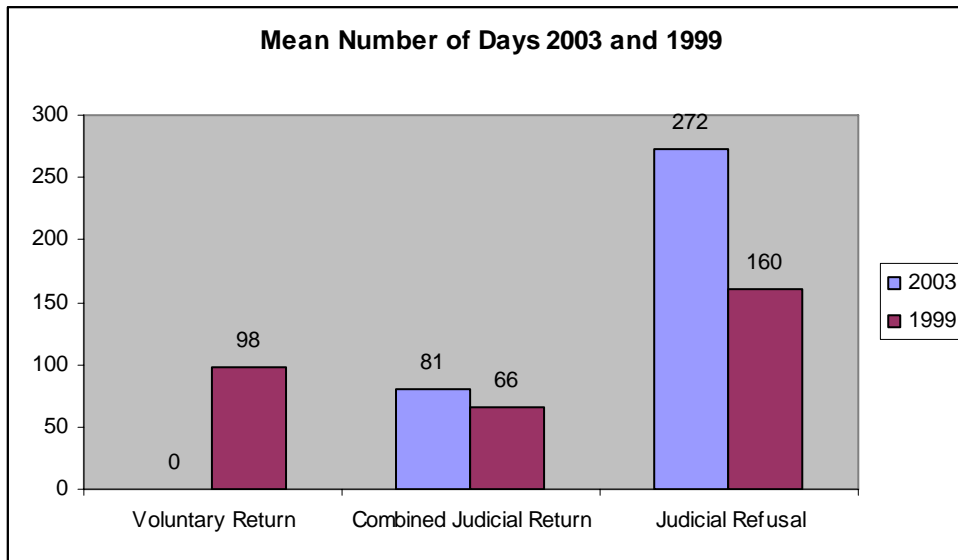
14. The reasons for judicial refusals and the relationship of the taking person**(a) Incoming return applications**

In one refused application the taking person was the mother and in the other refused application the taking person was the father. Globally, 77% of refusals involved mothers and 21% refusals involved fathers. In 1999, in one refused application the taking person was male and in the other 3 refused applications the taking persons were females.

Speed**15. The time between application and outcome****(a) Incoming return applications⁹**

Predictably, return orders by consent were resolved quicker than return orders without consent, in 63 days compared with 93 days. This compares with the global averages of 85 days and 143 days respectively. The speed of judicial refusals, averaging 272 days, was slower than the global average of 233 days. The one voluntary return was concluded in less than a day compared with an average of 98 days globally.

⁹ This information was not available in 3 of the voluntary return cases.



The chart above shows that judicial returns were resolved in a combined average of 81 days compared with 66 days in 1999. Judicial refusals took a mean average of 272 days as against 160 days in 1999. The one voluntary return where information was available was concluded the same day that it was opened, as opposed to the average of 98 days in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	0	63	93	272
Median	0	65	75	272
Minimum	0	51	29	180
Maximum	0	75	208	363
Number of cases	1	5	7	2

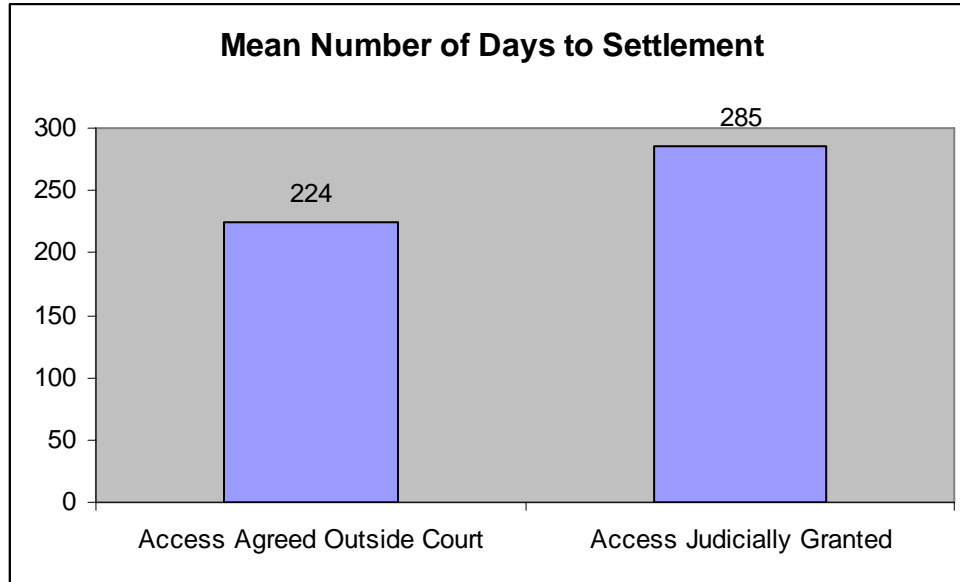
The table above gives a more informative picture of the system in New Zealand. It must be noted that as in 1999, no applications were pending, therefore the slowest judicial decision was reached within under a year (363 days) which is quick compared with other Contracting States in this survey.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	89	272
Median	74	272
Minimum	29	180
Maximum	208	363
Number of cases	6	2

As can be seen, in relation to judicial refusals the exclusion of appealed cases does not affect the overall mean average taken to reach final outcomes. In relation to judicial returns, there is a difference of only 4 days in the mean average before and after the exclusion of appealed cases.

(b) Incoming access applications



Overall, access cases in New Zealand tended to take longer than return applications. The application in which access was agreed outside court took over 6 months (224 days) to reach a final conclusion, as opposed to 245 days globally. One of the 4 cases resolved judicially as Hague applications took over a year (490 days) and another took over six months (225 days). The other 2 were concluded in 3 – 6 months (113 and 178 days respectively). The one case that was resolved judicially under domestic law took over a year to reach final settlement (421 days). Globally, access was judicially granted in a mean average of 266 days.

16. Appeals

(a) Incoming return applications

Of the 14 applications which went to court, one (7%) was appealed, as opposed to 22% globally. This case resulted in a judicial return at first instance and on appeal. This application took 122 days to reach final outcome. In 1999, one application was appealed resulting in a judicial return.

(b) Incoming access applications

None of the judicial decisions was appealed.

NORWAY

The applications

1. The number of applications

Incoming Return Applications	4
Incoming Access Applications	0
Outgoing Return Applications	10
Outgoing Access Applications	1

According to the Central Authority for Norway, they received 4 incoming return applications but no incoming access applications in 2003. This is a decrease on the 14 incoming applications (of which 11 were for return and 3 for access) made in 1999. It is to be noted that the ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

Additionally, the Central Authority made 10 outgoing return applications¹ and one outgoing access application in 2003. This is a decrease on the 24 outgoing applications (of which 23 were for return and one for access) made in 1999.

Altogether, the Central Authority handled 15 new applications in 2003, compared with 38 new applications in 1999.

The overall ratio of incoming to outgoing applications was 27% to 73%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
Portugal	1	25%
Sri Lanka	1	25%
Sweden	1	25%
UK - England & Wales	1	25%
Total	4	100%

Norway received applications for return from 4 Contracting States, each making one application. Surprisingly, no application was made by Finland, compared with 2 (18%) in 1999.

The taking person

3. The relationship of the taking person

Relationship of the Taking Person

	Number	Percent
Mother	4	100%
Total	4	100%

The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

recorded in the 1999 survey. All taking persons in the survey were mothers. This is markedly above the global average of 68% but is similar to the 1999 findings of 91% of female taking persons.²

4. The status of the taking person as carer in relation to the child

Norway did not provide information regarding the carer of children.

5. The nationality of the taking person³

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	3	100%
Total	3	100%

This table shows that all taking persons were Norwegian. This exceeds the global average of 55% of taking persons having the nationality of the requested State. In contrast, in 1999 only 27% of taking persons had Norwegian nationality.

6. The relationship and nationality of the taking person combined

See 3 and 5 above.

The children

7. The total number of children

There were 7 children involved in the 4 incoming return applications, compared with 14 children involved in the 11 return applications in 1999. In 2003, on average 1.75 children were involved in return applications. Proportionally, this represents an increase in the number of children per return application, compared with 1.27 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	1	25%
Sibling Group	3	75%
Total	4	100%

Number of Children

	Number	Percent
1 Child	1	25%
2 Children	3	75%
Total	4	100%

Unusually, more sibling groups than single children were involved in return applications to Norway, 3 out of 4 (75%). Only 25% of applications were made for single child which is markedly below the global average of 67%.

² Insofar as 'female' can normally be taken to mean 'mother'.

³ This information was not available in one application.

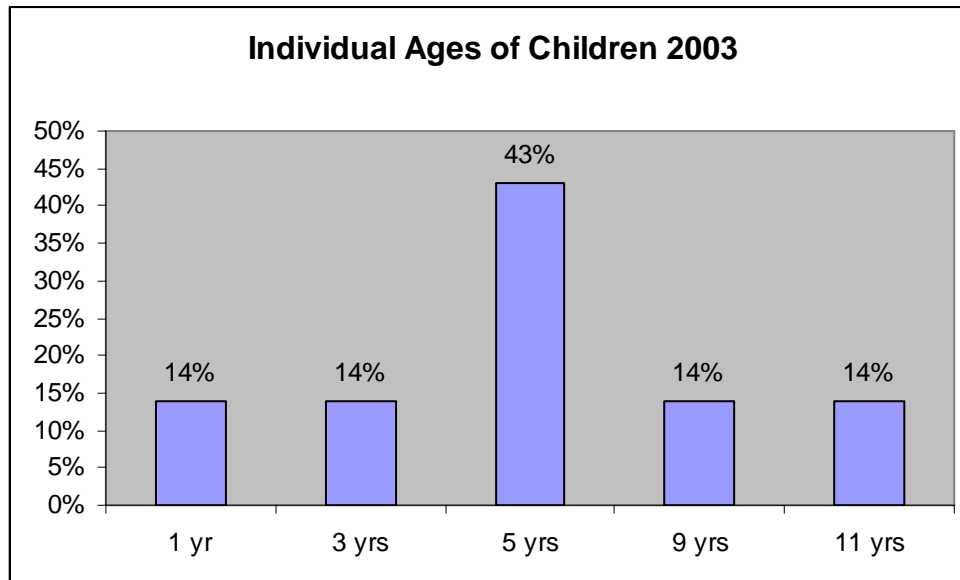
Despite the high proportion of sibling groups there were no sibling groups of 3 or more children involved in the 2003 applications. Indeed, all the applications concerned one or 2 children, which is similar to the global average of 93%.

The 2003 findings differ from the 1999 survey where only 3 out of 11(27%) applications were made for a sibling group.

9. The age of the children

Individual Ages 2003

	Number	Percent
1 yr	1	14%
3 yrs	1	14%
5 yrs	3	43%
9 yrs	1	14%
11 yrs	1	14%
Total	7	~100%



The above table and chart show the ages of the individual children involved. 5 out of 7 (71%) children were aged between 1 and 6 years old, compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	2	29%
5-9 years	4	57%
10-16 years	1	14%
Total	7	100%

The charts above show comparable information regarding the age bands of the children in 2003 and 1999. Of the 7 children included, 57% were aged between 5-9 years, compared with 39% in 1999. This compares with the global average of 42%. 39% of

children were aged between 0-4 years which was the same as in 1999 but compares with the 2003 global average of 36%. 14% of children were also aged between 10-16 years compared with 23% in 1999 and the 2003 global average of 22%.

10. The gender of the children

Gender of the Children 2003

	Number	Percent
Female	4	57%
Male	3	43%
Total	7	100%

The proportion of female (57%) and male (43%) children broadly follows the global averages of 51% and 49% respectively. However, these findings differ from the 1999 survey where proportionally more male children were involved in applications to Norway (71%).

The outcomes

11. Overall outcomes

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	2	50%
Judicial Order for Return by Consent	1	25%
Application Pending	1	25%
Total	4	100%

The above table shows the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Norway in 2003, the one judicial return order was made with consent.

There were 2 voluntary returns and one judicial return by consent. Interestingly, no application was judicially refused compared with the 1999 survey where all 3 cases which went to court resulted in a judicial refusal.

As of 30th June 2005 one application was still pending. Overall, 2 of the 4 applications (50%) ended in the child's return compared with the 2003 global average of 51%.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

Not applicable.

14. The reasons for judicial refusals and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome⁴

The one voluntary return took 190 days which is slower than the global average of 98 days. However, on the other hand, the consent order was handled in 56 days, compared with the global average of 85 days.

16. Appeals

Not applicable.

⁴ This information was not available in relation to one voluntary return.

PANAMA

The applications

1. The number of applications

Incoming Return Applications	3
Incoming Access Applications	0
Outgoing Return Applications	8
Outgoing Access Applications	0

According to the Central Authority for Panama, they received 3 incoming return applications and no incoming access applications in 2003. This compares with 4 incoming return applications and one access application received in 1999. It is to be noted that the overall ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made 8 outgoing return applications but no outgoing access applications in 2003.¹ This compares with 7 applications (of which all were for return) made in 1999.

Altogether, the Central Authority handled 11 new applications in 2003, compared with 12 new applications in 1999.

The overall ratio of incoming to outgoing applications was 27% to 73%.

2. The Contracting States which made the application

2 applications came from England & Wales and one from Peru. In contrast, in 1999, 2 applications were made by USA, one by Colombia and one by Mexico.

The taking person

3. The relationship of the taking person

All taking persons were mothers. This can be compared with the 1999 survey, where in 2 of the return applications the taking person was male; in the other 2 the taking person was female. Globally in 2003, 68% of taking persons in return applications were mothers.

4. The status of the taking person as carer in relation to the child

Panama did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

All 3 of the taking persons had Panamanian nationality. In 1999, in 3 of the return applications the taking person was Panamanian. Globally in 2003, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 54% of taking persons recorded as the mother of the child has the nationality of the requested State.

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.*; the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.*; some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

The children

7. The total number of children

There were 4 children involved in the 3 incoming return applications in 2003. This can be compared with the total of 5 children being involved in the 4 return applications in 1999. In 2003, on average 1.33 children were involved in return applications. Proportionally, this represents a slight increase in the average number (1.25) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

2 (67%) applications involved a single child and one (33%) involved a sibling group of 2 children. Globally in 2003, 67% of return applications involved single children and 93% involved no more than one child.

In 1999, 3 applications for return involved a single child and one involved a sibling group of 2 children.

9. The age of the children

The children involved were aged 4, 8, 9 and 11 years old. Globally in 2003, 36% of children were aged between 0-4 years old, 42% between 5-9 years old and 22% between 10-16 years old. In 1999, all children involved in return applications to Panama were aged between 5 and 9 years old.

10. The gender of the children

2 of the 4 (50%) children were male and 2 (50%) were female. Globally, 49% of children were male and 51% were female.

The outcomes

11. Overall outcomes

All of the 3 applications (100%) were still pending as of 30th June 2005, as opposed to 9% globally. Similarly, in 1999, as of a cut-off period for the survey, 3 of the return applications were still pending. The other 1999 application was refused because the child's habitual residence was in Panama.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

Not applicable.

14. The reasons for judicial refusals and the relationship of the taking person

Not applicable.

Speed

15. The time between application and outcome

Not applicable.

16. Appeals

Not applicable.

PANAMÁ

Las solicitudes

1. El número de solicitudes

Solicitudes de restitución recibidas	3
Solicitudes de derecho de visita recibidas	0
Solicitudes de restitución efectuadas	8
Solicitudes de derecho de visita efectuadas	0

De acuerdo a la Autoridad Central de Panamá, ésta recibió 3 solicitudes de restitución y ninguna solicitud de derecho de visita en el 2003. Esto se compara con las 4 solicitudes de restitución recibidas y una solicitud de derecho de visita recibidas en 1999. Debe notarse que el ratio general de solicitudes de restitución frente a solicitudes de derecho de visita (100%) estuvo por encima del promedio global de 84% a 16%.

Además, la Autoridad Central efectuó 8 solicitudes de restitución y ninguna solicitud de derecho de visita en el 2003.¹ Esto se compara con las 7 solicitudes (todas las cuales fueron solicitudes de restitución) efectuadas en 1999.

En conjunto, la Autoridad Central tramitó 11 solicitudes nuevas en el 2003, frente a 12 solicitudes nuevas de 1999.

El ratio general de solicitudes recibidas y efectuadas fue de 27% a 73%.

2. Los Estados contratantes que efectuaron la solicitud

Dos solicitudes provenían de Inglaterra y Gales y una de Perú. Por el contrario, en 1999, 2 solicitudes fueron efectuadas por EE.UU., una por Colombia y otra por México.

La persona que se lleva o retiene al menor

3. La relación entre el menor y la persona que se lo lleva o lo retiene

Todas las personas que se llevaron o retuvieron menores eran madres. Esto se compara con el estudio de 1999, conforme al cual en 2 solicitudes de restitución las personas que se llevaron o retuvieron menores eran varones; en otras dos solicitudes las personas que se llevaron o retuvieron menores eran mujeres. A nivel global en el 2003, el 68% de personas que se llevaron o retuvieron menores eran madres.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

Panamá no proporcionó sobre la situación de la persona que se lo llevo o lo retuvo al menor en el ejercicio de su cuidado.

5. La nacionalidad de la persona que se lleva o retiene al menor

Las 3 personas que se llevaron o retuvieron menores tenían nacionalidad panameña. En 1999, en 3 solicitudes de restitución la persona que se llevo o retuvo al menor era panameña. A nivel global en el 2003, el 55% de personas que se llevaron o retuvieron menores tenían la nacionalidad del Estado requerido.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor combinadas

¹ Este es el número total de solicitudes basándonos en lo informado por la Autoridad Central, i.e.; el número de solicitudes que efectuaron. Estos casos pueden no haber sido remitidos a las Autoridades Centrales extranjeras en el 2003, i.e.; algunos pudieron haber sido retirados antes de la remisión, o no remitidos a (o recibidos por) la Autoridad Central extranjera al 31 de diciembre de 2003.

Véase 3 y 5 arriba. A nivel global, el 54% de personas que se llevaron o retuvieron menores eran madres que tenían la nacionalidad del Estado requerido.

Los menores

7. El número total de menores

Hubo 4 menores comprendidos en 3 solicitudes de restitución recibidas en el 2003. Esto puede compararse con el total de 5 menores comprendidos en 4 solicitudes de restitución de 1999. En el 2003, en promedio 1.33 menores estuvieron comprendidos en solicitudes de restitución. En términos porcentuales esto representa un ligero incremento en la cifra promedio (1.25) de menores por solicitud de restitución recibida en 1999. A nivel global, un promedio de 1.4 menores fueron comprendidos en solicitudes de restitución en el 2003.

8. Un menor o grupo de hermanos

Dos (67%) solicitudes comprendieron a un menor y una (33%) comprendió a un grupo de hermanos compuesto por 2 menores. A nivel global en el 2003, el 67% de solicitudes de restitución comprendieron un solo menor y el 93% comprendieron no más de un menor.

En 1999, 3 solicitudes de restitución comprendieron a un menor y una comprendió a un grupo de hermanos compuesto por 2 menores.

9. La edad de los menores

Los menores comprendidos en las solicitudes tenían 4, 8, 9 y 11 años. A nivel global en el 2003, 36% de menores tenían entre 0 y 4 años, 42% tenían entre 5 y 9 años y 22% tenían entre 10 y 16 años. En 1999 todos los menores comprendidos en solicitudes de restitución efectuadas a Panamá tenían entre 5 y 9 años.

10.El sexo de los menores

Dos de los 4 (50%) menores eran varones y 2 (50%) eran mujeres. A nivel global, 49% de los menores eran varones y 51% eran mujeres.

Los resultados

11.Los resultados totales

Las 3 solicitudes (100%) se encontraban pendientes al 30 de junio de 2005, frente al 9% a nivel global. De igual manera, en 1999, 3 solicitudes de restitución se encontraban pendientes a la fecha de corte. La otra solicitud de 1999 fue denegada debido a que el lugar de la residencia habitual del menor estaba en Panamá.

12. Las razones de rechazo

No aplicable.

13. Las razones de denegatoria judicial

No aplicable.

14.Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene

No aplicable.

Celeridad

15.El tiempo entre la solicitud y el resultado

No aplicable.

16.Apelaciones

No aplicable.

POLAND

The applications

1. The number of applications

Incoming Return Applications	18
Incoming Access Applications	8
Outgoing Return Applications	12
Outgoing Access Applications	4

According to the Central Authority for Poland, they received 18 incoming return and 8 incoming access applications in 2003, making a total of 26 incoming applications. The ratio of incoming return applications to access applications, 69% to 31% differs from the global average of 84% to 16%.

Additionally, the Central Authority made 12 outgoing return applications and 4 outgoing access applications in 2003.¹

Altogether, the Central Authority handled 42 new applications in 2003.

The overall ratio of incoming to outgoing applications was 62% to 38%.

Poland did not participate in the 1999 statistical survey and we cannot therefore compare the number of applications received in that year.

2. The Contracting States which made the application

(a) Incoming return applications

Requested States 2003

	Number	Percent
Germany	11	61%
Italy	3	17%
Sweden	2	11%
Denmark	1	6%
Netherlands	1	6%
Total	18	~100%

Poland received applications for return from 5 Contracting States.

11 of the 18 (61%) of applications came from neighbouring Germany.

Interestingly, unlike any other Contracting State, all of the applications were received from Contracting States that are now within the European Union.²

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

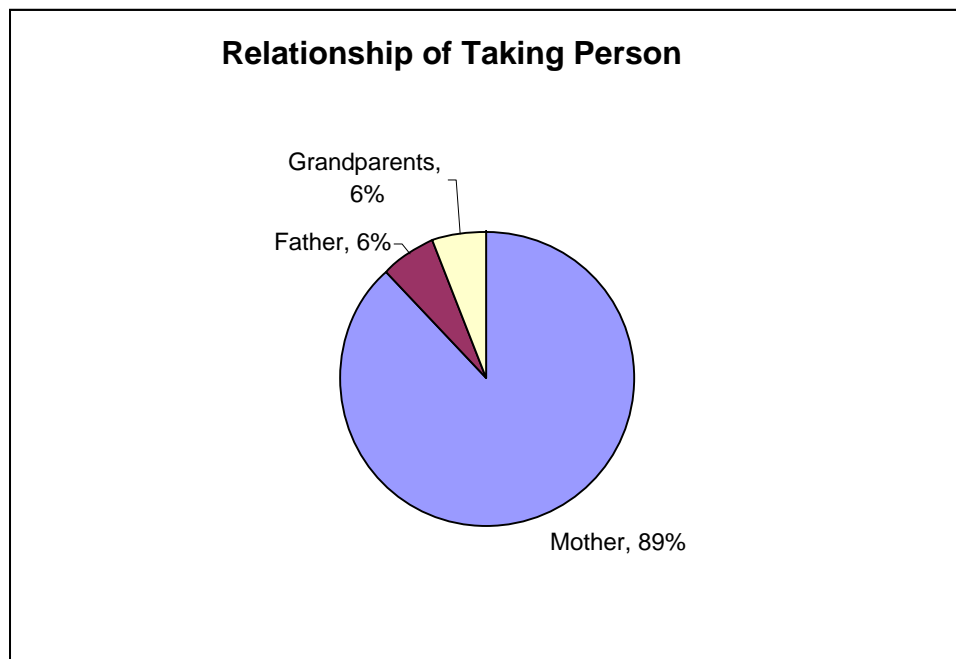
(b) Incoming access applications**Requesting States 2003**

	Number	Percent
Germany	3	38%
Canada	2	25%
Italy	1	13%
Netherlands	1	13%
UK - England & Wales	1	13%
Total	8	~100%

As with return applications, neighbouring Germany made more access applications than any other Contracting State, accounting for 3 out of the 8 applications (38%).

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications****Relationship of the Taking Person**

	Number	Percent
Mother	16	89%
Father	1	6%
Two Grandparents	1	6%
Total	18	~100%



89% of taking persons in the survey were the mother of the child. This can be compared with the global average of 68%. There was one application where the taking persons were two grandparents of the child.

(b) Incoming access application**Relationship of the Respondent**

	Number	Percent
Mother	8	100%
Total	8	100%

Strikingly, in all of the 8 access applications the respondent was the mother. Globally in 2003, 79% of respondents in access applications were recorded as the mother of the child.

4. The status of the taking person as carer in relation to the child

Poland did not provide information regarding the carer of children.

5. The nationality of the taking person / respondent**(a) Incoming return applications****Taking Person Same Nationality as the Requested State**

	Number	Percent
Same Nationality	18	100%
Total	18	100%

This table shows that strikingly in all of the 18 incoming return applications, the taking person had the same nationality as the requested State. This is different from the global average of 55% of taking persons having the same nationality as the requested State and 45% having a different nationality.

(b) Incoming access applications**Respondent Same Nationality as the Requested State**

	Number	Percent
Same Nationality	8	100%
Total	8	100%

Poland was the only Contracting State in the 2003 survey where all the respondents both for return and access applications had the same nationality as the requested State. Globally in 2003, 53% of respondents in access applications had the same nationality as the requested State.

6. The relationship and nationality of the taking person /respondent combined**(a) Incoming return applications****Nationality and Relationship of Taking Person to Child**

	Relationship of Taking Person to Child			Total
	Mother	Father	Both Grandparents	
Same Nationality	16	1	1	18
Total	16	1	1	18

As all of the cases involved taking persons who were Polish nationals, in relation to mothers, fathers and grandparents, the taking person was always recorded as having the same nationality as the requested State. Globally in 2003, 54% of mothers and 55% of fathers had the nationality of the requested State.

(b) Incoming access applications

See 3(b) and 5(b) above. Globally in 2003, 49% of respondent mothers and 68% of respondent fathers in access applications had the same nationality as the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 21 children involved in the 18 incoming return applications. In 2003, on average 1.17 children were involved in return applications. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 10 children involved in the 8 incoming access applications. In 2003, on average 1.25 children were involved in access applications. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	16	89%
Sibling Group	2	11%
Total	18	100%

Number of Children

	Number	Percent
1 Child	16	89%
2 Children	1	6%
3 Children	1	6%
Total	18	~100%

16 out of 18 (89%) applications were made in respect of single children, compared with the global average of 67%. 17 (95%) applications involved one or 2 children which compares with the 2003 global average of 93%.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	6	75%
Sibling Group	2	25%
Total	8	100%

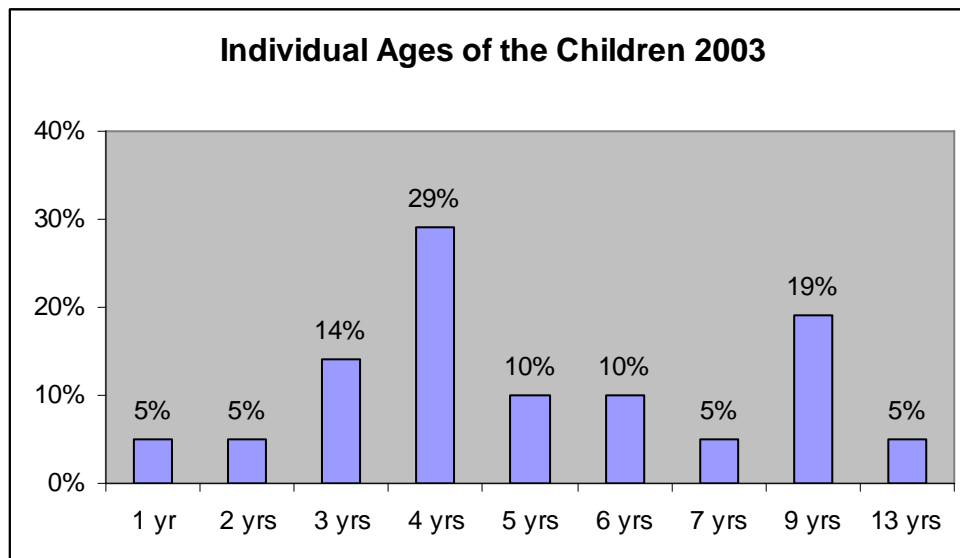
Number of Children

	Number	Percent
1 Child	6	75%
2 Children	2	25%
Total	8	100%

Of the 8 access applications, only 2 involved a sibling group, each comprising 2 children. Globally, 71% of access applications involved a single child.

9. The age of the children**(a) Incoming return applications****Individual Ages 2003**

	Number	Percent
1 yr	1	5%
2 yrs	1	5%
3 yrs	3	14%
4 yrs	6	29%
5 yrs	2	10%
6 yrs	2	10%
7 yrs	1	5%
9 yrs	4	19%
13 yrs	1	5%
Total	21	~100%

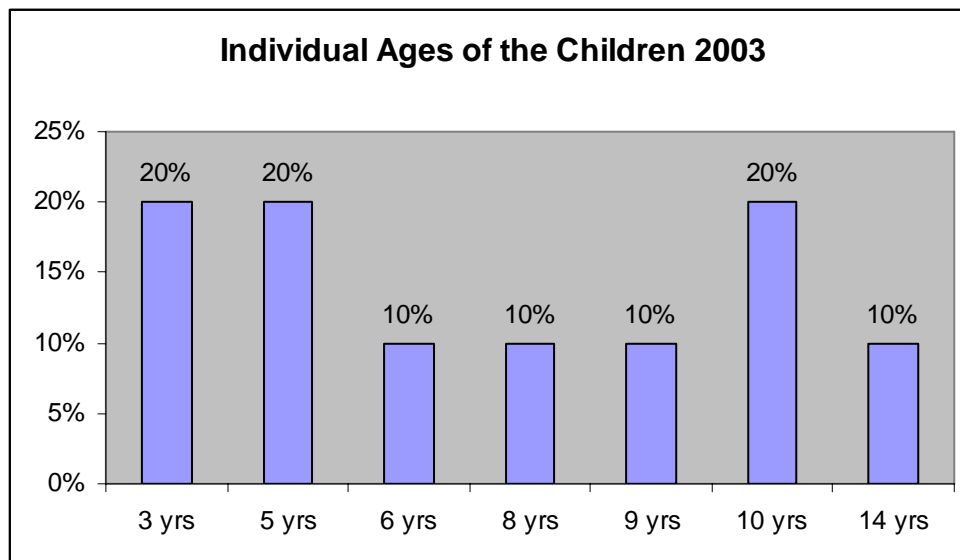


The above table and chart show the ages of the individual children involved. 6 children (29%) were aged 4 years old. 71% of children involved were aged 1 - 6, compared with the global average of 55%. Only one (5%) child was aged over 10 which is much lower than the 2003 global average of 22%.

(b) Incoming access applications

Individual Ages 2003

	Number	Percent
3 yrs	2	20%
5 yrs	2	20%
6 yrs	1	10%
8 yrs	1	10%
9 yrs	1	10%
10 yrs	2	20%
14 yrs	1	10%
Total	10	100%



The above chart and table show ages of the individual children involved. 5 (50%) children were aged between 1 and 6 years, as opposed to 35% globally. At 20%, the proportion of younger children, namely those aged between 0 and 4 years, was identical to the 2003 global average. Similarly, the proportion of children aged between 5-9 years (50%) and 10-16 years (30%) both broadly followed the 2003 global averages of 46% and 34% respectively.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	18	86%
Male	3	14%
Total	21	100%

As can be seen, 18 out of the 21 (86%) children involved in return applications were female. This is markedly above the 2003 global average of 51%.

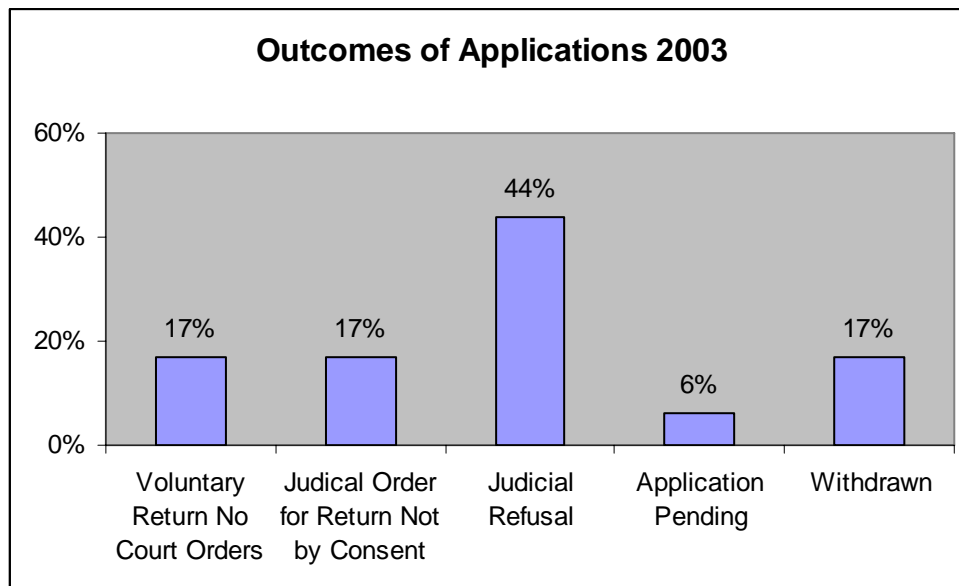
(b) Incoming access applications**Gender of the Children**

	Number	Percent
Female	3	30%
Male	7	70%
Total	10	100%

As can be seen, 7 out of the 10 (70%) children were male. Globally in 2003, 55% of children involved in access applications were male.

The outcomes**11. Overall outcomes****(a) Incoming return applications****Outcome of Application**

	Number	Percent
Voluntary Return No Court Orders	3	17%
Judicial Order for Return Not by Consent	3	17%
Judicial Refusal	8	44%
Application Pending	1	6%
Withdrawn	3	17%
Total	18	~100%



The above table and chart show the outcome of all applications in 2003.

Proportionally, the figures show that a judicial refusal was the most common outcome for an application, with a total of 8 cases, 44%. This is a high proportion and can be contrasted with the global average of 13%.

Judicial return orders accounted for 17% of applications, compared with the global average of 29%. All 3 of these orders were made without consent. Strikingly, therefore, none were made with consent. Voluntary returns also accounted for 17% of applications, compared with the global average of 22%. The overall return rate of just over 33% is well below the global average return rate of 51%.

Of the 11 cases that went to court, only 3 (27%) ended in a judicial return which was strikingly lower than the global proportion of 66%.³ At 17%, the withdrawal rate was similar to the global average of 15%. As of 30th June 2005, one (6%) application was still pending, compared with 9% globally.

(b) Incoming access applications

Outcome of Application

	Number	Percent
Access Judicially Granted	3	38%
Access Judicially Refused	1	13%
Application Pending	2	25%
Withdrawn	1	13%
Other	1	13%
Total	8	~100%

3 out of 8 (38%) applications resulted in access being judicially granted which compares favourably with the 2003 global average of 16%. In one case (13%) access was judicially refused. All 4 cases were resolved as Hague applications. As of 30th June 2005, 2 (25%) of applications were still pending, compared with 22% globally.

12. The reasons for rejection

(a) Incoming return applications

Not applicable.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications⁴

Overall Reason for Judicial Refusal per Application

	Number	Percent
Child Not Habitually Resident in Requesting State	2	33%
Art 13b	2	33%
Other	2	33%
Total	6	~100%

³ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁴ This information was not available in relation to 2 applications.

Of the 11 cases that went to court, 8 (73%) were judicially refused which is markedly above the 2003 global average of 29%. 2 of the 6 (33%) refusals were based on multiple reasons.⁵

The sole reasons for refusing applications were lack of child's habitual residence in the requesting State and Article 13 *b*) (2, 33% each).

When multiple grounds for refusal are taken into account, lack of habitual residence and Article 13 *b*) were relied upon in whole or in part in 3 cases each and Article 12 and lack of rights of custody in one case each.

14. The reasons for judicial refusal and the relationship of the taking person

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Judicial Refusal

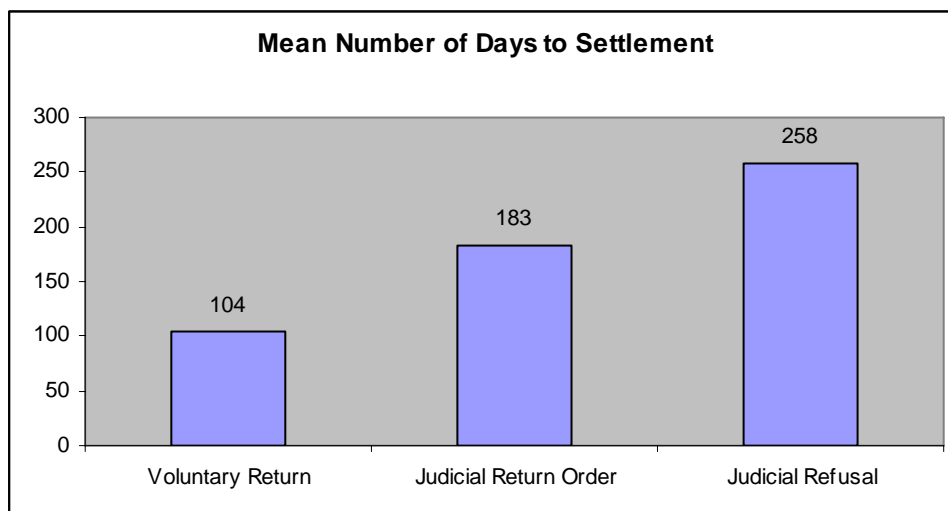
	Relationship of Taking Person to Child			Total
	Mother	Father	Both Grandparents	
Child Not Habitually Resident in Requesting State	1	1	0	2
Art 13b	1	0	1	2
More than one reason	2	0	0	2
Total	4	1	1	6

Overall, in 4 of the 6 refusals, 67%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall. In one refusal, 17%, the taking person was the father of the child. Globally in 2003, 21% of refusals involved fathers. In the remaining refusal, 17%, the taking person was the grandparent of the child.

Speed

15. The time between application and outcome

(a) Incoming return applications⁶



⁵ Recorded as 'other'.

⁶ This information was not available in relation to 2 voluntary returns.

All the judicial returns were ordered without consent and were handled in an average of 183 days compared with the global average of 143 days.

Judicial refusals, averaging 258 days, took longer than the global average of 233 days. Information was available regarding only one of the 3 applications where the child was voluntarily returned. This application took 104 days to conclude as opposed to an average of 98 days globally.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return Order	Judicial Refusal
Mean	104	183	258
Median	104	172	225
Minimum	104	151	156
Maximum	104	225	408
Number of cases	1	3	8

The table above gives a more informative picture of the system in Poland. One return order was made in 151 days. The slowest judicial decision was reached in 408 days. It must be noted that one application was still pending as of 30th June 2005.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Refusal
Mean	212
Median	212
Minimum	193
Maximum	230
Number of cases	2

As can be seen, in relation to judicial refusals the exclusion of appealed cases does not significantly affect the overall mean average taken to reach final outcomes.

(b) Incoming access applications⁷

The 2 applications where access was judicially granted both took over 6 months (227 and 236 days) to resolve, compared with an average of 266 days globally. The one judicial refusal took 487 days, as opposed to an average of 240 days globally.

⁷ This information was not available in relation to one case in which access was judicially granted.

16. Appeals

(a) Incoming return applications

Appeals				
		Appellate Final Judicial Decision		Total
		Return	Refusal	
	Return	3	1	4
	Refusal	0	5	5
Total		3	6	9

Considering the relatively small number of applications, many cases (9 out of 11, 82%) in Poland were appealed, compared with the global average of 22%. Indeed, Poland accounted for 9 of the 118 (8%) applications appealed globally.

3 applications for return were judicially granted upon an appeal. In all of these decisions the appellate court upheld first instance decisions.

6 appellate decisions resulted in a judicial refusal. In 5 of these cases the appellate court upheld the first instance refusal to return and in the remaining case the appellate court overruled the first instance return order.

(b) Incoming access applications

2 of the 4 access applications which went to court (50%) were appealed. This can be compared with the 2003 global average of 10%. In one case access was granted at first instance and on appeal. In the other case, access was granted at first instance but refused on appeal.

PORTUGAL

1. The number of applications

Incoming Return Applications	19
Incoming Access Applications	3
Outgoing Return Applications	12
Outgoing Access Applications	4

According to the Central Authority for Portugal, they received 19 incoming return and 3 incoming access applications in 2003, making a total of 22 incoming applications. This is an increase on the 15 incoming applications (of which 11 were for return and 4 for access) made in 1999. The ratio of incoming return applications to access applications, 86% to 14% compares with the global average of 84% to 16%.

Additionally, the Central Authority made 12 outgoing return applications¹ and 4 outgoing access applications in 2003. This is a decrease on the 27 outgoing applications made in 1999.

Altogether, the Central Authority handled 38 new applications in 2003 compared with 42 new applications in 1999.

The overall ratio of incoming to outgoing applications was 58% to 42%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Switzerland	4	21%
Belgium	3	16%
Australia	2	11%
Brazil	2	11%
Germany	2	11%
UK - England & Wales	2	11%
Hungary	1	5%
South Africa	1	5%
Spain	1	5%
USA	1	5%
Total	19	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Switzerland	4 (21%)	3 (27%)
Belgium	3 (16%)	0 (0%)
Australia	2 (11%)	1 (9%)
Brazil	2 (11%)	0 (0%)
Germany	2 (11%)	1 (9%)
UK - England & Wales	2 (11%)	1 (9%)
Hungary	1 (5%)	0 (0%)
South Africa	1 (5%)	0 (0%)
Spain	1 (5%)	1 (9%)
USA	1 (5%)	0 (0%)
Canada	0 (0%)	1 (9%)
Italy	0 (0%)	1 (9%)
Netherlands	0 (0%)	1 (9%)
Norway	0 (0%)	1 (9%)
Total	19 (~ 100%)	11 (~ 100%)

Portugal received applications for return from 10 Contracting States, compared with 9 in 1999.

As in 1999, the highest number of applications was made by Switzerland. There were also 3 (16%) applications from Belgium and 2 (11%) applications each from Brazil, England and Wales and Germany.

Requesting States within the EU 2003

	Number	Percent
Belgium	3	33%
Germany	2	22%
UK - England & Wales	2	22%
Hungary	1	11%
Spain	1	11%
Total	9	100%

The above chart shows the number of applications received from countries that are now part of the European Union.² As can be seen, these countries account for 9 of the 19 applications received by Portugal, a total of 48% of all applications.

(b) Incoming access applications

2 access applications came from Switzerland and one from Italy. In 1999, Switzerland made one access application to Portugal, whereas no applications were made by Italy. The other 3 applications were made by Canada, Hungary and the Netherlands.

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

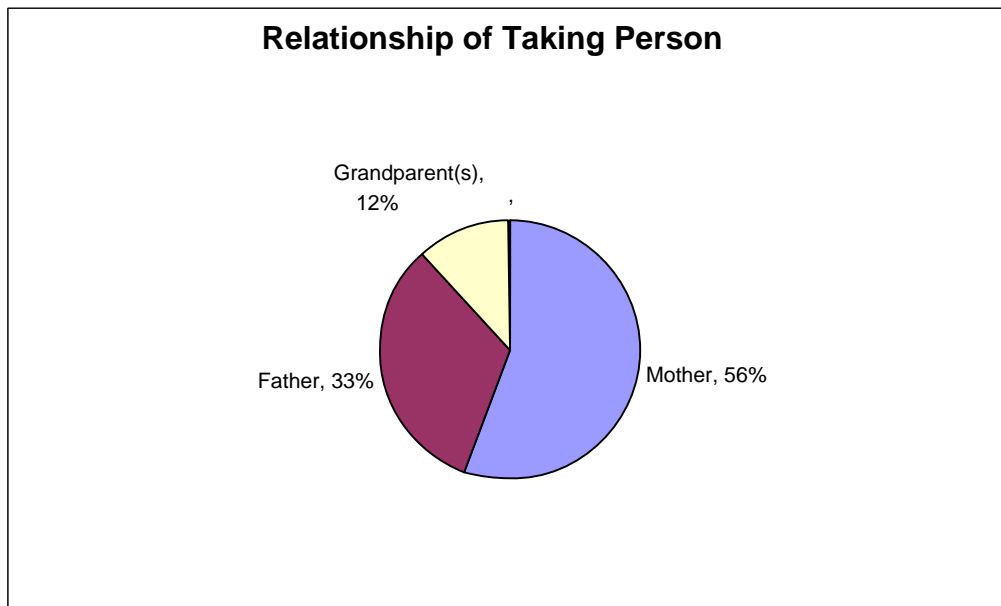
The taking person

3. The relationship of the taking person / respondent

(a) Incoming return applications³

Relationship of Taking Person

	Number	Percent
Mother	10	56%
Father	6	33%
Grandparent	1	6%
Two Grandparents	1	6%
Total	18	~100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Proportionally, fewer mothers were taking persons than the global average, 56% as opposed to 68%. This is similar to the 1999 findings, where 55% of taking persons were recorded as female.

In 2 applications the taking persons were grandparents of the child. In one the child had been taken by one, and in the other, by 2 grandparents.

(b) Incoming access applications

2 of the 3 (67%) respondents in access applications were mothers, which is proportionally lower than the global average of 79%. Interestingly, as in return applications, one respondent was recorded as the grandparent of the child. In 1999, 3 out of 4 respondents were recorded as female and one was recorded as male.

4. The status of the taking person as carer in relation to the child

Portugal did not provide information on the status of the taking person as carer.

³ In one application this information was not stated.

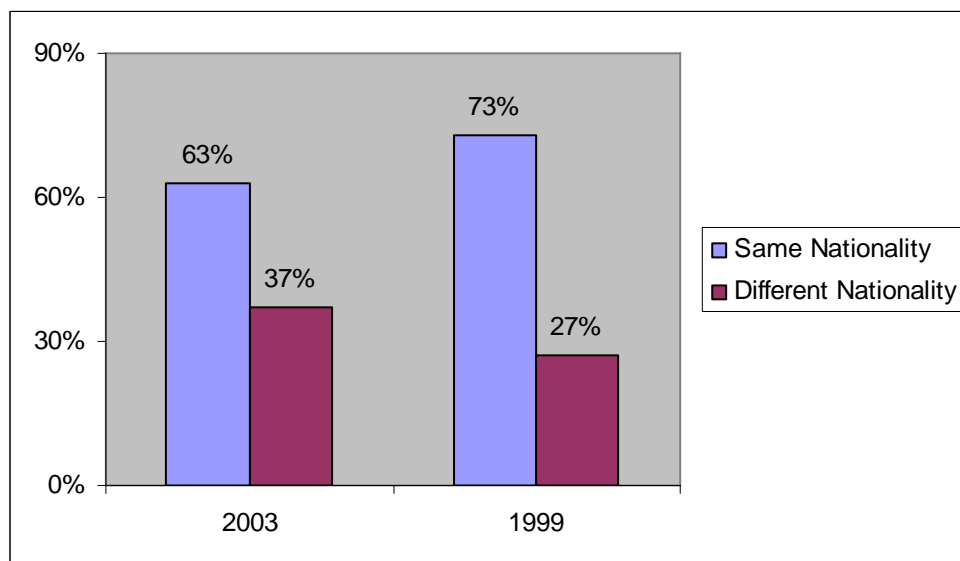
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	12	63%
Different Nationality	7	37%
Total	19	100%

The above table shows that in 12 of the 19 (63%) applications, the taking person was Portuguese (including one person with dual nationality). This is higher than the 2003 global average of 55% of taking persons having the same nationality as the requested State.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of taking persons with Portuguese nationality decreased from 73% in 1999 to 63% in 2003.⁴

(b) Incoming access applications

Interestingly, all respondents in access applications were Portuguese as opposed to none in 1999. Globally, 53% of respondents had the nationality of the requested State.

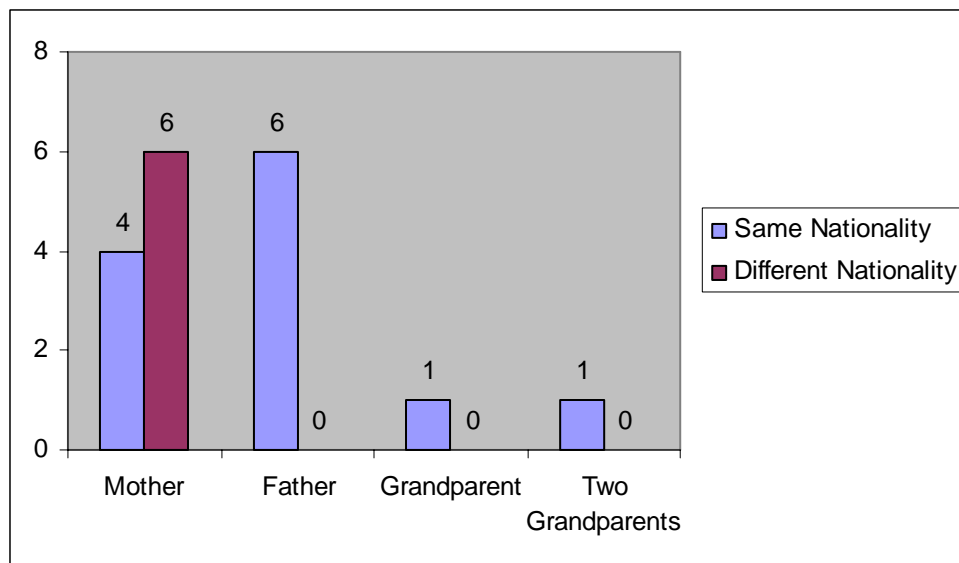
⁴ This was so notwithstanding that unlike the 1999 survey the 2003 survey took express account of dual nationality.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child				Total
	Mother	Father	Grandparent	Two Grandparents	
Same Nationality	4	6	1	1	12
Different Nationality	6	0	0	0	6
Total	10	6	1	1	18



As can be seen, in relation to mothers, the taking person was more often recorded as having a different nationality than the requested State. Indeed, only 4 out of 10 (40%) of mothers were Portuguese, as opposed to the global average of 54% of mothers having the nationality of the requested State. On the other hand, interestingly, all fathers were Portuguese citizens, compared with only 55% of fathers having the nationality of the requested State globally. In 1999, it was found that both male and female taking persons bringing children to Portugal were more likely to have Portuguese nationality. Indeed, 4 out of 6 female taking persons and 3 out of 4 male taking persons were Portuguese nationals.

(b) Incoming access applications

See 5(b) above. Globally in 2003, 49% of respondent mothers had the nationality of the requested State.

The children

7. The total number of children

(a) Incoming return applications

There were 22 children involved in the 19 incoming return applications in 2003. This can be compared with the total of 12 children being involved in the 11 return applications in 1999. In 2003, on average 1.16 children were involved in return applications.

Proportionally, this represents an increase in the number of children per return application, compared with 1.09 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 5 children involved in the 3 incoming access applications in 2003. This can be compared with the total of 4 children being involved in the 4 access applications in 1999. In 2003, on average 1.67 children were involved in access applications. Proportionally, this represents an increase in the number of children per access application, compared with one child per application in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	16	84%
Sibling Group	3	16%
Total	19	100%

Number of Children

	Number	Percent
1 Child	16	84%
2 Children	3	16%
Total	19	100%

The above table shows that 16 out of 19 (84%) applications involved a single child. This is significantly higher than the 2003 global average of 67%. In 1999, 91% of applications involved a single child. As in 1999, no application involved more than 2 siblings. Globally, it was found that 93% of applications concerned one or 2 children.

(b) Incoming access applications

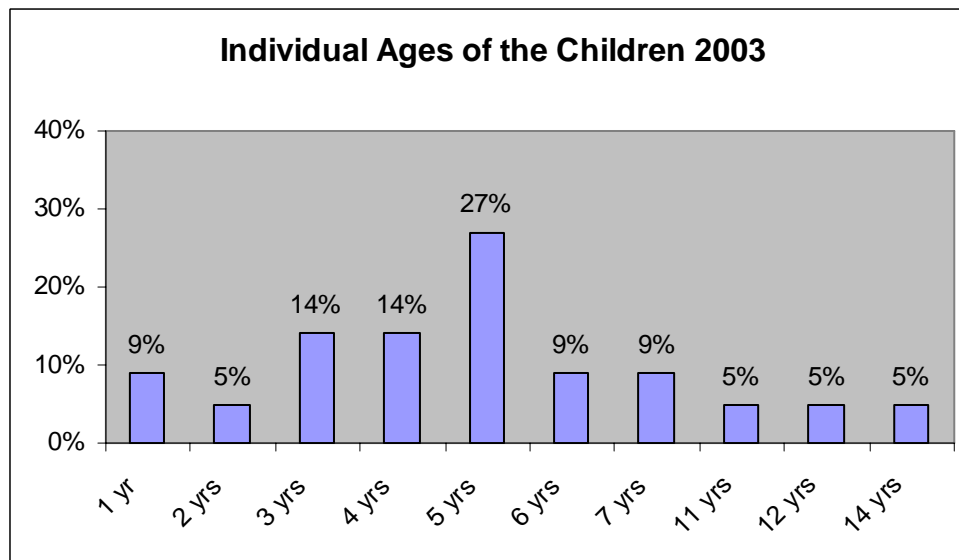
For access applications the proportion of single children was markedly below the 2003 global average. Indeed, only one (33%) application involved a single child, as opposed to 71% globally. The remaining 2 applications involved a sibling group of 2 children each. Interestingly, in 1999, all 4 access applications involved a single child.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	2	9%
2 yrs	1	5%
3 yrs	3	14%
4 yrs	3	14%
5 yrs	6	27%
6 yrs	2	9%
7 yrs	2	9%
11 yrs	1	5%
12 yrs	1	5%
14 yrs	1	5%
Total	22	~100%

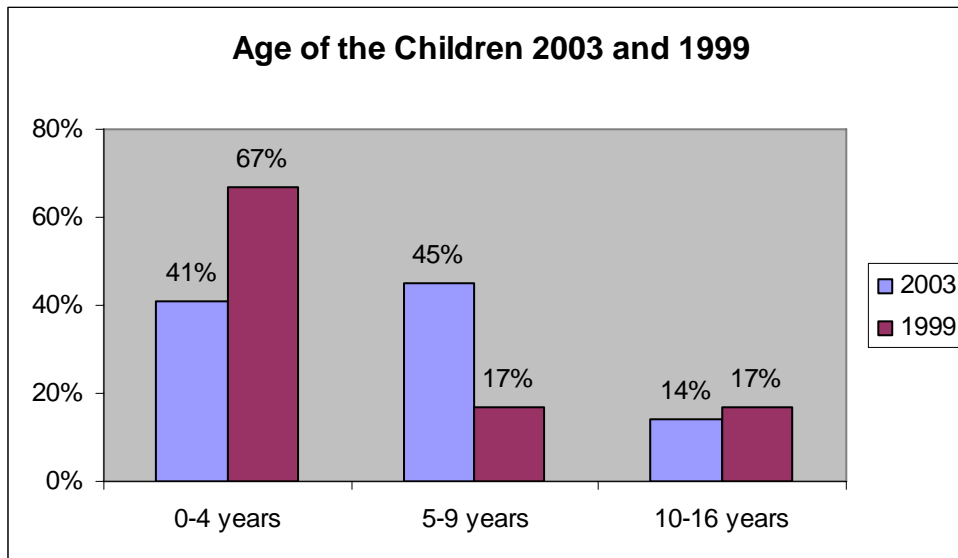


The above table and chart show the ages of the individual children involved. Interestingly, 6 children (27%) were 5 years old. 78% of children were aged between 1 and 6 compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	9	41%
5-9 years	10	45%
10-16 years	3	14%
Total	22	100%



Unlike in 1999, the largest proportion of children were aged between 5-9 years. Indeed, of the 22 children included, 10 (45%) were aged between 5-9 years, compared with only 2 (17%) in 1999. This compares with the 2003 global average of 42%. The number of children aged between 0-4 years and 10-16 years have both decreased from 67% to 41% and from 17% to 14% respectively. These figures can be compared with the 2003 global averages of 36% and 22%.

(b) Incoming access applications

The access applications involved one child aged 6 years, 2 children aged 7 years and 2 children aged 10 years. In 1999, one child involved was aged between 0 and 4 years, another child was aged between 5 and 9 years and 2 children were aged between 10 and 16 years. Globally in 2003, 46% of children involved in access applications were aged between 5 and 9 years and 34% of children were older than 9 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	9	41%
Male	13	59%
Total	22	100%

As the above table shows, the minority (41%) of children were female. This is below the 2003 global average where 51% of children were female. In 1999, only 25% of children involved in return applications to Portugal were female.

(b) Incoming access applications

Interestingly, all children involved in the access applications were males, whereas globally, 55% of children involved in access applications were males. In 1999, the applications for access involved 3 female children and one male child.

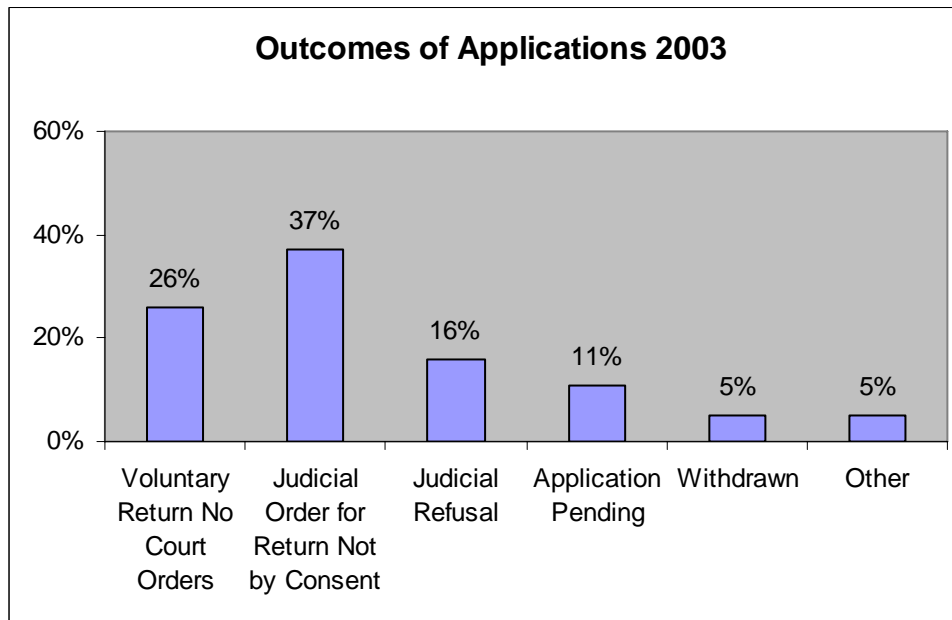
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	5	26%
Judicial Order for Return Not by Consent	7	37%
Judicial Refusal	3	16%
Application Pending	2	11%
Withdrawn	1	5%
Other	1	5%
Total	19	100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Portugal, however, in 2003, no judicial return orders were made with consent.

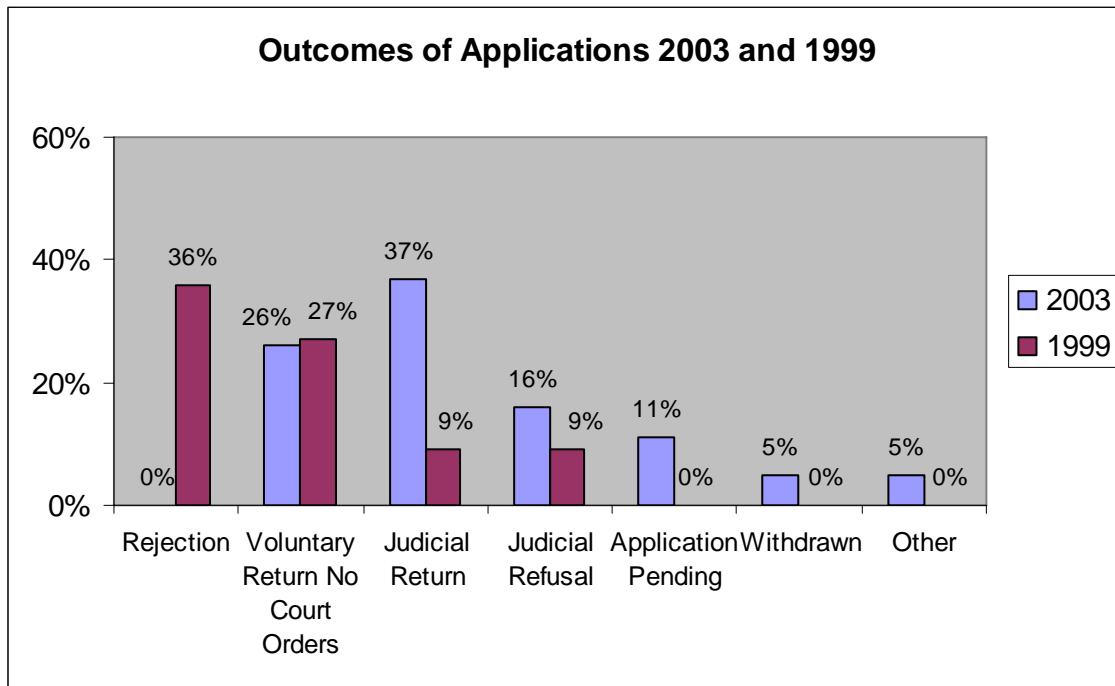
Overall, 63% of applications made to Portugal ended in the child being returned either by a court order or voluntarily. This is markedly above the global average return rate of 51%. Similarly, at 26%, the proportion of voluntary returns is higher than the global average of 22%. On the other hand, however, 3 out of 19 (16%) applications were judicially refused, which is just above the 2003 global average of 13%.

10 (53%) applications went to court. Of these cases, 7 (70%) ended in a judicial return. The remaining 3 (30%) were judicially refused, which compares with 29% globally.⁵

⁵ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

One application was closed because the requesting State did not provide necessary information to locate the child.⁶

At 5%, the withdrawal rate was below the global average of 15%. It is to be noted that as of 30th June 2005, 2 (11%) applications were still pending, as opposed to the global average of 9%.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures.

Unlike in 1999, at 37%, judicial return was the most common outcome for an application. As can be seen, the proportion of judicial returns greatly increased from 9% in 1999 to 37% in 2003. On the other hand, at 26%, the proportion of voluntary returns compares with the 1999 proportion of 27%. In other words judicial returns are not being made at the 'expense' of voluntary returns. The overall return rate increased from 36% in 1999 to 63% in 2003.

A higher proportion of cases than in 1999 ended in judicial refusal, 16% compared with 9%. Interestingly, no application was rejected, as opposed to 4 (36%) in 1999. In 1999, there were no pending cases, no withdrawals and no outcomes classified as 'other'.

(b) Incoming access applications

In one access application access was agreed outside court proceedings, one application was withdrawn and one application was still pending as of 30th June 2005. No access application went to court, as opposed to the 1999 findings where all 3 access applications reached the courts. Globally in 2003, 13% of access applications ended in a voluntary settlement of access, 22% were withdrawn and 22% were still pending as of 30th June 2005.

12. The reasons for rejection

(a) Incoming return applications

Not applicable.

⁶ Recorded as 'other'.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal**(a) Incoming return applications⁷**

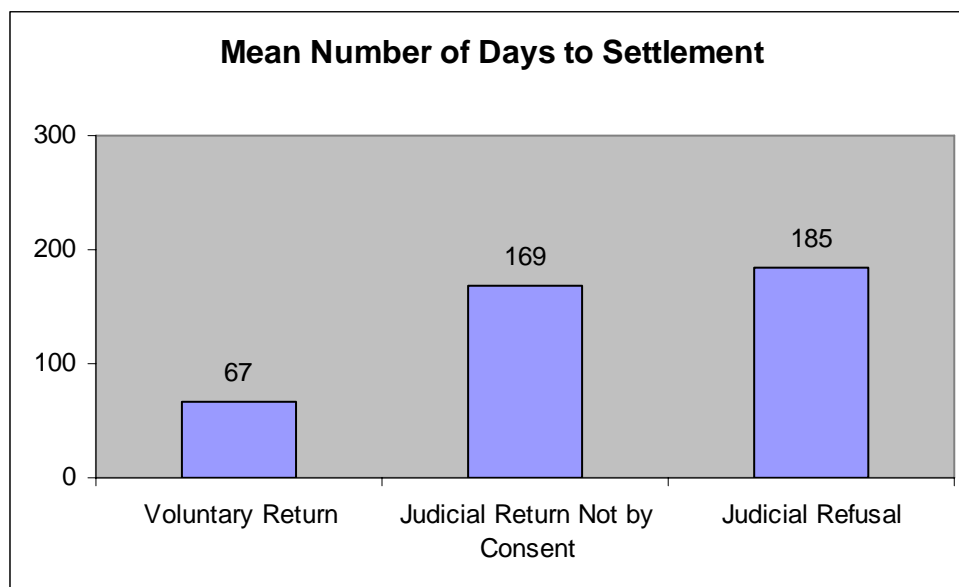
Of the 10 applications which went to court, 3 (30%) were refused, which compares with the 2003 global average of 29%. In 1999, of the 2 applications going to court, one (50%) was refused.

One application was refused on the basis of Article 13 *b*). Globally in 2003, 18% of refusals were based on this reason. The other refusal was based on 2 reasons, namely Article 13 *b*) and Article 13 *a*) (not exercising rights of custody). Therefore, when multiple grounds for refusal are taken into account, the other most commonly relied upon exception was Article 13 *b*).

In 1999, the reason for the one refusal was not stated.

14. The reasons for judicial refusals and the relationship of the taking person**(a) Incoming return applications**

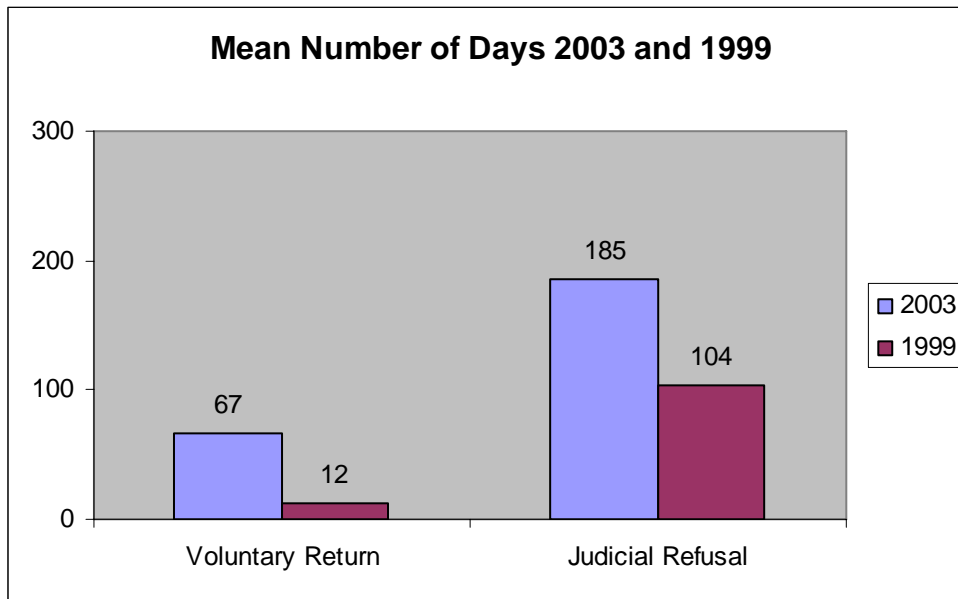
Both refusals involved fathers. Globally, 21% of refusals involved fathers whereas fathers accounted for 29% of taking persons overall.

Speed**15. The time between application and outcome****(a) Incoming return applications⁸**

Voluntary returns took on average 67 days to reach final outcome, compared with 98 days globally. The speed of judicial refusals, averaging 185 days was quicker than the global average of 233 days. Similarly, judicial returns took longer than the global average, 169 days compared with 143 days.

⁷ In one application the reason for refusal was not stated.

⁸ This information was not available in relation to one judicial return.



The above chart shows that applications which resulted in a judicial refusal were resolved on average slower than the one judicial refusal in 1999, 185 days compared with 104 days.

On the other hand, voluntary returns took a mean average of 67 days as against 12 days in 1999. There were no comparative findings re judicial returns.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return	Judicial Return Order	Judicial Refusal
Mean	67	169	185
Median	73	169	59
Minimum	5	1	35
Maximum	113	367	461
Number of cases	5	6	3

The above table demonstrates the variation in the time taken for an outcome. Interestingly, the fastest judicial return was made in one day, whereas the slowest judicial return took 367 days to reach an outcome. The fastest voluntary agreement was reached in 5 days, whereas the fastest judicial refusal took more than one month (35 days) to be resolved. The slowest judicial refusal took over a year (461 days) to resolve, though this was an appealed decision (see below).

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Refusal
Mean	47
Median	47
Minimum	35
Maximum	59
Number of cases	2

As can be seen, the exclusion of appealed cases significantly affects the overall mean average taken to reach the final outcome.

(b) Incoming access applications

In the one voluntary settlement of access the timing was not available.

16. Appeals

(a) Incoming return applications

Of the 10 cases which went to court, only one (10%) was appealed, compared with none in 1999. Globally in 2003, 22% of applications which went to court were appealed.

In the one application the appellate court upheld the first instance decision and the case resulted in a judicial refusal. It took 461 days to reach final outcome.

(b) Incoming access applications

Not applicable.

ROMANIA

The applications

1. The number of applications

Incoming Return Applications	7
Incoming Access Applications	0
Outgoing Return Applications	2
Outgoing Access Applications	0

According to the Central Authority for Romania, they received 7 incoming return applications but no incoming access applications in 2003. This is a decrease on the 10 incoming applications (of which 9 were for return and one for access) made in 1999. It is to be noted that the ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made 2 outgoing return applications¹ but no outgoing access applications in 2003. This is an increase on no outgoing applications made in 1999.

Altogether, the Central Authority handled 9 new applications in 2003, compared with 10 new applications in 1999.

The overall ratio of incoming to outgoing applications was 78% to 22%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
Germany	3	43%
Italy	2	29%
Austria	1	14%
France	1	14%
Total	7	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Germany	3 (43%)	1 (11%)
Italy	2 (29%)	0 (0%)
Austria	1 (14%)	0 (0%)
France	1 (14%)	1 (11%)
Hungary	0 (0%)	2 (22%)
USA	0 (0%)	2 (22%)
Ireland	0 (0%)	1 (11%)
Turkey	0 (0%)	1 (11%)
Iraq	0 (0%)	1 (11%)
Total	7 (100%)	9 (~100%)

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.*; the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.*; some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Romania received applications from 4 Contracting States, compared with 7 in 1999.

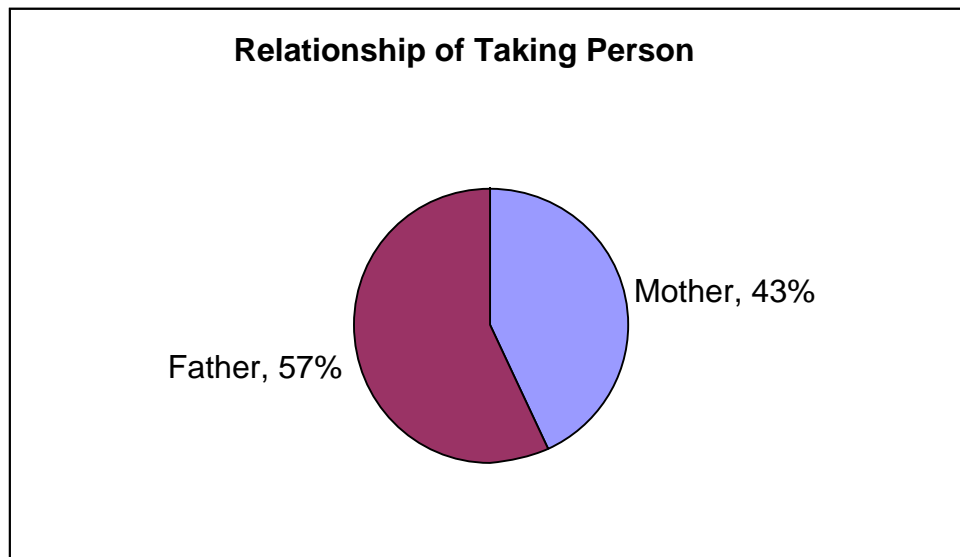
Germany made more applications than any other Contracting State, 3 (43%) compared with only one (11%) in 1999. Similarly, there was an increase in the number of applications from Italy, 2 (29%) compared with none in 1999. On the other hand, in 1999, there were multiple applications from Hungary and USA whereas in 2003 these Contracting States made no applications.

The taking person

3. The relationship of the taking person

Relationship of the Taking Person

	Number	Percent
Mother	3	43%
Father	4	57%
Total	7	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. At 43% of taking persons being mothers, this pattern is different from the 2003 global average of 68%. On the other hand, the 2003 findings are similar to the 1999 survey, where 33% of taking persons were recorded as female.

4. The status of the taking person as carer in relation to the child

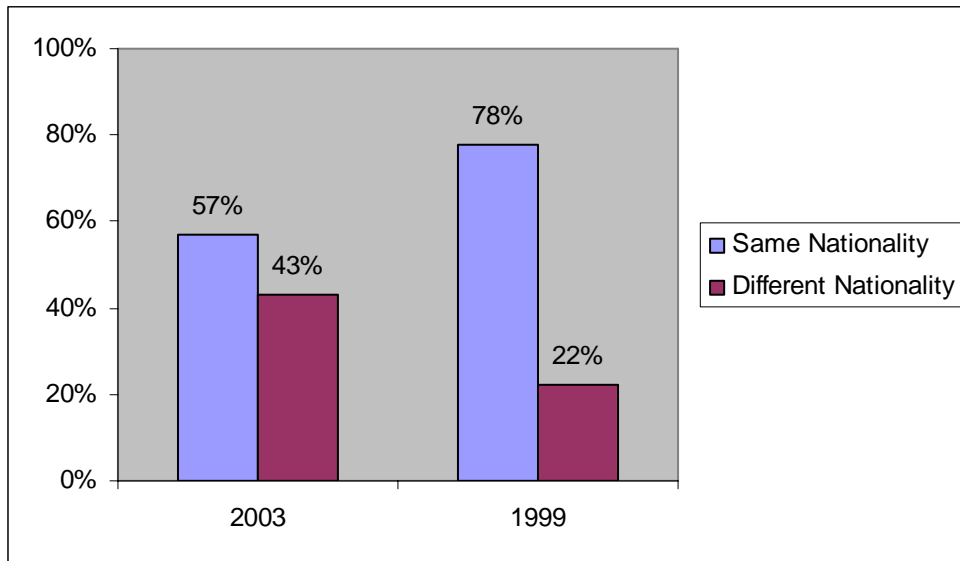
Romania did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	4	57%
Different Nationality	3	43%
Total	7	100%

This table shows that in 4 of the 7 (57%) applications, the taking person was a Romanian national. This compares with the global average of 55% of taking persons having the same nationality as the requested State.

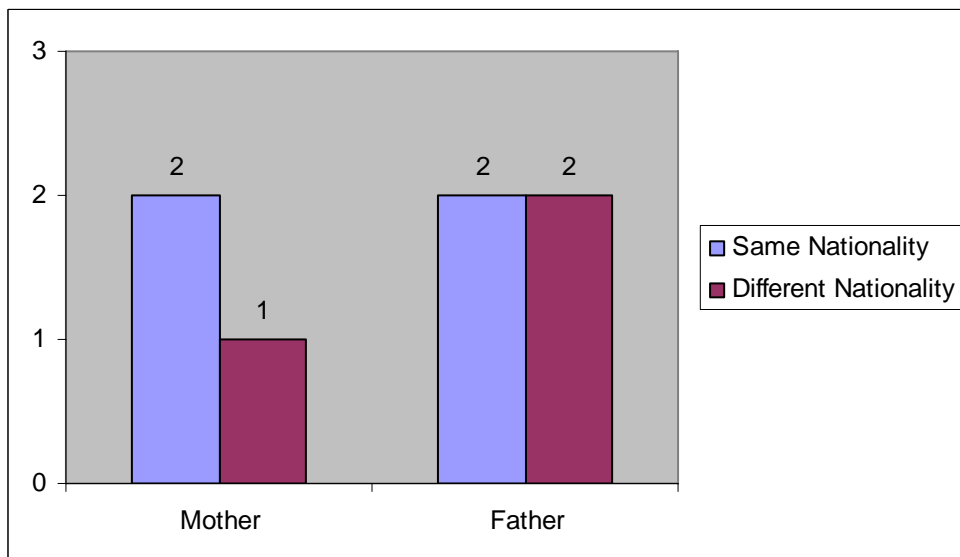


The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of taking persons with Romanian nationality dropped from 78% in 1999 to 57% in 2003.

6. The relationship and nationality of the taking person combined

Nationality and Relationship of the Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	2	2	4
Different Nationality	1	2	3
Total	3	4	7



As can be seen, in relation to mothers, the taking person was more often recorded as having the same nationality as the requested State, with 2 out of 3 (67%) mothers being Romanians. In relation to fathers, 2 out of 4 (50%) had Romanian nationality. These figures can be compared with the 2003 global averages where 54% of mothers and 55% of fathers were nationals of the requested State. The 1999 survey recorded that all female taking persons (3, 100%) were Romanian.

The children

7. The total number of children

There were 11 children involved in the 7 incoming return applications in 2003. This compares with a total of 11 children being involved in 9 return applications in 1999. In 2003, on average 1.57 children were involved in return applications. Proportionally, this represents an increase in the number of children per return application, compared with 1.22 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	3	43%
Sibling Group	4	57%
Total	7	100%

Number of Children

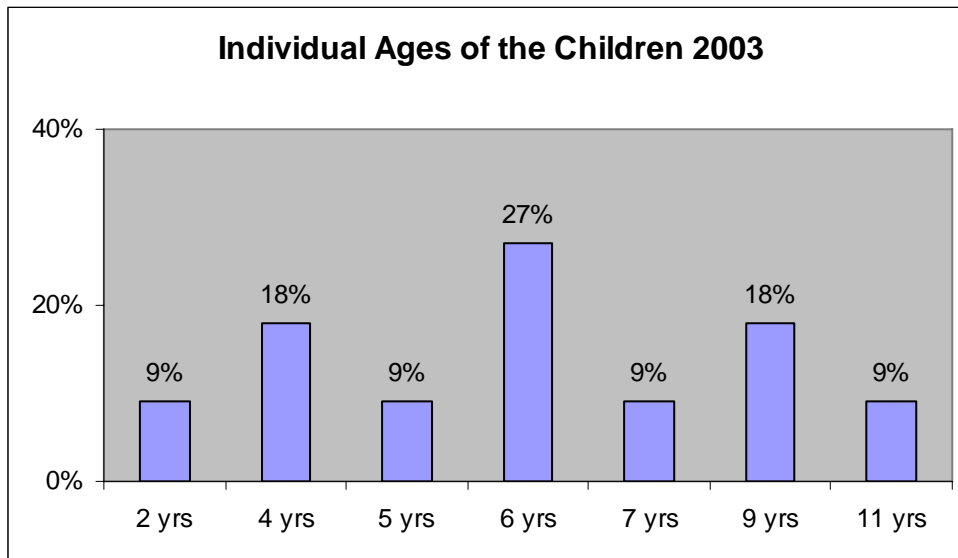
	Number	Percent
1 Child	3	43%
2 Children	4	57%
Total	7	100%

The above tables show that 3 out of 7 (43%) involved a single child. This is below the 2003 global average of 67% and a marked decrease on the 78% of applications involving a single child recorded in 1999. As in 1999, no application involved more than 2 siblings. Globally in 2003, it was found that 93% of applications concerned one or 2 children.

9. The age of the children

Individual Ages 2003

	Number	Percent
2 yrs	1	9%
4 yrs	2	18%
5 yrs	1	9%
6 yrs	3	27%
7 yrs	1	9%
9 yrs	2	18%
11 yrs	1	9%
Total	11	~100%

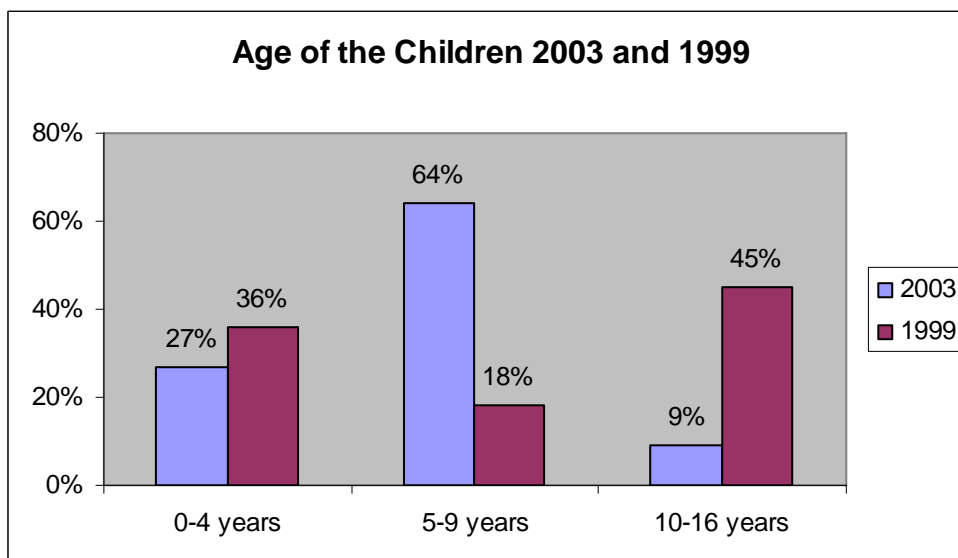


The above table and chart show the ages of the individual children involved. 63% of children were aged between 1 and 6 compared with the global average of 55%. Interestingly, there were no applications involving children under 2 years old.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	3	27%
5-9 years	7	64%
10-16 years	1	9%
Total	11	100%



Unlike in 1999, the largest proportion of children were aged between 5-9 years old. Indeed, of the 11 children included, 7 (64%) were aged between 5-9 years, compared with only 2 (18%) in 1999. This is higher than the 2003 global average of 42%. The number of children aged between 0-4 years and 10-16 years decreased from 36% to 27% and 45% to 9% respectively. These figures compare with the 2003 global averages of 36% and 22%.

10. The gender of the children

Gender of the Children

	Number	Percent
Female	5	45%
Male	6	55%
Total	11	100%

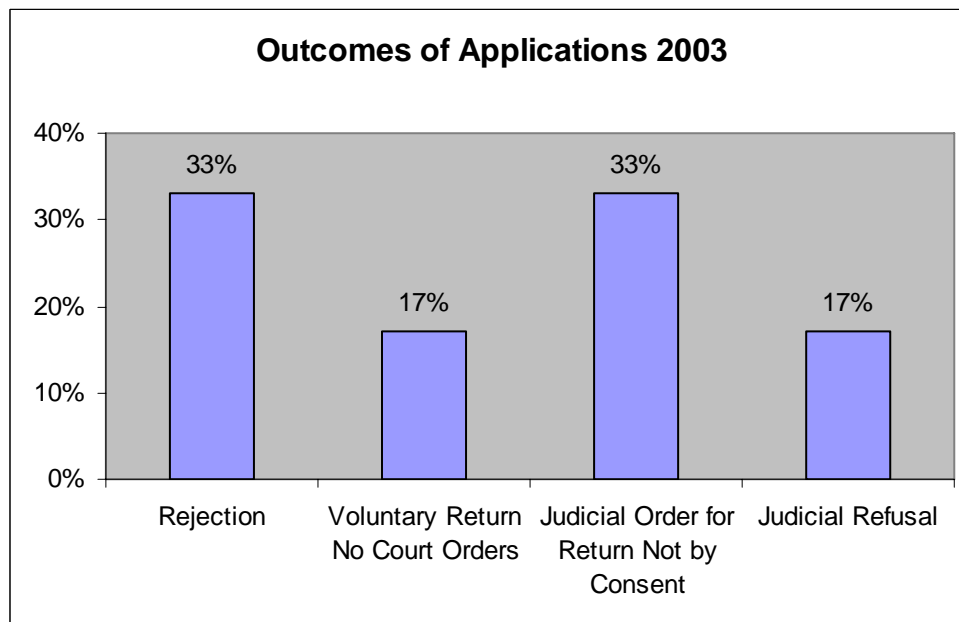
As can be seen, there were more male children involved in return applications than female children. In 1999, only 27% of the children were male. Globally in 2003, 49% of children were male and 51% were female.

The outcomes

11. Overall outcomes²

Outcome of Application

	Number	Percent
Rejection	2	33%
Voluntary Return No Court Orders	1	17%
Judicial Order for Return Not by Consent	2	33%
Judicial Refusal	1	17%
Total	6	100%



The above table and chart show the outcome of all applications in 2003.

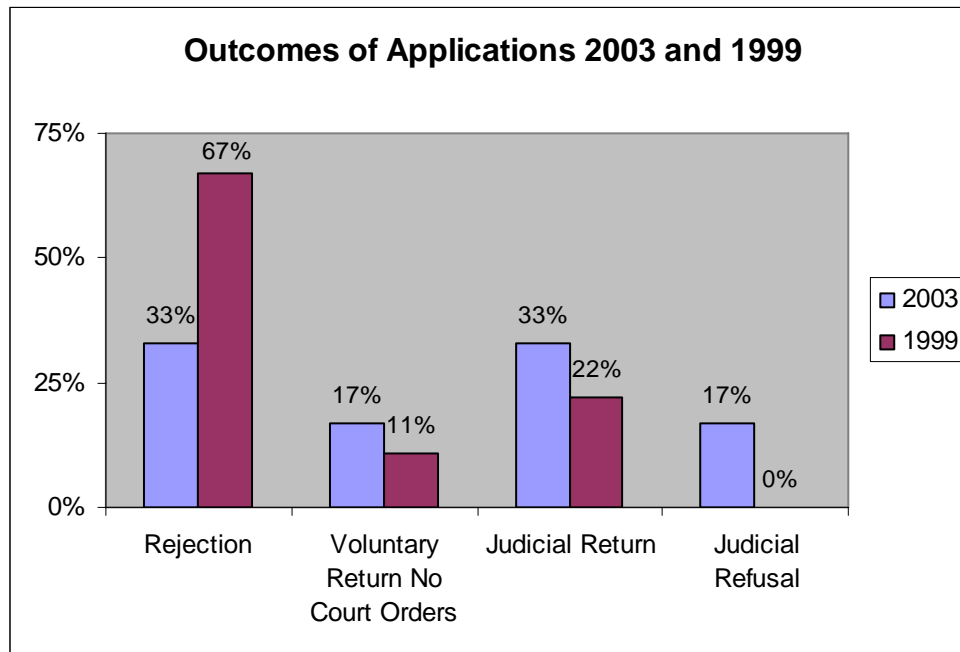
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Romania, however, in 2003 no judicial return orders were made with consent.

² This information was not available in one application.

2 out of 6 (33%) applications were rejected. This high rate can be compared with 6% globally. Combining voluntary and judicial returns the overall return rate was 50%, which is similar to the 2003 global average of 51%. The proportion of voluntary returns (1, 17%) and the overall refusal rate (1, 17%) compare with the 2003 global averages of 22% and 13% respectively.

Of the 3 cases going to court, 2 (67%) resulted in a judicial return compared with the global average of 66%³, while one (33%) application was judicially refused as opposed to 29% globally.

No applications were withdrawn and as of 30th June 2005 there were no pending cases.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures.

Interestingly, as in 1999, a high percentage of applications were rejected. Indeed, at a proportion of 33% in 2003 and 67% in 1999 these were much higher rejection rates than the 2003 and 1999 global averages of 6% and 11%. 3 out of 4 applications which were not rejected resulted in the return of the child and one application was judicially refused. In contrast, in 1999, all the cases which were not rejected ended in the return of the child.

12. The reasons for rejection

There were 2 applications rejected by Romania. Both cases were rejected on the basis that the child was not located. Interestingly, none of the 6 rejections in 1999 was based on this reason. Globally in 2003, 27% of rejections were based on this reason.

13. The reason for judicial refusal

There was one application refused, compared with none in 1999. The reason for the one judicial refusal was, however, not available.

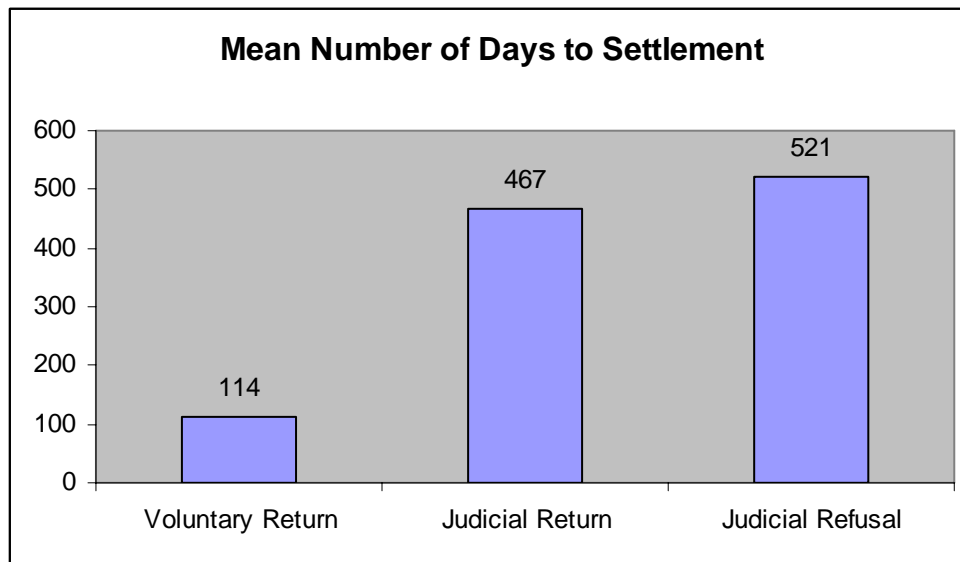
³ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

14. The reasons for judicial refusal and the relationship of the taking person

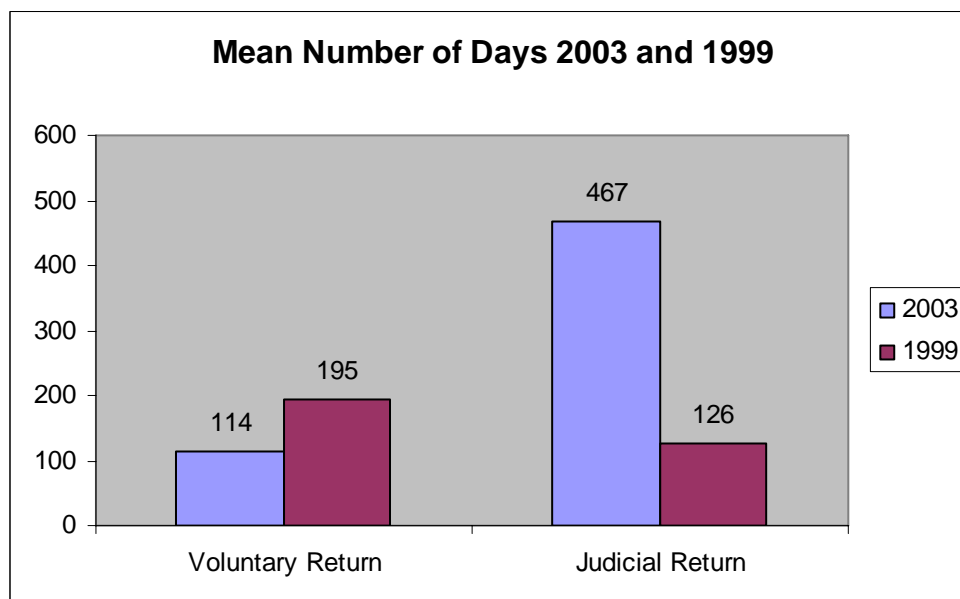
The taking person involved in the one application which was judicially refused was recorded as the mother of the child. Globally in 2003, 77% of refusals involved mothers, whereas mothers accounted for 68% of taking persons overall.

Speed

15. The time between application and outcome⁴



The application which resulted in a voluntary resolution was concluded in 114 days which is rather slower than the global average of 98 days. Timing was only available on one of the judicial returns which was resolved in 467 days. Globally in 2003, judicial returns took on average 143 days. Similarly, the one judicial refusal was concluded in 521 days, compared with the global average of 233 days.



⁴ This information was not available in relation to one judicial return.

The chart above shows that the application which resulted in a voluntary return was resolved quicker than in 1999, 114 days compared with 195 days. On the other hand, the one judicial return took considerably longer to resolve in 2003 taking 467 days compared with 126 days in 1999. It will be noted, however, that both cases for which we have information, were finally resolved on appeal (see below).

16. Appeals

Of the 3 cases which went to court, 2 (67%) were appealed, as opposed to none in 1999. This proportion is above the 2003 global average of 22%. In both applications the appellate court upheld the first instance decision. One application resulted in a judicial refusal and the other in a judicial return. The one case that resulted in a judicial refusal took 521 days to reach a final outcome. The other application took 467 days.

SLOVAKIA

1. The number of applications

Incoming Return Applications	8
Incoming Access Applications	1
Outgoing Return Applications	6
Outgoing Access Applications	3

According to the Central Authority for Slovakia, they received 8 incoming return applications and one incoming access application in 2003, making a total of 9 incoming applications. At 89% to 11%, the overall ratio of incoming return applications to access applications was slightly above the global average of 84% to 16%.

Additionally, they made 6 outgoing return applications¹ and 3 outgoing access applications in 2003.

Altogether, the Central Authority for Slovakia handled 18 new applications in 2003.

The overall ratio of incoming to outgoing applications was 50% to 50%.

Slovakia did not participate in the 1999 statistical survey as it was not then a Contracting State.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Hungary	2	25%
UK - England & Wales	2	25%
Czech Republic	1	13%
Germany	1	13%
Israel	1	13%
Italy	1	13%
Total	8	~100%

4 out of 8 (50%) applications (namely 2 from Hungary and one each from the Czech Republic and Germany) were made by neighbouring countries to Slovakia. 2 applications were also received from England & Wales.

Requesting States within the EU 2003

	Number	Percent
Hungary	2	29%
UK - England & Wales	2	29%
Czech Republic	1	14%
Germany	1	14%
Italy	1	14%
Total	7	100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.*; the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.*; some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

The above chart shows the number of applications received from countries that are now part of the European Union.² It is notable, that these countries account for 7 out of the 8 applications received by Slovakia, a total of 89% of all applications. The only application received from outside the Union was from Israel.

(b) Incoming access applications

The one access application was received from the neighbouring State, the Czech Republic.

The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of Taking Person

	Number	Percent
Mother	8	100%
Total	8	100%

All 8 taking persons were mothers. Globally, it was found that 68% of taking persons were the mother of the child.

Interestingly, the same pattern was recorded also in the neighbouring State, the Czech Republic, where all taking persons involved in the 11 incoming return applications were mothers.

(b) Incoming access applications

As in return applications, the respondent in the access application was the mother of the child. Globally in 2003, 79% respondents in access applications were mothers.

4. The status of the taking person as carer in relation to the child

Slovakia did not provide information on the status of the taking person as carer.

5. The nationality of the taking person / respondent

(a) Incoming return applications³

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	7	100%
Total	7	100%

Interestingly, all taking persons were Slovakian (including 2 taking persons with dual nationality), whereas globally, 55% of taking persons had the nationality of the requested State. Although numbers are small, it is interesting that all taking persons

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

³ In one application this information was not stated.

involved in applications to Slovakia were mothers with Slovakian nationality. Globally in 2003, 54% of mothers had the same nationality as the requested State.

(b) Incoming access applications

The respondent mother involved in the one access application was also Slovakian. Globally in 2003, 53% of respondents involved in access applications and 49% of respondents mothers involved in access applications had the nationality of the requested State.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

See 5(a) above.

(b) Incoming access applications

See 5(b) above.

The children

7. The total number of children

(a) Incoming return applications

There were 8 children involved in the 8 incoming return applications in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There was one child involved in the one incoming access application in 2003. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	8	100%
Total	8	100%

Number of Children

	Number	Percent
1 Child	8	100%
Total	8	100%

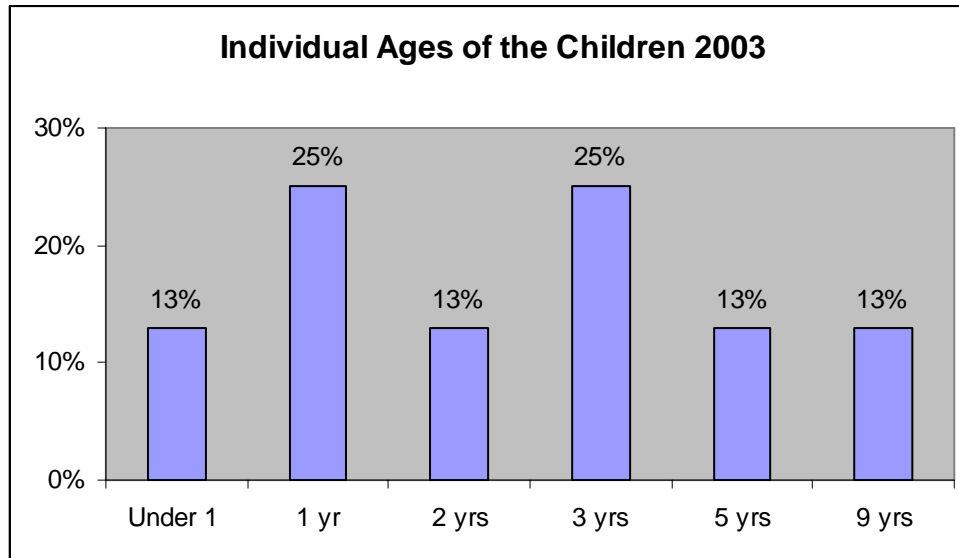
Interestingly, there were no sibling groups involved in the incoming return applications to Slovakia. Globally, it was found that 67% of all applications involved a single child

(b) Incoming access applications

The access application involved a single child. Globally in 2003, 71% of access applications involved a single child.

9. The age of the children**(a) Incoming return applications****Individual Ages 2003**

	Number	Percent
Under 1	1	13%
1 yr	2	25%
2 yrs	1	13%
3 yrs	2	25%
5 yrs	1	13%
9 yrs	1	13%
Total	8	~100%



The above table and chart show the ages of the individual children involved. As can be seen, a relatively high proportion of children, 76%, were aged between 1 and 6 years. This can be compared with the 2003 global average of 55%.

(b) Incoming access applications

The child involved in the access application was 2 years old. Globally in 2003, 35% of children involved in access applications were aged between 1 and 6 years.

10. The gender of the children**(a) Incoming return applications****Gender of the Children**

	Number	Percent
Female	1	13%
Male	7	88%
Total	8	~100%

The minority (13%) of female children contrasts markedly with the global average of 51%.

(b) Incoming access applications

The child involved in the access application was female. Globally, 45% of children involved in access applications were recorded as female.

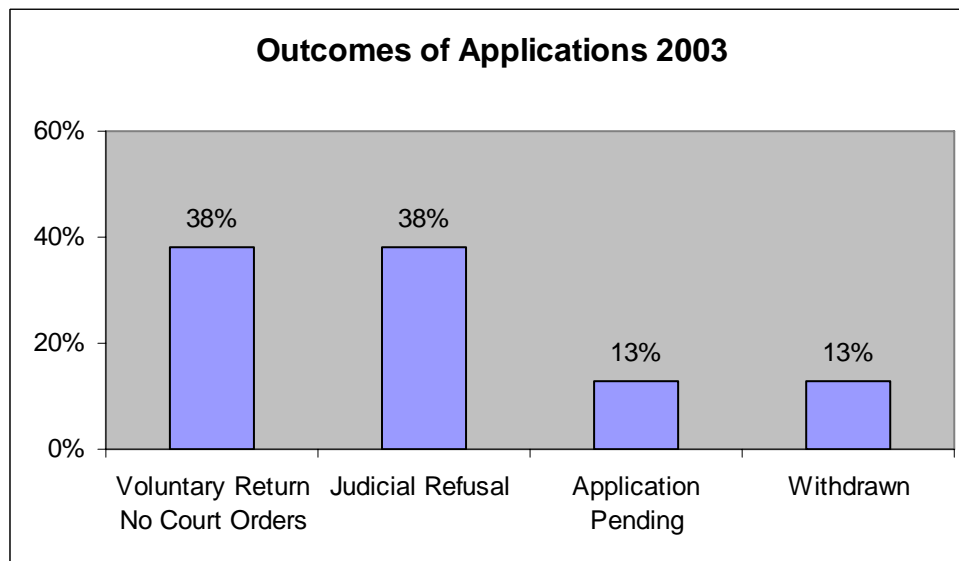
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	3	38%
Judicial Refusal	3	38%
Application Pending	1	13%
Withdrawn	1	13%
Total	8	~100%



The above table and chart show the outcome of all applications in 2003.

3 out of the 8 (38%) applications ended in a voluntary return of the child, which is higher than the global average of 22%. Nevertheless, on the other hand, no child was returned judicially and the overall return rate thus remained below the global average of 51%.

All 3 (100%) applications which went to court resulted in a judicial refusal, whereas globally, only 29% of applications going to court were judicially refused.⁴

At 13%, the withdrawal rate was in line with the 2003 global average of 15%. As of 30th June 2003, one (13%) application was still pending, which can be compared with 9% globally.

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

(b) Incoming access applications

The access application was still pending as of 30th June 2005. Globally, 22% of access applications were still pending at this cut-off date.

12. The reasons for rejection**(a) Incoming return applications**

Not applicable.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal**(a) Incoming return applications**

Reason for Judicial Refusal

	Number	Percent
Child Not Habitually Resident in Requesting State	1	33%
Art 13a Not Exercising Rights of Custody	1	33%
Art 13b	1	33%
Total	3	~100%

3 applications for return were refused. In one case the refusal was based on the fact that the child was not habitually resident in the requesting State. In the second, the refusal was based on Article 13 *a*) – the applicant was not exercising rights of custody. The exception relied upon in the remaining application was Article 13 *b*). Globally, 15%, 3% and 18% of refusals respectively were based on the above mentioned reasons.

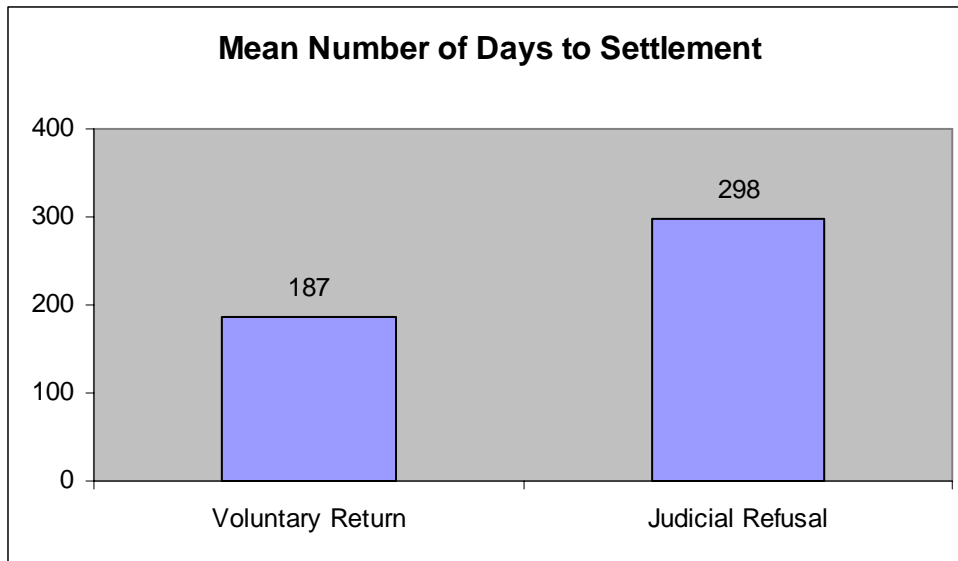
14. The reasons for judicial refusals and the relationship of the taking person**(a) Incoming return applications**

See 3(a) and 13(a) above.

Speed

15. The time between application and outcome

(a) Incoming return applications⁵



As can be seen, applications to Slovakia were generally handled slowly. Voluntary returns took on average 187 days to reach a final outcome, which is considerably longer than the global average of 98 days. Similarly, the speed of judicial refusals, averaging 298 days, was slower than the global average of 233 days.

Number of Days Taken to Reach Final Outcome: 2003 (including appealed cases)

	Voluntary Return No Court Orders	Judicial Refusal
Mean	187	298
Median	187	323
Minimum	86	197
Maximum	287	374
Number of cases	2	3

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Slovakia. As can be seen, the fastest voluntary return took almost 3 months (86 days) to reach an outcome, whereas the slowest voluntary return took more than 9 months (287 days) to reach the agreement. The fastest judicial refusal was made in 197 days, whereas the slowest took more than one year (374 days) to resolve.

Number of Days Taken to Reach Final Outcome: 2003 (excluding appealed cases)

	Judicial Refusal
Mean	197
Median	197
Minimum	197

⁵ This information was not available in relation to one voluntary return.

Maximum Number of cases	197 1
---------------------------------------	---------------------

As can be seen, the one unappealed judicial refusal took 197 days to resolve.

(b) Incoming access applications

Not applicable.

16. Appeals

(a) Incoming return applications

Of the 3 cases which went to court, 2 (67%) were appealed. This is a high proportion of appealed cases, compared with the global average of 22%. In one case the appellate court upheld the first instance decision to refuse a return. This application took 374 days to reach the final outcome. In the other application a return was ordered at first instance but was refused on appeal. This decision was made in 323 days.

(b) Incoming access applications

Not applicable.

SOUTH AFRICA

The applications

1. The number of applications

Incoming Return Applications	11
Incoming Access Applications	3
Outgoing Return Applications	12
Outgoing Access Applications	4

According to the Central Authority for South Africa, they received 11 incoming return applications and 3 incoming access applications in 2003, making a total of 14 incoming applications. This compares with 8 incoming applications (of which all were for return) received in 1999. The ratio of incoming return applications to access applications is 79% to 21%, as opposed to the global average of 84% to 16%.

Additionally, the Central Authority made 12 outgoing return applications¹ and 4 outgoing access applications in 2003. This can be compared with 11 return applications and no access applications made in 1999.

Altogether, the Central Authority handled 30 new applications in 2003, compared with 11 new applications in 1999.

The overall ratio of incoming to outgoing applications was 47% to 53%.

Beyond giving the number of applications South Africa did not participate in the 1999 survey so comparisons cannot further be made.

2. The Contracting States which made applications

(a) Incoming return applications

Requesting State		
	Number	Percent
UK - England & Wales	3	27%
Belgium	1	9%
Germany	1	9%
Netherlands	1	9%
New Zealand	1	9%
Portugal	1	9%
Sweden	1	9%
USA	1	9%
Zimbabwe	1	9%
Total	11	100%

South Africa received applications for return from 9 Contracting States.

Three out of 11 (27%) applications received came from England and Wales. No other Contracting State made more than one application to South Africa.

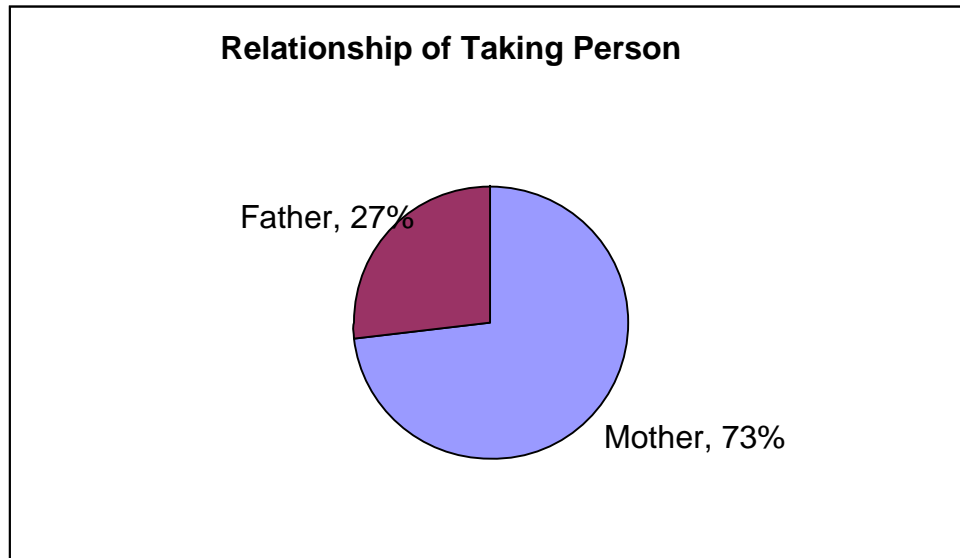
¹ This is the total number of applications based on what the Central Authority has told us, *i.e.*; the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.*; some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

(b) Incoming access applications

South Africa received one application from both Canada and the USA. Notwithstanding that it was not Contracting State to the Convention in 2003; Lebanon also made one application for access to South Africa.

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications****Relationship of the Taking Person**

	Number	Percent
Mother	8	73%
Father	3	27%
Total	11	100%



The above table and chart show that 73% of taking persons were mothers. This is similar to the global average of 68%.

(b) Incoming access applications

In 2 of the 3 (67%) access applications received by South Africa the respondents were fathers. This is markedly different from the 2003 global average, where 79% of respondents were recorded as the mother.

4. The status of the taking person as carer in relation to the child

South Africa did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

(a) Incoming return applications

Taking Person same Nationality as the Requested State

	Number	Percent
Same Nationality	4	36%
Different Nationality	7	64%
Total	11	100%

Globally, 55% of taking persons had the nationality of the requested State, while in applications to South Africa only 36% of taking persons were nationals of South Africa (including 3 taking persons with dual nationality).

(b) Incoming access applications

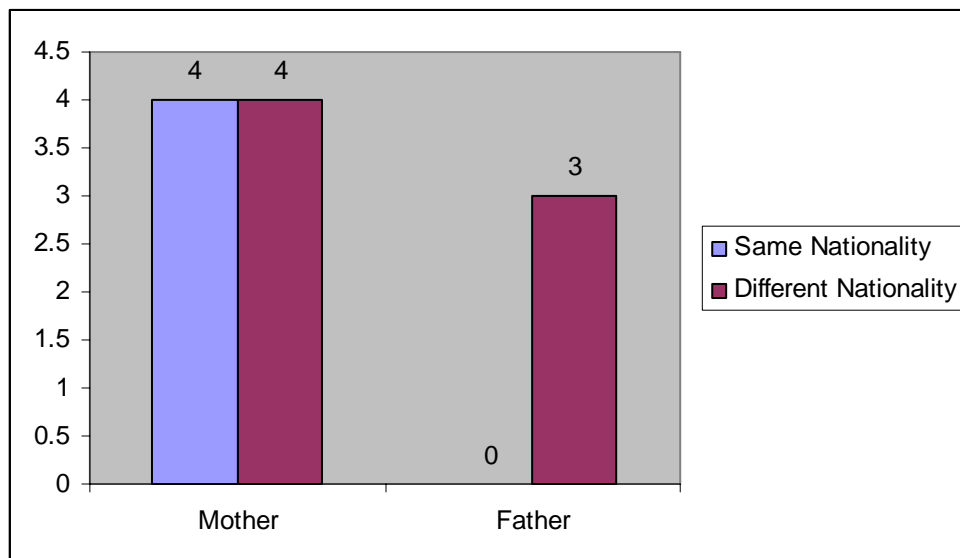
None of the 3 respondents in access applications to South Africa were South African. Globally, 53% of respondents had the same nationality as the requested State.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and the Relationship of the Taking Person to the Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	4	0	4
Different Nationality	4	3	7
Total	8	3	11



As can be seen from the table and chart above, 4 out of 8 (50%) mothers were South African. This compares with the 2003 global average of 54% of mothers having the nationality of the requested State. On the other hand, no fathers were nationals of the requested State, as opposed to 55% globally.

(b) Incoming access applications

See 3 and 5 above.

The children

7. The total number of children

(a) Incoming return applications

There were 12 children involved in the 11 incoming return applications in 2003. On average, 1.09 children were involved in the return applications received by South Africa, as opposed to 1.4 children globally.

(b) Incoming access applications

There were 5 children involved in the 3 incoming access applications in 2003. On average, 1.67 children were involved in the access applications received by South Africa, as opposed to 1.3 children globally.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	10	91%
Sibling Group	1	9%
Total	11	100%

Number of Children

	Number	Percent
1 Child	10	91%
2 Children	1	9%
Total	11	100%

Globally, 67% of applications involved single children, while in applications to South Africa the proportion was markedly higher at 91%. Nevertheless, the percentage of applications concerning one or 2 children, 100%, was similar to the global average of 93%.

(b) Incoming access applications

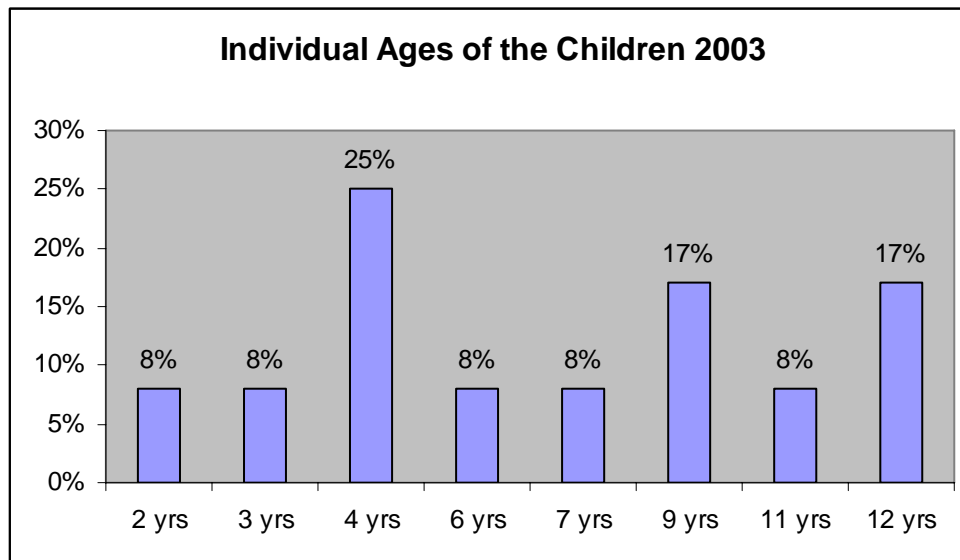
Only one of the 3 (33%) of access applications involved a single child, whereas globally 71% of access applications involved single children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
2 yrs	1	8%
3 yrs	1	8%
4 yrs	3	25%
6 yrs	1	8%
7 yrs	1	8%
9 yrs	2	17%
11 yrs	1	8%
12 yrs	2	17%
Total	12	100%



The above table and chart show the ages of the individual children involved. 49% of children were aged between 1 and 6 compared with the global average of 55%. 3 children (25%) were aged between 10 and 16, as opposed to 22% globally.

(b) Incoming access applications

There were no children younger than 5 years involved in the access applications to South Africa. 3 children concerned were aged between 5-9 years and the remaining 2 children were aged between 10-16 years. This compares with the global averages of 46% and 34% respectively.

10. The gender of the children**(a) Incoming return applications****Gender of the Children**

	Number	Percent
Female	3	25%
Male	9	75%
Total	12	100%

The proportion of female (25%) and male (75%) children differs significantly from global averages of 51% and 49% respectively.

(b) Incoming access applications

2 of the 5 (40%) children involved in the access applications were female. This is similar to the global average of 45%.

The outcomes**11. Overall outcomes****12. The reasons for rejection****13. The reasons for judicial refusal****14. The reasons for judicial refusal and the relationship of the taking person****Speed****15. The time between application and outcome****16. Appeals**

South Africa did not provide information on the outcomes, speed or appeals.

SPAIN

Incoming Return Applications	87
Incoming Access Applications	19
Outgoing Return Applications	38
Outgoing Access Applications	9

1. The number of applications

According to the Central Authority for Spain, they received 87 incoming return and 19 incoming access applications in 2003, making a total of 106 incoming applications. This is a marked increase on the 42 incoming applications (36 of which were return applications and 6 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 82% to 18%, compares with the global average of 84% to 16%.

Additionally, the Central Authority made 38 outgoing return applications and 9 outgoing access applications in 2003.¹ This can be compared with 27 return applications and 9 access applications made in 1999.

Altogether, the Central Authority handled 153 new applications in 2003, compared with 78 new applications in 1999.

The overall ratio of incoming to outgoing applications was 69% to 31%.

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.*; the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.*; some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
UK - England & Wales	21	24%
Argentina	11	13%
France	6	7%
Germany	6	7%
Netherlands	6	7%
Belgium	5	6%
Ecuador	5	6%
Colombia	3	3%
Ireland	3	3%
Panama	2	2%
Portugal	2	2%
Switzerland	2	2%
Venezuela	2	2%
Australia	1	1%
Austria	1	1%
Cyprus	1	1%
Denmark	1	1%
Hungary	1	1%
Israel	1	1%
Italy	1	1%
Luxembourg	1	1%
Peru	1	1%
UK - Nth Ireland	1	1%
UK- Scotland	1	1%
USA	1	1%
Uruguay	1	1%
Total	87	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
UK - England & Wales	21 (24%)	9 (25%)
Argentina	11 (13%)	1 (3%)
France	6 (7%)	2 (6%)
Germany	6 (7%)	3 (8%)
Netherlands	6 (7%)	1 (3%)
Belgium	5 (6%)	0 (0%)
Ecuador	5 (6%)	2 (6%)
Colombia	3 (3%)	1 (3%)
Ireland	3 (3%)	0 (0%)
Panama	2 (2%)	1 (3%)
Portugal	2 (2%)	1 (3%)
Switzerland	2 (2%)	5 (14%)
Venezuela	2 (2%)	0 (0%)
Australia	1 (1%)	0 (0%)
Austria	1 (1%)	0 (0%)
Cyprus	1 (1%)	0 (0%)
Denmark	1 (1%)	0 (0%)
Hungary	1 (1%)	0 (0%)
Israel	1 (1%)	0 (0%)
Italy	1 (1%)	5 (14%)
Luxembourg	1 (1%)	0 (0%)
Peru	1 (1%)	0 (0%)
UK - Northern Ireland	1 (1%)	0 (0%)
UK - Scotland	1 (1%)	0 (0%)
USA	1 (1%)	2 (6%)
Uruguay	1 (1%)	0 (0%)
Norway	0 (0%)	2 (6%)
Sweden	0 (0%)	1 (3%)
Total	87 (~100%)	36 (100%)

Spain received applications for return from 24 Contracting States, compared with 14 Contracting States in 1999.

As in 1999, the England & Wales made more applications (24%) than any other Contracting State, but there was a marked increase in numbers from 9 in 1999 to 21 in 2003. 11 applications (13%) came from Argentina, compared with only one application (3%) in 1999. No applications were received from Norway and Sweden compared with 2 and one respectively in 1999. The number of applications from Italy, USA and Switzerland decreased. Conversely, the number of applications from Belgium, Ecuador, France, Germany and Netherlands increased.

Requesting States within the EU 2003

	Number	Percent
UK - England & Wales	21	37%
France	6	11%
Germany	6	11%
Netherlands	6	11%
Belgium	5	9%
Ireland	3	5%
Portugal	2	4%
Austria	1	2%
Cyprus	1	2%
Denmark	1	2%
Hungary	1	2%
Italy	1	2%
Luxembourg	1	2%
UK - Nth Ireland	1	2%
UK- Scotland	1	2%
Total	57	~100%

The above chart shows the number of applications received from countries that are now part of the EU.² These countries account for 57 of the 87 applications received by Spain, a total proportion of nearly 66% of all cases. This can be compared with the 1999 survey where EU countries made up a total of 24 of the 36 applications (67%). The highest number, 21 (37%), of the EU applications in 2003 came from England & Wales.

(b) Incoming access applications

² This figure is based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

Requesting States 2003

	Number	Percent
UK - England & Wales	5	26%
Italy	2	11%
Argentina	1	5%
Belgium	1	5%
Denmark	1	5%
Ecuador	1	5%
Israel	1	5%
Netherlands	1	5%
Norway	1	5%
Panama	1	5%
Romania	1	5%
Sweden	1	5%
Switzerland	1	5%
Venezuela	1	5%
Total	19	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
UK - England & Wales	5 (26%)	2 (33%)
Italy	2 (11%)	0 (0%)
Argentina	1 (5%)	0 (0%)
Belgium	1 (5%)	0 (0%)
Denmark	1 (5%)	0 (0%)
Ecuador	1 (5%)	0 (0%)
Israel	1 (5%)	0 (0%)
Netherlands	1 (5%)	0 (0%)
Norway	1 (5%)	0 (0%)
Romania	1 (5%)	0 (0%)
Panama	1 (5%)	0 (0%)
Sweden	1 (5%)	0 (0%)
Switzerland	1 (5%)	1 (17%)
Venezuela	1 (5%)	0 (0%)
Germany	0 (0%)	3 (50%)
Total	19 (~100%)	6 (100%)

Spain received 19 access applications from 13 Contracting States. The highest number of applications came from England & Wales (5, 26%). Interestingly, there was no access application from Germany, as opposed to 3 applications (50%) in 1999. In contrast, Italy made 2 applications (11%) compared with none in 1999. No other State made more than one application.

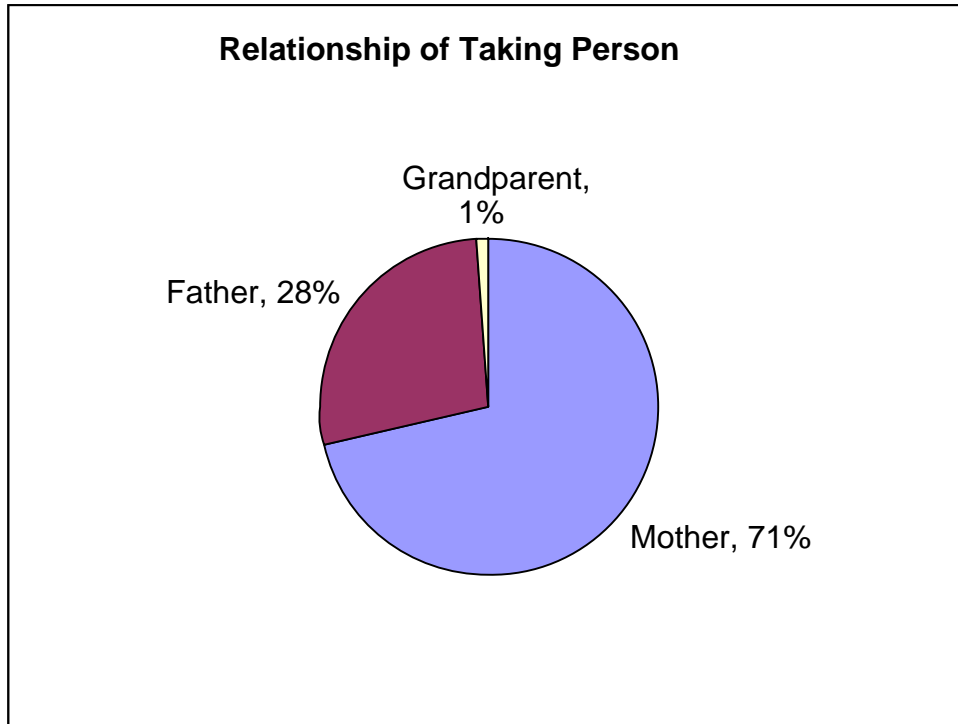
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	62	71%
Father	24	28%
Grandparent	1	1%
Total	87	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 71% of taking persons were mothers. This is slightly higher than the global average of 68%, and can be compared with the 1999 survey,³ where 61% of taking persons were recorded as female.

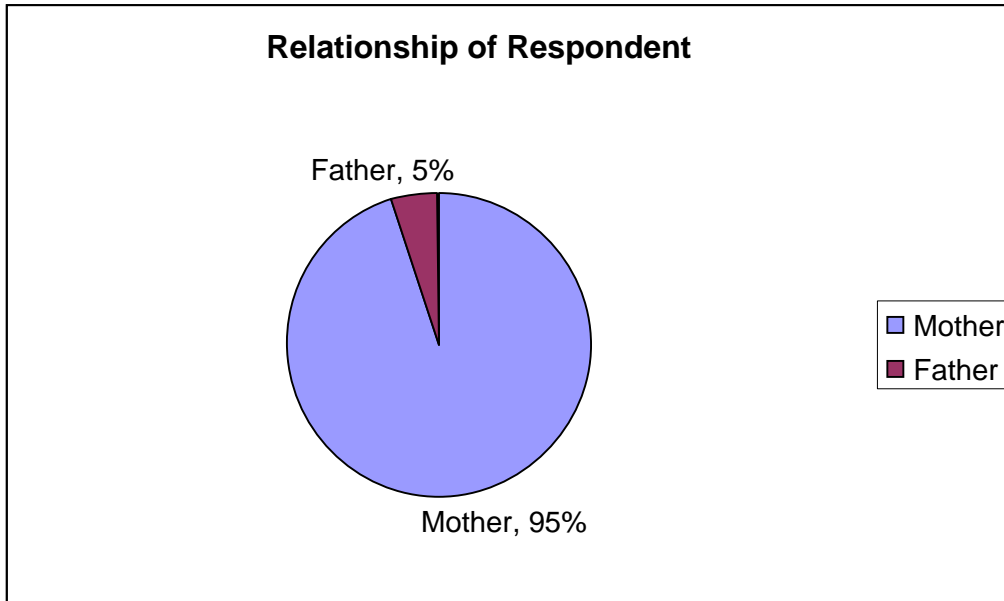
In one application the taking person was the child's grandparent.

(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	18	95%
Father	1	5%
Total	19	100%

³ Insofar as 'female' can normally be taken to mean 'mother'.



In 18 (95%) access applications the respondent was the mother, as opposed to the 2003 global average of 79%. In 1999, 83% of respondents were recorded as female.

4. The status of the taking person as carer in relation to the child

Spain did not provide information on the status of the taking person as carer.

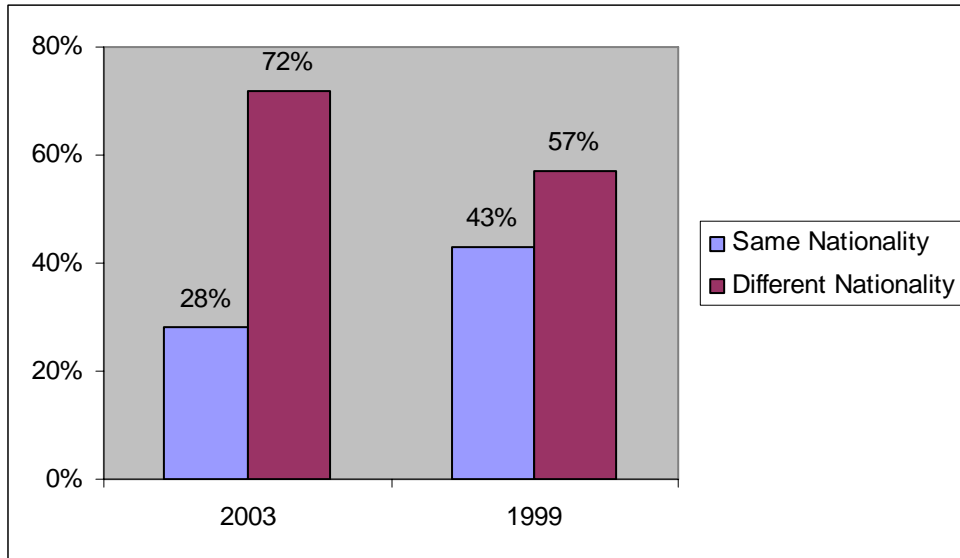
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	24	28%
Different Nationality	63	72%
Total	87	100%

At 28%, the proportion of taking persons being Spanish citizens (including 5 taking persons with dual nationality) was appreciably lower than the 2003 global average of 55%.



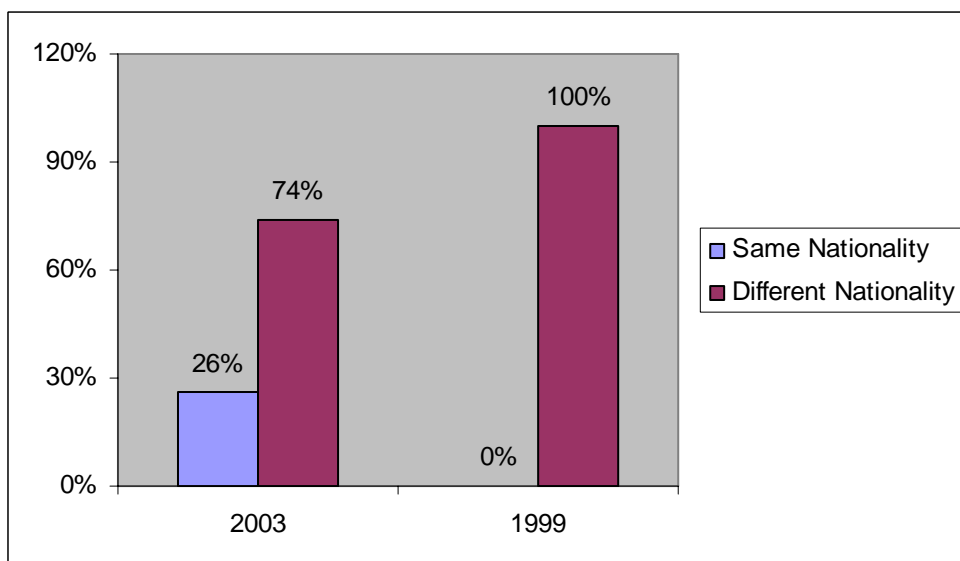
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Spanish citizens taking children to Spain decreased from 43% in 1999 to 28% in 2003. This compares with the 2003 global average of 55%.

(b) Incoming access applications

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	5	26%
Different Nationality	14	74%
Total	19	100%

At 26%, the proportion of respondents being Spanish citizens was appreciably lower than the 2003 global average of 53%.



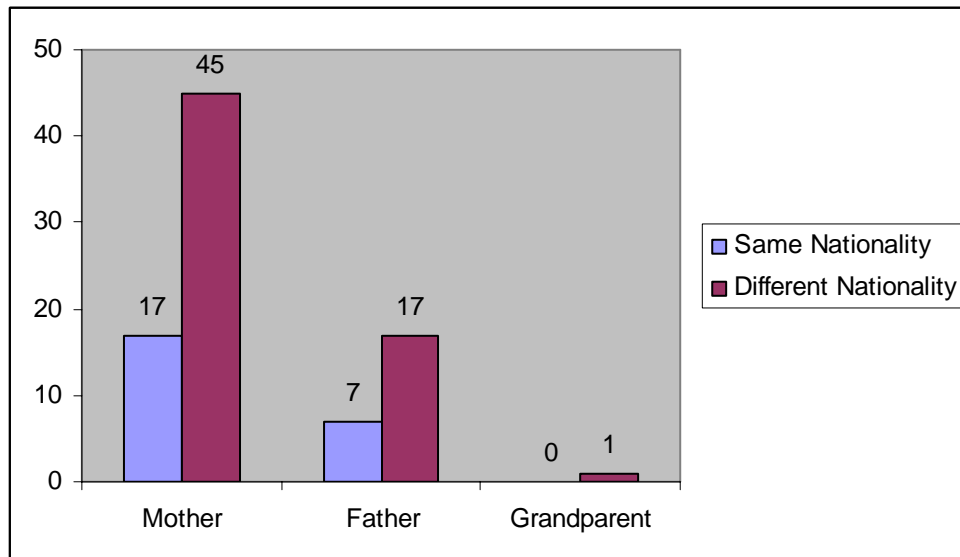
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having Spanish nationality increased from 0% in 1999 to 26% in 2003.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child			Total
	Mother	Father	Grandparent	
Same Nationality	17	7	0	24
Different Nationality	45	17	1	63
Total	62	24	1	87

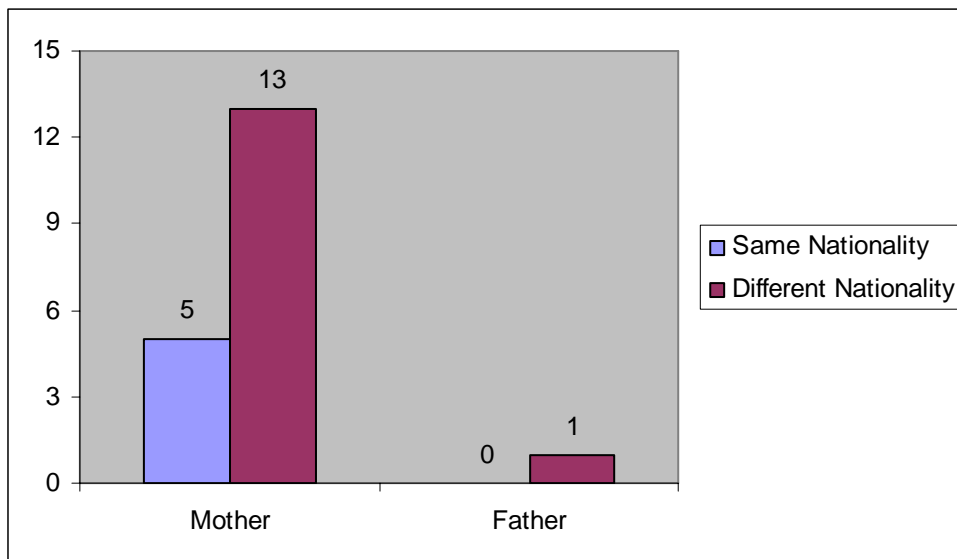


Surprisingly, in relation to both mothers and fathers, the taking person was more often recorded as having a different nationality than the requested State. Indeed, only 17 out of 62 (27%) mothers and 7 out of 24 fathers (29%) were Spanish. This can be compared with the 2003 global average where 54% of mothers and 55% of fathers had the nationality of the requested State. The 1999 survey recorded that 52% of female taking persons and 29% of male taking persons were Spanish.

(b) Incoming access applications

Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	5	0	5
Different Nationality	13	1	14
Total	18	1	19



In the access applications received by Spain, only 5 out of 18 (28%) respondent mothers were Spanish nationals. No respondent father had Spanish nationality. This can be compared with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State. In 1999, none of the respondents in the access applications were Spanish.

The children

7. The total number of children

(a) Incoming return applications

There were 119 children involved in the 87 incoming return applications in 2003. This can be compared with the total of 47 children being involved in the 36 return applications in 1999. In 2003, on average 1.37 children were involved in return applications. Proportionally, this is a slight increase in the average number (1.3) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 26 children involved in the 19 incoming access applications in 2003. This compares with the total of 8 children being involved in the 6 access applications in 1999. In 2003, on average 1.37 children were involved in access applications. Proportionally, this represents a slight increase in the average

number (1.33) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	60	69%
Sibling Group	27	31%
Total	87	100%

Number of Children

	Number	Percent
1 Child	60	69%
2 Children	22	25%
3 Children	5	6%
Total	87	100%

The proportion of single children involved in applications for return, 69%, compares with the global average of 67% and is similar to the 1999 proportion of 72%. Also, like the 2003 global average of 93% and the 1999 average of 97%, the vast majority of applications (94%) involved no more than 2 children.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	14	74%
Sibling Group	5	26%
Total	19	100%

Number of Children

	Number	Percent
1 Child	14	74%
2 Children	3	16%
3 Children	2	11%
Total	19	~100%

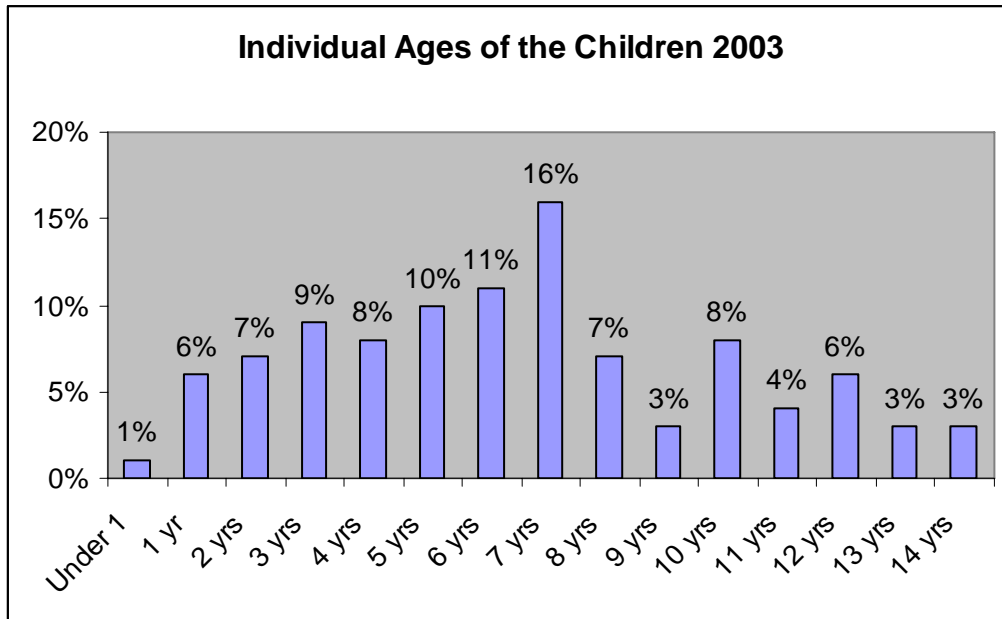
For access applications the proportion of single children, 74%, follows the global average of 71%. In 1999, the proportion of single children involved in access applications to Spain was 67%.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
Under 1	1	1%
1 yr	7	6%
2 yrs	8	7%
3 yrs	11	9%
4 yrs	9	8%
5 yrs	12	10%
6 yrs	13	11%
7 yrs	19	16%
8 yrs	8	7%
9 yrs	4	3%
10 yrs	9	8%
11 yrs	5	4%
12 yrs	7	6%
13 yrs	3	3%
14 yrs	3	3%
Total	119	~100%

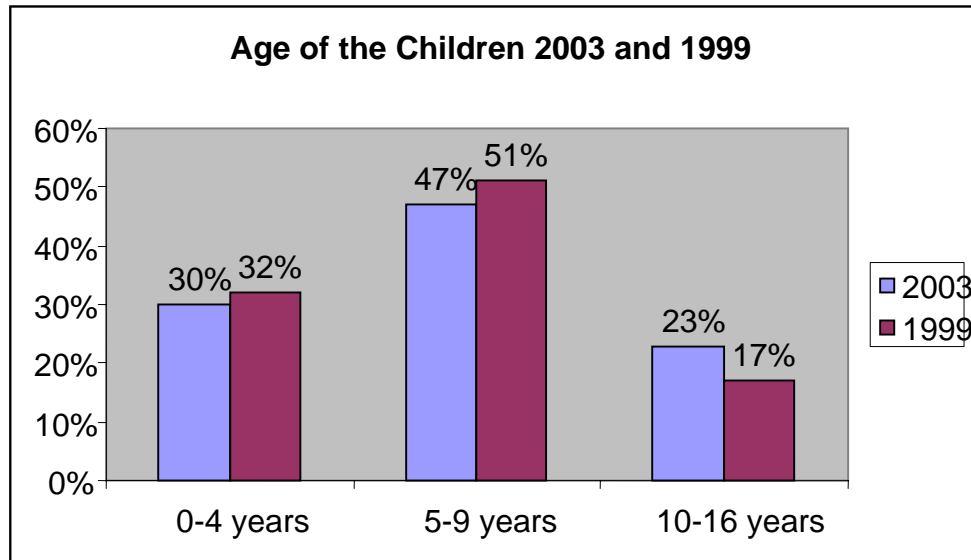


The above table and chart show the ages of the individual children involved. Interestingly, 19 children (16%) were aged 7 years old. 51% of children were aged between ages 1 and 6, compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

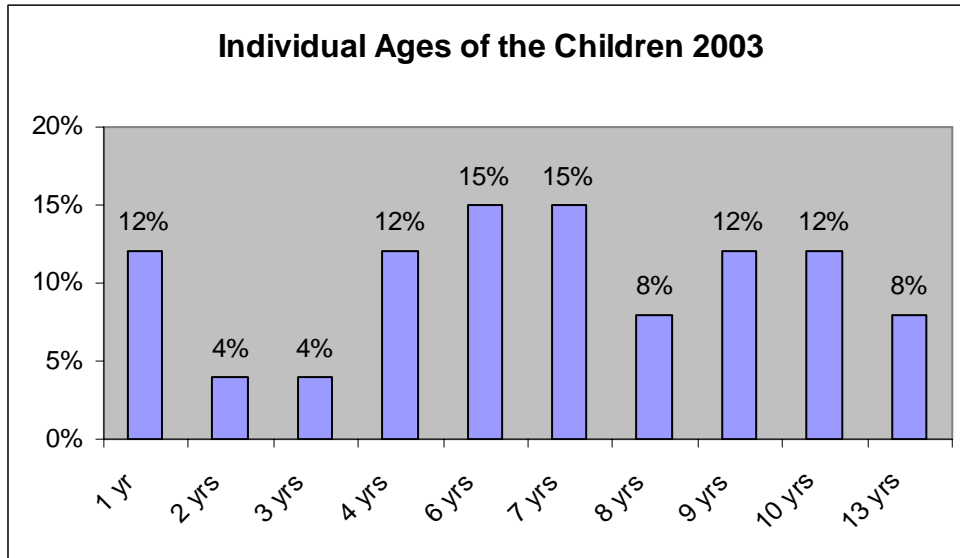
	Number	Percent
0-4 years	36	30%
5-9 years	56	47%
10-16 years	27	23%
Total	119	100%



As in 1999, the largest percentage of children were aged between 5-9 years old. Indeed, of the 119 children included, 56 (47%) were aged between 5-9 years. 30% of children were aged between 0-4 years which compares with the proportion of 32% in 1999. The proportion in the two lower age band groups is a little different to the 2003 global averages of 42% and 36% respectively. The proportion of older children, aged between 10 and 16 years old, increased from 17% in 1999 to 23% in 2003 which is similar to the global average of 22%.

(b) Incoming access applications**Individual Ages 2003**

	Number	Percent
1 yr	3	12%
2 yrs	1	4%
3 yrs	1	4%
4 yrs	3	12%
6 yrs	4	15%
7 yrs	4	15%
8 yrs	2	8%
9 yrs	3	12%
10 yrs	3	12%
13 yrs	2	8%
Total	26	~100%

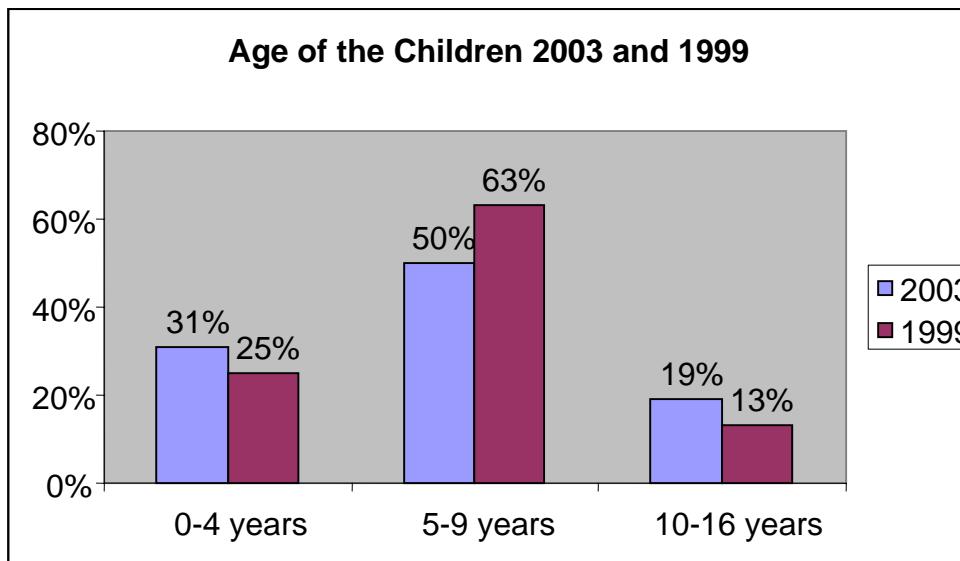


The above chart and table show ages of the individual children involved. 47% of access applications involved 1 – 6 years olds, compared with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	8	31%
5-9 years	13	50%
10-16 years	5	19%
Total	26	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 50% of children were aged between 5 and 9 years old compared with 63% in 1999. Globally in 2003, 46% of children were aged

between 5 and 9 years. The number of children aged between 0-4 years and 10-16 years have both slightly increased from 25% to 31% and 13% to 19% respectively. These figures can be contrasted to the 2003 global averages of 20% and 34%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	66	55%
Male	53	45%
Total	119	100%

As can be seen, there were more female children (55%) involved in return applications than male children (45%). Globally in 2003, 49% of children were male and 51% were female. In 1999, 57% of children involved in the return applications to Spain were female.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	15	58%
Male	11	42%
Total	26	100%

58% of children involved in access applications to Spain were female. This can be compared with the 2003 global average of 45%. In 1999, only 13% were female.

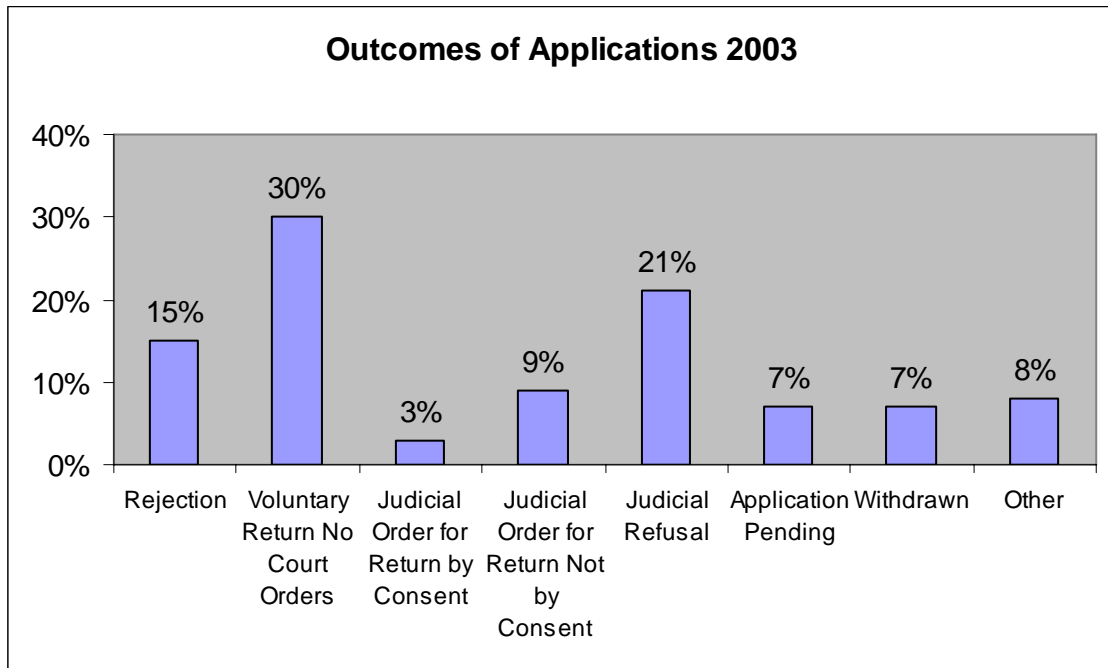
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	13	15%
Voluntary Return No Court Orders	26	30%
Judicial Order for Return by Consent	3	3%
Judicial Order for Return Not by Consent	8	9%
Judicial Refusal	18	21%
Application Pending	6	7%
Withdrawn	6	7%
Other	7	8%
Total	87	100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Spain, in 2003, 3 (3%) judicial return orders were made with consent and 8 (9%) without consent.

Overall, 42% of applications made to Spain ended in the child being returned either by a court order or voluntarily, which is below the global average return rate of 51%. Similarly, at 12%, the proportion of judicial returns is well below the global average of 29%. On the other hand, the proportion of voluntary returns, 30%, is above the global average of 22%.

29 applications (33%) went to court. Of these cases, only 38% resulted in return being ordered and 62% in judicial refusal. This can be compared with the 2003 global averages of 66% and 29% respectively.⁴

At 7%, the withdrawal rate is below the global average of 15%. As of 30th June 2005, 6 (7%) applications were still pending, as opposed to the global average of 9%.

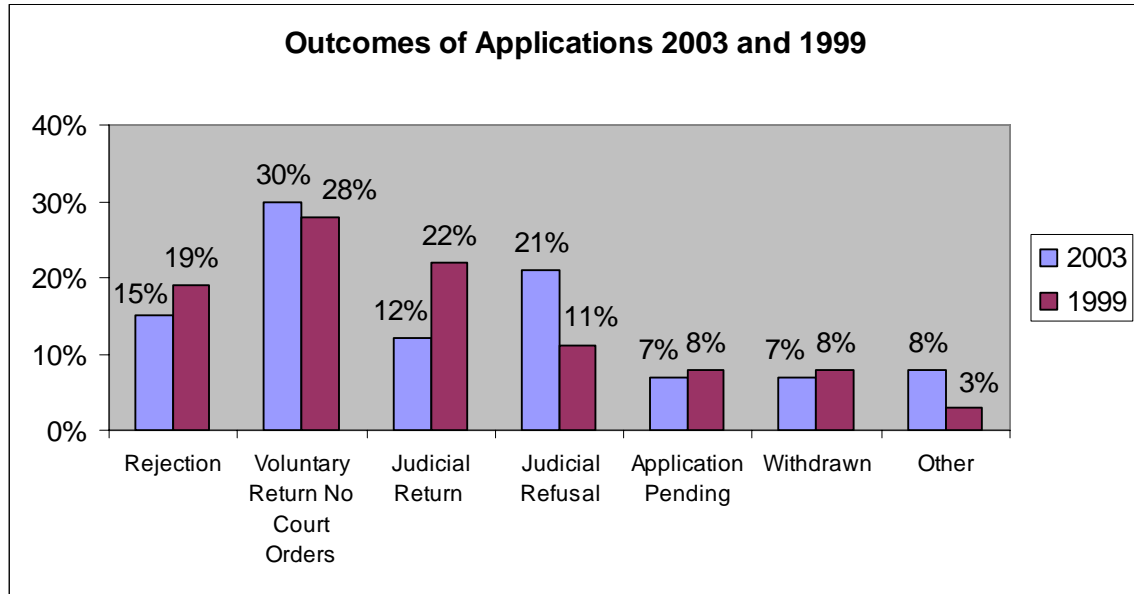
3 applications resulted in an agreement being made between the parties that the minors involved would remain in Spain.⁵ In one application, the child was 're-abducted' by the applicant back to the requesting State.⁶ In one application, the child was recovered by the applicant in a third State.⁷

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁵ All 3 outcomes classified as 'other'.

⁶ Recorded as 'other' outcome.

⁷ Recorded as 'other' outcome.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

As in 1999, at 30%, voluntary return was the most common outcome for an application. As can be seen, the proportion of judicial returns decreased from 22% in 1999 to 12% in 2003. Correspondingly, the proportion of judicial refusals increased from 11% in 1999 to 21% in 2003. Consequently, the overall return rate decreased, from 50% in 1999 to 42% in 2003.

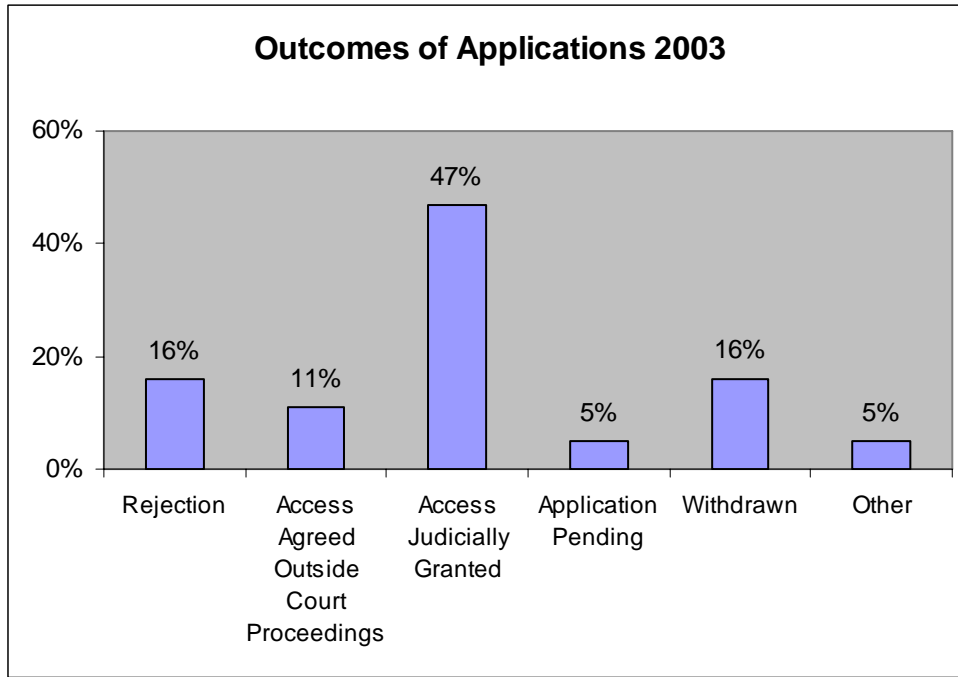
The rejection rate in Spain fell from 19% in 1999 to 15% in 2003. This is a little closer, though still above, the 2003 global average for rejections of 6%.

At 7%, the proportion of pending applications and the withdrawal rate compare with the 1999 findings of 8%. A higher proportion of cases than in 1999 ended in the outcome being classified as 'other'.

(b) Incoming access applications

Outcome of Application

	Number	Percent
Rejection	3	16%
Access Agreed Outside Court Proceedings	2	11%
Access Judicially Granted	9	47%
Application Pending	1	5%
Withdrawn	3	16%
Other	1	5%
Total	19	100%



11 out of 19 (58%) of applications ended with access being granted or agreed, compared with 67% in 1999. This is markedly above the 2003 global average of 30%. The proportion of applications in which access was judicially granted, 47%, compares with the 1999 proportion of 50%. On the other hand, there was a slight decrease in voluntary settlements of access, from 17% in 1999 to 11% in 2003. This compares with the 2003 global averages of 17% and 13% respectively.

All the applications in which access was granted were resolved as Hague applications. The withdrawal rate (16%) compares with the 1999 proportion of 17%. On the other hand, at 5%, the proportion of pending applications was considerably lower than in 1999 (17%). Globally in 2003, 22% of access applications were withdrawn and the same proportion was still pending as of 30th June 2005.

12. The reasons for rejection

(a) Incoming return applications

Reason for Rejection by the Central Authority

	Number	Percent
Child Located in Another Country	1	8%
Child Not Located	8	62%
Applicant Had No Rights of Custody	2	15%
Other	2	15%
Total	13	100%

Spain rejected a relatively high number of cases, 13 (15%) applications as against the global average of 6%. In 1999, 7 (19%) of applications were rejected. As in 1999, the most common reason for rejection was that the child was not located (8, 62%). Globally in 2003, 27% of rejected applications were rejected for

this reason. 2 applications, 15%, were rejected because the applicant had no rights of custody and one, 8%, because the child concerned was located in another country.

The remaining 2 rejected applications were recorded as 'other'. In both of these cases the child was not habitually resident in the requesting State. Indeed, in one the rejection was because the child was habitually resident in Spain.

(b) Incoming access applications

3 out of 19 (16%) of access applications were rejected as opposed to none in 1999. Globally in 2003, 13% of access applications were rejected.

One (33%) application was rejected because the child involved was not located. Globally, 10% of rejections were based on this reason. The other application was rejected because the applicant had no rights of access and the final rejection was based on the fact that the habitual residence of the child was in Spain.⁸

13. The reasons for judicial refusal

(a) Incoming return applications

Overall Reason for Judicial Refusal per Application

	Number	Percent
Applicant had No Rights of Custody	1	6%
Art 12	2	11%
Article 13 a Consent	2	11%
Child's Objections	3	17%
More than one reason	10	56%
Total	18	~100%

Bases of Multiple Reasons for Judicial Refusal

	Number	Percent
Child Not Habitually Resident in Requesting State	1	4%
Applicant had No Rights of Custody	3	11%
Art 12	8	29%
Art 13a Not Exercising Rights of Custody	5	18%
Article 13 a Consent	5	18%
Child's Objections	6	21%
Total	28	~100%

Of the 29 applications which went to court, 18 (62%) were refused, which is an increase on the 4 out of 12 (33%) applications refused in 1999 and well above the 2003 global average of 29%. Interestingly, more than half (11, 61%) of

⁸ Both recorded as 'other'.

refusals were based on multiple reasons.⁹ In 1999, in only 2 (29%) applications the refusal was based on more than one reason. Spain is second only to Chile in relying with any frequency on multiple reasons for refusal.

The most commonly recorded sole reason for refusing applications was the child's objections (3, 18%). The other most commonly relied upon exception was Art. 13a consent (2, 12%). One application (6%) was refused because applicant had no rights of custody and one refusal was based on Art. 12.

When multiple grounds for refusal are taken into account, child's objections were relied upon in whole or in part in 8 cases, Art 13a consent in 7 cases, lack of rights of custody in 4 cases and Art 12 in 10 cases.

In 1999, in 3 out of the 4 refusals, the objections of the child were considered.

14. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Refusal

	Relationship of Taking Person to Child		Total
	Mother	Father	
Applicant had No Rights of Custody	1	0	1
Art 12	2	0	2
Article 13 a Consent	2	0	2
Child's Objections	0	3	3
More than one reason	10	0	10
Total	15	3	18

Overall, in 14 of the 17 refusals, 82%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers whereas mothers accounted for 68% of taking persons overall.

Conversely, in the 3 out of 17 refusals, 18%, the taking person was father. Globally in 2003, 21% of refusals involved fathers.

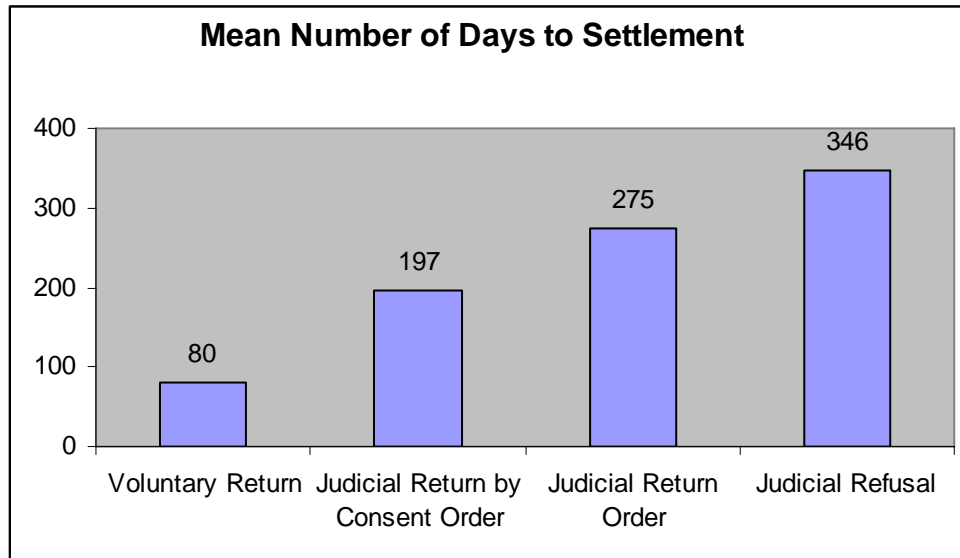
In 1999, in 3 out of 4 applications to Spain which resulted in judicial refusal the taking person was recorded as female.

⁹ Recorded as 'other'.

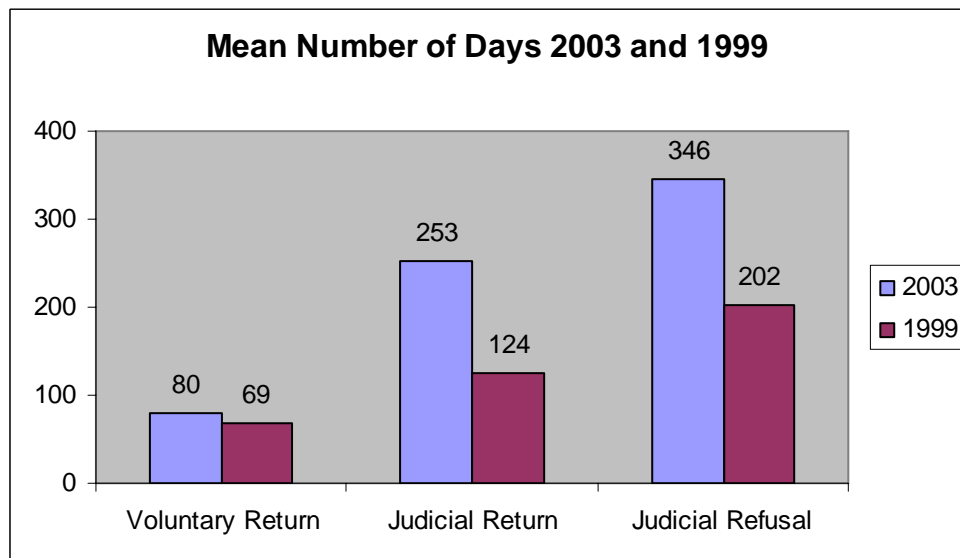
Speed

15. The time between application and outcome

(a) Incoming return applications¹⁰



Predictably, return orders by consent were resolved quicker than return orders without consent, in 197 days compared with 275 days. This compares with the global averages of 85 days and 143 days respectively. Voluntary returns took on average 80 days to reach a final outcome, which compares with the global average of 98 days. The speed of judicial refusals, averaging 346 days, was slower than the global average of 233 days.



The chart above shows that judicial returns were resolved in a combined average of 253 days compared with 124 days in 1999. Judicial refusals took a mean average of 346 days as against 202 days in 1999. Voluntary returns took a mean

¹⁰ This information was not available in relation to 24 voluntary returns and one judicial refusal.

average of 80 days to reach the outcome, compared with 69 days in 1999. In other words, disposal rates were slower than in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	80	197	275	346
Median	80	160	252	395
Minimum	1	149	114	35
Maximum	159	282	516	700
Number of cases	2	3	8	17

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Spain. The fastest judicial decision, a judicial refusal to return, was made in 35 days, the slowest, a judicial refusal, was made in 700 days. Of the 2 voluntary returns for which we have information on timing, one was resolved within a day but the other took 159 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	242	223
Median	150	148
Minimum	114	35
Maximum	463	552
Number of cases	3	7

As can be seen, in relation to judicial returns the exclusion of appealed cases does not significantly affect the overall mean average taken to reach final outcomes. In relation to judicial refusals, there is a difference of 123 days in the mean average before and after the exclusion of appealed cases.

(b) Incoming access applications¹¹

Number of Days Taken to Reach Final Outcome: 2003

	Access Judicially Granted
Mean	297
Median	251
Minimum	133
Maximum	541
Number of cases	9

¹¹ This information was not stated in relation to any of the voluntary settlements of access.

The applications where access was judicially granted took a mean average of 297 days to reach the final outcome which compares with the 2003 global average of 266 days. As can be seen, the fastest judicial decision was taken in 133 days and the slowest in 541 days.

16. Appeals

(a) Incoming return applications

Appeals			
	Appellate Final Judicial Decision		Total
	Return	Refusal	
Return	3	3	6
Refusal	2	7	9
Total	5	10	15

Of the 29 applications which went to court, 15 (52%) were appealed. Globally, just 22% of all cases which went to court were appealed.

5 applications for return were judicially granted upon an appeal. In 3 of these decisions the appellate court upheld first instance decisions and in the remaining 2 cases the appellate court overruled first instance decisions. These applications took a mean average of 294 days to make the final return order.

10 appellate decisions resulted in a judicial refusal. In 7 of these cases, the appellate court upheld the first instance refusal to return and in the remaining 3 cases the appellate court overruled the first instance return order. It took a mean average of 432 days to reach the final refusal to return.

In 1999, at least 2 decisions were appealed. Both resulted in a judicial return and took a mean average 172 days.

(b) Incoming access applications

None of the judicial decisions was appealed.

ESPAÑA

Solicitudes de restitución recibidas	87
Solicitudes de derecho de visita recibidas	19
Solicitudes de restitución efectuadas	38
Solicitudes de derecho de visita efectuadas	9

1. El número de solicitudes

De acuerdo con la Autoridad Central de España, ésta recibió 87 solicitudes de restitución y 19 solicitudes de derecho de visita recibidas en el 2003, lo que hace un total de 106 solicitudes recibidas. Este es un marcado incremento de las 42 solicitudes (de las cuales 36 eran solicitudes de restitución y 6 solicitudes de derecho de visita) recibidas en 1999. El ratio de solicitudes de restitución recibidas frente a solicitudes de derecho de visita es de 82% a 18%, lo que se compara con el promedio global de 84% a 16%.

Asimismo, la Autoridad Central efectuó 38 solicitudes de restitución y 9 solicitudes de derecho de visita en el 2003.¹ Esto puede compararse con 27 solicitudes de restitución y 9 solicitudes de derecho de visita efectuadas en 1999.

En conjunto, la Autoridad Central tramitó 153 solicitudes nuevas en el 2003, frente a 78 solicitudes nuevas de 1999.

El ratio general de solicitudes de restitución y de derecho de visita fue de 69% a 31%.

2. Los Estados contratantes que efectuaron la solicitud**(a) Solicitudes de restitución recibidas**

¹ Este es el número total de solicitudes basándonos en lo informado por la Autoridad Central, i.e.; el número de solicitudes que ésta efectuó. Estos casos pueden no haber sido remitidos a otras Autoridades Centrales extranjeras en el 2003, i.e.; algunos casos pueden haber sido retirados antes de la remisión o no remitidos a (o recibidos por) la Autoridad Central extranjera al 31 de diciembre de 2003.

Estados requirentes 2003

	Número	Porcentaje
Reino Unido - Inglaterra y Gales	21	24%
Argentina	11	13%
Francia	6	7%
Alemania	6	7%
Países Bajos	6	7%
Bélgica	5	6%
Ecuador	5	6%
Colombia	3	3%
Irlanda	3	3%
Panamá	2	2%
Portugal	2	2%
Suiza	2	2%
Venezuela	2	2%
Australia	1	1%
Austria	1	1%
Chipre	1	1%
Dinamarca	1	1%
Hungría	1	1%
Israel	1	1%
Italia	1	1%
Luxemburgo	1	1%
Perú	1	1%
Reino Unido - Irlanda de Norte	1	1%
Reino Unido - Escocia	1	1%
EE.UU.	1	1%
Uruguay	1	1%
Total	87	~100%

Estados requirentes comparados con las cifras de 1999

	Número de solicitudes 2003	Número de solicitudes 1999
Reino Unido – Inglaterra y Gales	21 (24%)	9 (25%)
Argentina	11 (13%)	1 (3%)
Francia	6 (7%)	2 (6%)
Alemania	6 (7%)	3 (8%)
Países Bajos	6 (7%)	1 (3%)
Bélgica	5 (6%)	0 (0%)
Ecuador	5 (6%)	2 (6%)
Colombia	3 (3%)	1 (3%)
Irlanda	3 (3%)	0 (0%)
Panamá	2 (2%)	1 (3%)
Portugal	2 (2%)	1 (3%)
Suiza	2 (2%)	5 (14%)
Venezuela	2 (2%)	0 (0%)
Australia	1 (1%)	0 (0%)
Austria	1 (1%)	0 (0%)
Chipre	1 (1%)	0 (0%)
Dinamarca	1 (1%)	0 (0%)
Hungría	1 (1%)	0 (0%)
Israel	1 (1%)	0 (0%)
Italia	1 (1%)	5 (14%)
Luxemburgo	1 (1%)	0 (0%)
Perú	1 (1%)	0 (0%)
Reino Unido – Irlanda del Norte	1 (1%)	0 (0%)
Reino Unido – Escocia	1 (1%)	0 (0%)
EE.UU.	1 (1%)	2 (6%)
Uruguay	1 (1%)	0 (0%)
Noruega	0 (0%)	2 (6%)
Suecia	0 (0%)	1 (3%)
Total	87 (~100%)	36 (100%)

España recibió solicitudes de restitución de 24 Estados contratantes en comparación con 14 Estados contratantes en 1999.

Tal como en 1999, Inglaterra y Gales efectuó más solicitudes (24%) que cualquier otro Estado contratante, pero hubo un marcado incremento en la cantidad, de 9 en 1999 a 21 en el 2003. Once solicitudes (13%) provenían de Argentina, en comparación con una solicitud (3%) en 1999. No se recibió solicitud alguna de Noruega y Suecia, en comparación con 2 y 1 solicitud recibidas, respectivamente en 1999. El número de solicitudes de Italia, EE.UU. y Suiza se redujo. Por el contrario, el número de solicitudes de Bélgica, Ecuador, Francia, Alemania y Países Bajos se incrementó.

Estados requirentes dentro de la UE 2003

	Número	Porcentaje
Reino Unido - Inglaterra y Gales	21	37%
Francia	6	11%
Alemania	6	11%
Países Bajos	6	11%
Bélgica	5	9%
Irlanda	3	5%
Portugal	2	4%
Austria	1	2%
Chipre	1	2%
Dinamarca	1	2%
Hungría	1	2%
Italia	1	2%
Luxemburgo	1	2%
Reino Unido - Irlanda del Norte	1	2%
Reino Unido - Escocia	1	2%
Total	57	~100%

El cuadro anterior muestra el número de solicitudes recibidas de países que son parte de la UE.¹ Estos países efectuaron 57 de las 87 solicitudes recibidas por España, un total casi del 66% de todos los casos. Esto puede compararse con el estudio de 1999 en el cual los países de la UE efectuaron un total de 24 de las 36 solicitudes (67%). En el 2003, el mayor número de solicitudes de la UE, 21 (37%), provenían de Inglaterra y Gales.

(b) Solicitudes de derecho de visita recibidas**Estados requirentes 2003**

	Número	Porcentaje
Reino Unido - Inglaterra y Gales	5	26%
Italia	2	11%
Argentina	1	5%
Bélgica	1	5%
Dinamarca	1	5%
Ecuador	1	5%
Israel	1	5%
Países Bajos	1	5%
Noruega	1	5%
Panamá	1	5%
Rumania	1	5%
Suecia	1	5%
Suiza	1	5%
Venezuela	1	5%
Total	19	~100%

¹ Esta cifra se basa en la conformación de la Unión de Europea en el 2006 y no en el 2003. Los actuales Estados miembros de la UE son Austria, Bélgica, Chipre, República Checa, Dinamarca, Estonia, Finlandia, Francia, Alemania, Grecia, Hungría, Irlanda, Italia, Letonia, Lituania, Luxemburgo, Malta, Polonia, Portugal, Eslovaquia, Eslovenia, España, Suecia, Países Bajos y Reino Unido.

Estados requirentes comparados con las cifras de 1999

	Número de solicitudes 2003	Número de solicitudes 1999
Reino Unido – Inglaterra y Gales	5 (26%)	2 (33%)
Italia	2 (11%)	0 (0%)
Argentina	1 (5%)	0 (0%)
Bélgica	1 (5%)	0 (0%)
Dinamarca	1 (5%)	0 (0%)
Ecuador	1 (5%)	0 (0%)
Israel	1 (5%)	0 (0%)
Países Bajos	1 (5%)	0 (0%)
Noruega	1 (5%)	0 (0%)
Rumania	1 (5%)	0 (0%)
Panamá	1 (5%)	0 (0%)
Suecia	1 (5%)	0 (0%)
Suiza	1 (5%)	1 (17%)
Venezuela	1 (5%)	0 (0%)
Alemania	0 (0%)	3 (50%)
Total	19 (~100%)	6 (100%)

España recibió 19 solicitudes de derecho de visita de 13 Estados contratantes. El mayor número de solicitudes provenía de Inglaterra y Gales (5, 26%). De manera interesante, no hubo solicitudes de Alemania, a diferencia de las 3 solicitudes (50%) de 1999. Por el contrario, Italia efectuó 2 solicitudes (11%) pero en 1999 no efectuó ninguna. Ningún otro Estado efectuó más de una solicitud.

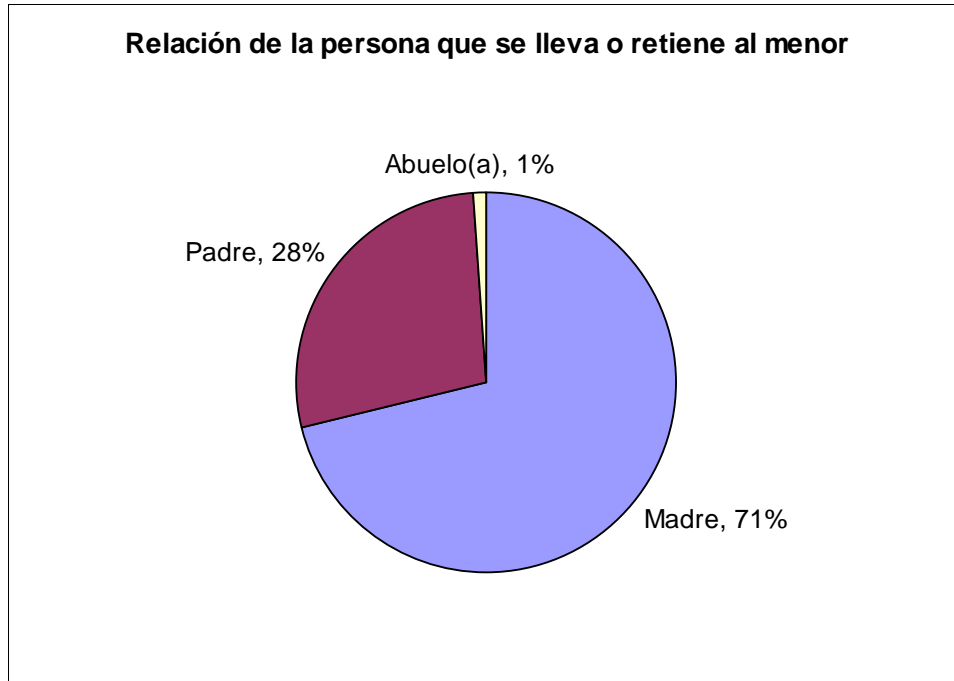
La persona que se lleva o retiene al menor / demandado

3. La relación entre el menor y la persona que se lo lleva o lo retiene / demandado

(a) Solicitudes de restitución recibidas

Relación de la persona que se lleva o retiene al menor

	Número	Porcentaje
Madre	62	71%
Padre	24	28%
Abuelo(a)	1	1%
Total	87	100%



El estudio de 2003 obtuvo datos con relación a la relación entre el menor y la persona que se lo llevó o lo retuvo, en vez del sexo de ésta última (i.e.; simplemente masculino/femenino o ambos), registrado en el estudio de 1999. El 71% de las personas que se llevaron o retuvieron menores eran madres. Esto es ligeramente más alto que el promedio global de 68%, y puede compararse con el estudio de 1999,² en el que el 61% de las personas que se llevaron o retuvieron menores fueron registradas como mujeres.

En una solicitud la persona que se llevo o retuvo al menor era el abuelo de aquel.

(b) Solicitudes de derecho de visita recibidas

Relación del demandado		
	Número	Porcentaje
Madre	18	95%
Padre	1	5%
Total	19	100%

² En la medida que 'femenino' usualmente puede significar 'madre'.



En 18 (95%) solicitudes de derecho de visita el demandado era la madre, a diferencia del promedio global de 2003 de 79%. En 1999, el 83% de los demandados fueron registrados como mujeres.

4. La situación de la persona que se lleva o retiene al menor en el ejercicio de su cuidado

España no proporcionó información sobre la situación de la persona que se llevo o retuvo al menor en el ejercicio de su cuidado.

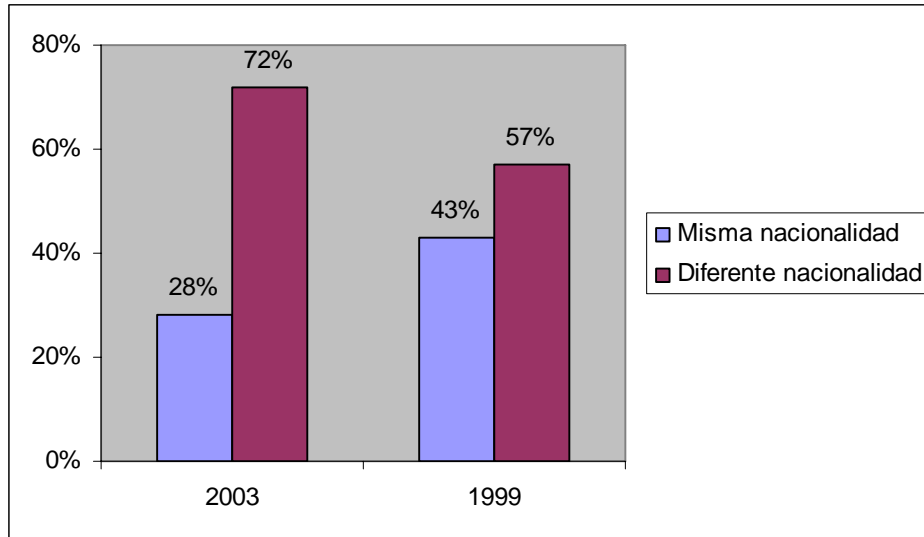
5. La nacionalidad de la persona que se lleva o retiene al menor / demandado

(a) Solicitudes de restitución recibidas

La persona que se lleva o retiene al menor tiene la nacionalidad del Estado requerido

	Número	Porcentaje
Misma nacionalidad	24	28%
Diferente nacionalidad	63	72%
Total	87	100%

El porcentaje de 28% de personas que se llevan o retienen menores que son ciudadanos españoles (incluyendo 5 personas que tenían doble nacionalidad) fue apreciablemente bajo frente al promedio global de 55%.



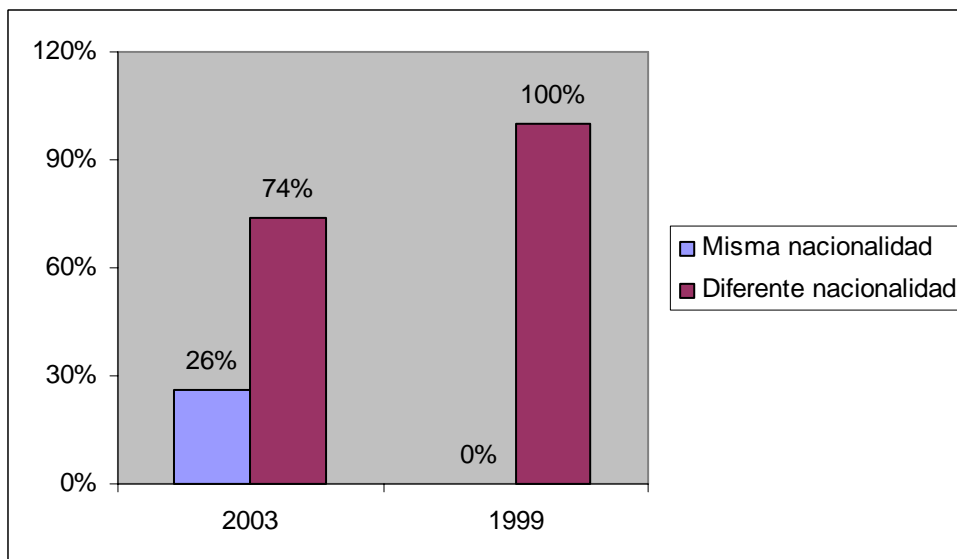
El gráfico anterior compara los hallazgos de 2003 sobre nacionalidad con el estudio de 1999. Tal como lo muestra el gráfico, el porcentaje de ciudadanos españoles que sustrajeron menores descendió de 43% en 1999 a 28% en el 2003. Esto puede compararse con el promedio global de 2003 de 54%.

(b) Solicitudes de derecho de visita recibidas

Demandado misma nacionalidad que el Estado requerido

	Número	Porcentaje
Misma nacionalidad	5	26%
Diferente nacionalidad	14	74%
Total	19	100%

El porcentaje de 26% de demandados que eran ciudadanos españoles fue apreciablemente bajo frente al promedio global de 2003 de 53%.



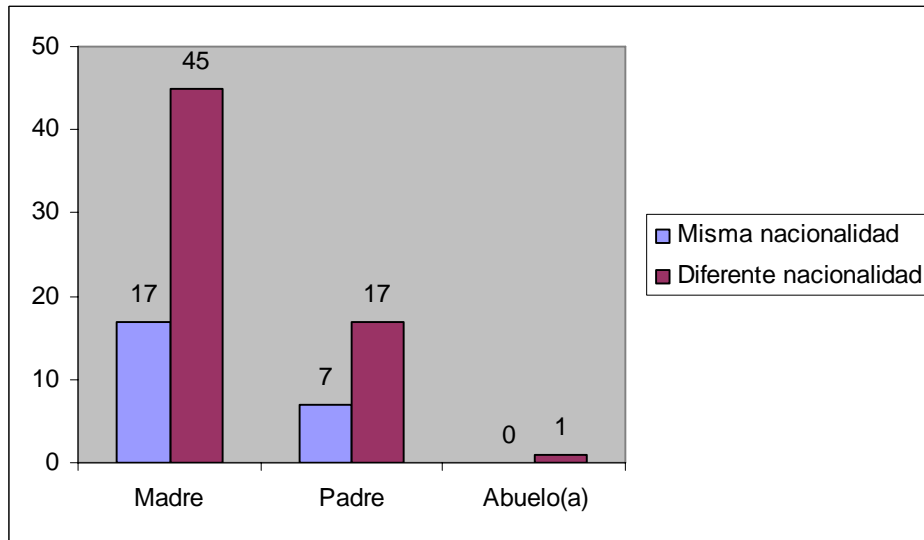
El gráfico de arriba compara los hallazgos de 2003 sobre nacionalidad con el estudio de 1999. Tal como lo muestra el gráfico, el porcentaje de demandados que tenían la nacionalidad española se incrementó de 0% en 1999 a 26% en el 2003.

6. La relación y la nacionalidad de la persona que se lleva o retiene al menor /demandado combinados

(a) Solicitudes de restitución recibidas

Nacionalidad y relación entre el menor y la persona que se lo lleva o lo retiene

	Relación entre el menor y la persona que se lo lleva o lo retiene			Total
	Madre	Padre	Abuelo(a)	
Misma nacionalidad	17	7	0	24
Diferente nacionalidad	45	17	1	63
Total	62	24	1	87

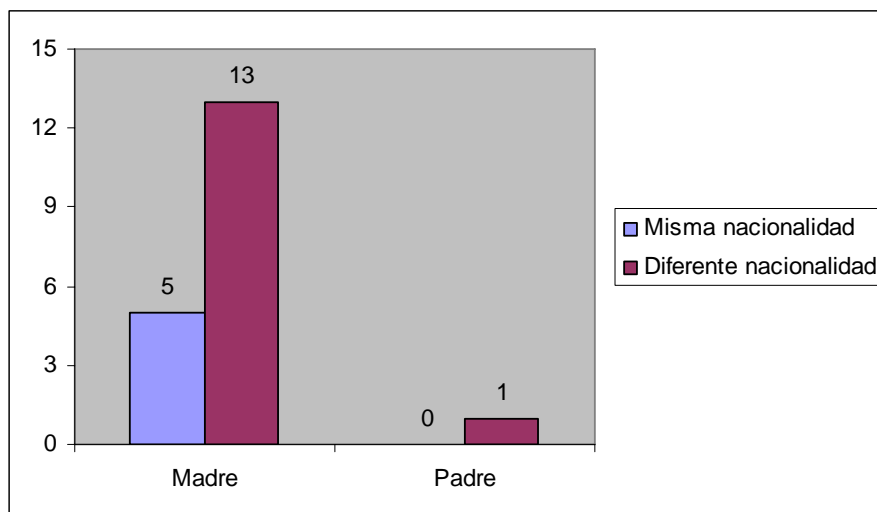


Sorprendentemente, con respecto a las madres y padres, las personas que se llevaron o retuvieron menores fueron registradas con frecuencia como personas que tenían nacionalidad diferente a la del Estado requerido. En efecto, solamente 17 de 62 (27%) madres y 7 de 24 padres (29%) eran ciudadanos españoles. Esto puede compararse con el promedio global de 2003 en el que 54% de madres y 55% de padres tenía la nacionalidad del Estado requerido. El estudio de 1999 registró que el 52% de mujeres que se llevaron o retuvieron menores y el 29% de varones que sustrajeron menores, eran ciudadanos españoles.

(b) Solicitudes de derecho de visita recibidas

Nacionalidad y relación entre el menor y el demandado

	Relación entre el menor y el demandado		Total
	Madre	Padre	
Misma nacionalidad	5	0	5
Diferente nacionalidad	13	1	14
Total	18	1	19



En las solicitudes de derecho de visita recibidas por España, solamente 5 de 18 (28%) madres demandadas eran españolas. Ninguno de los padres demandados tenía la nacionalidad española. Esto puede compararse con los promedios globales de 2003 de 49% de madres y 68% de padres, respectivamente, que tenían la nacionalidad del Estado requerido. En 1999, ninguno de los demandados en solicitudes de derecho de visita eran españoles.

Los menores

7. El número total de menores

(a) Solicitudes de restitución recibidas

Hubo 119 menores comprendidos en 87 solicitudes de restitución recibidas en el 2003. Esto puede compararse con el total de 47 menores comprendidos en 36 solicitudes de restitución en 1999. En el 2003, un promedio de 1.37 menores fueron comprendidos en solicitudes de restitución. En términos porcentuales esto representa un ligero incremento en el número promedio (1.3) de menores por solicitud de restitución recibida en 1999. A nivel global, en promedio 1.4 menores fueron comprendidos en solicitudes de restitución en el 2003.

(b) Solicitudes de derecho de visita recibidas

Hubo 26 menores comprendidos en 19 solicitudes de derecho de visita recibidas en el 2003. Esto puede compararse con el total de 8 menores comprendidos en 6 solicitudes de derecho de visita en 1999. En el 2003, en promedio 1.37 menores estuvieron comprendidos en solicitudes de derecho de visita. En términos porcentuales, esto representa un ligero incremento en el número promedio (1.33)

de menores por solicitud de derecho de visita recibida en 1999. A nivel global un promedio de 1.3 menores fueron comprendidos en solicitudes de derecho de visita en el 2003.

8. Un menor o grupo de hermanos

(a) Solicitudes de restitución recibidas

Un menor o grupo de hermanos

	Número	Porcentaje
Un menor	60	69%
Grupo de hermanos	27	31%
Total	87	100%

Número de menores

	Número	Porcentaje
1 menor	60	69%
2 menores	22	25%
3 menores	5	6%
Total	87	100%

El porcentaje de un solo menor comprendido en solicitudes de restitución de 69% se compara con el promedio global de 67% y es similar al porcentaje de 1999 de 72%. Asimismo, al igual que el promedio global de 93% de 2003 y de 97% de 1999, la vasta mayoría de solicitudes (94%) comprendieron no más de 2 menores.

(b) Solicitudes de derecho de visita recibidas

Un menor o grupo de hermanos

	Número	Porcentaje
Un menor	14	74%
Grupo de hermanos	5	26%
Total	19	100%

Número de menores

	Número	Porcentaje
Un menor	14	74%
2 menores	3	16%
3 menores	2	11%
Total	19	~100%

El porcentaje de 74% de un solo menor en solicitudes de derecho de visita sigue el promedio global de 71%. En 1999, el porcentaje de un solo menor comprendido en solicitudes de derecho de visita efectuadas a España fue de 67%.

9. La edad de los menores

(a) Solicitudes de restitución recibidas

Edades individuales 2003

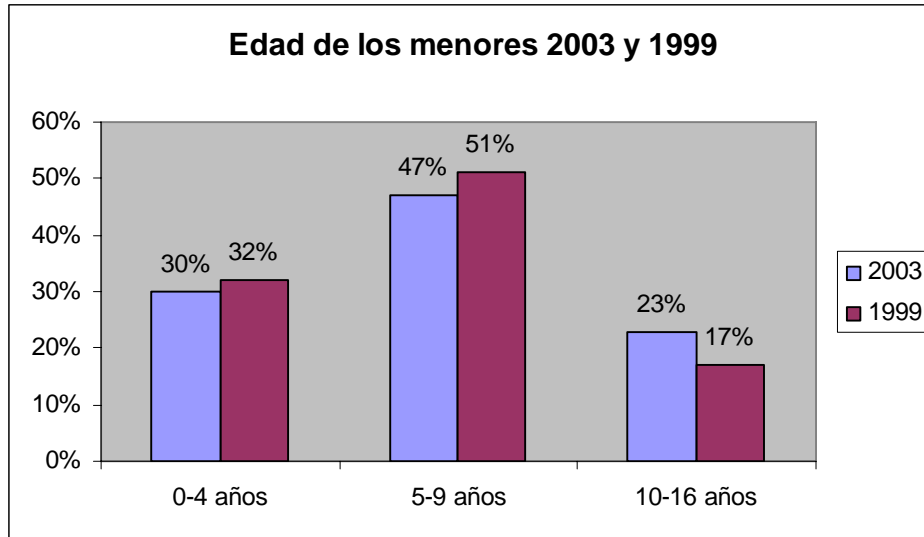
	Número	Porcentaje
Menos de 1	1	1%
1 año	7	6%
2 años	8	7%
3 años	11	9%
4 años	9	8%
5 años	12	10%
6 años	13	11%
7 años	19	16%
8 años	8	7%
9 años	4	3%
10 años	9	8%
11 años	5	4%
12 años	7	6%
13 años	3	3%
14 años	3	3%
Total	119	~100%

La tabla y gráfico anteriores muestran las edades individuales de los menores comprendidos en las solicitudes. De manera interesante, 19 menores (16%) tenían 7 años. El 51% de menores tenían entre 1 y 6 años frente al promedio global de 55%.

No contamos con este nivel de detalle en el estudio de 1999 a efectos de compararlo con estos resultados. Sin embargo, sí contamos con información comparable respecto de los rangos de edad de los menores.

Rango de edad de los menores 2003

	Número	Porcentaje
0-4 años	36	30%
5-9 años	56	47%
10-16 años	27	23%
Total	119	100%

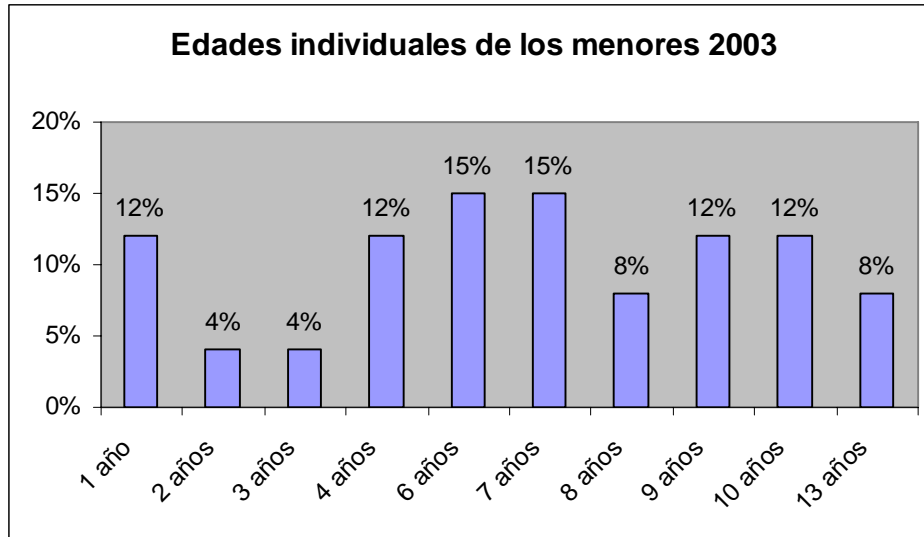


Tal como en 1999, el porcentaje más alto de menores tenía entre 5 y 9 años. En efecto, de los 119 menores comprendidos, 56 (47%) tenían entre 5 y 9 años. El 30% de menores tenía entre 0 y 4 años, lo que se compara con el porcentaje de 32% de 1999. Los porcentajes en los dos rangos de edad más bajos son un poco diferentes de los promedios globales de 2003 de 42% y 36% respectivamente. El porcentaje de menores de mayor edad, entre 10 y 16 años, se incrementó de 17% en 1999 a 23% en el 2003, lo cual es similar al promedio global de 22%.

(b) Solicitudes de derecho de visita recibidas

Edades individuales 2003

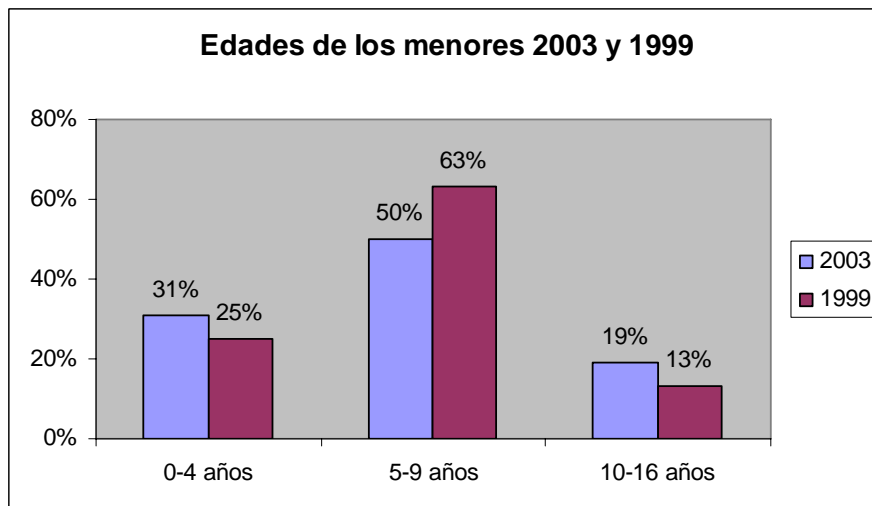
	Número	Porcentaje
1 año	3	12%
2 años	1	4%
3 años	1	4%
4 años	3	12%
6 años	4	15%
7 años	4	15%
8 años	2	8%
9 años	3	12%
10 años	3	12%
13 años	2	8%
Total	26	~100%



El gráfico y la tabla de arriba muestran las edades individuales de los menores comprendidos en las solicitudes. El 47% de solicitudes de derecho de visita comprendieron a menores entre 1 y 6 años, comparado con el 35% a nivel global.

Rango de edad de los menores 2003

	Número	Porcentaje
0-4 años	8	31%
5-9 años	13	50%
10-16 años	5	19%
Total	26	100%



Los gráficos anteriores muestran información comparable sobre los rangos de edad de los menores en el 2003 y en 1999. El 50% de los menores tenían entre 5 y 9 años frente al 63% de 1999. A nivel global en el 2003, 46% de los menores tenían entre 5 y 9 años. El número de menores que tenían entre 0 y 4 años y entre 10 y 16 años se han incrementado de 25% a 31% y de 13% a 19%, respectivamente. Estas cifras pueden compararse con los promedios globales de 20% y 34%.

10. El sexo de los menores

(a) Solicitudes de restitución recibidas**Sexo de los menores**

	Número	Porcentaje
Femenino	66	55%
Masculino	53	45%
Total	119	100%

Como puede observarse, hubo más mujeres (55%) comprendidas en solicitudes de restitución que varones (45%). A nivel global en el 2003, el 49% eran varones y el 51% eran mujeres. En 1999, el 57% de menores comprendidos en solicitudes de restitución efectuadas a España eran mujeres.

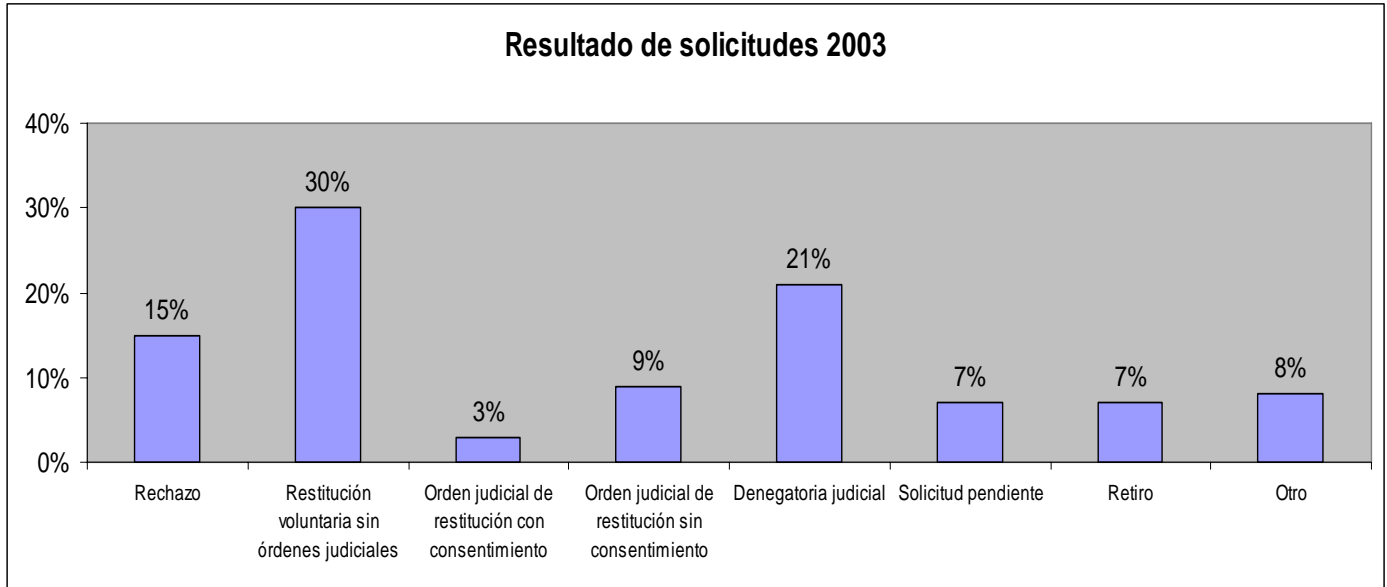
(b) Solicitudes de derecho de visita recibidas**Sexo de los menores**

	Número	Porcentaje
Femenino	15	58%
Masculino	11	42%
Total	26	100%

El 58% de menores comprendidos en solicitudes de derecho de visita efectuadas a España eran mujeres. Esto puede compararse con el promedio global de 2003 de 45%. En 1999, solamente el 13% eran de sexo femenino.

Los resultados**11. Los resultados totales****(a) Solicitudes de restitución recibidas****Resultado de la solicitud**

	Número	Porcentaje
Rechazo	13	15%
Restitución voluntaria sin órdenes judiciales	26	30%
Orden judicial de restitución con consentimiento	3	3%
Orden judicial de restitución sin consentimiento	8	9%
Denegatoria judicial	18	21%
Solicitud pendiente	6	7%
Retiro	6	7%
Otro	7	8%
Total	87	100%



La tabla y gráfico anteriores muestran los resultados de todas las solicitudes de 2003.

A diferencia del estudio de 1999, el estudio de 2003 muestra la división entre las órdenes de restitución judicial con y sin consentimiento. En España en el 2003, 3 (3%) órdenes judiciales de restitución fueron efectuadas con consentimiento y 8 (9%) sin consentimiento.

En total, el 42% de solicitudes efectuadas a España concluyeron con la restitución del menor por orden judicial o de manera voluntaria, lo cual se encuentra por debajo del promedio global de 51%. Igualmente, el porcentaje de restituciones judiciales se encuentra muy por debajo del promedio global de 29%. Por otro lado, el porcentaje de restituciones voluntarias se encuentra por encima del promedio global de 22%.

Veintinueve solicitudes (33%) se ventilaron judicialmente. De estos casos, solamente el 38% concluyó con una orden de restitución y el 62% con una denegatoria judicial. Esto puede compararse con los promedios globales de 2003 de 67% y 29%, respectivamente.³

El índice de retiros de 7% se encuentra por debajo del promedio global de 15%. Al 30 de junio de 2005, 6 (7%) solicitudes se encontraban aún pendientes frente al promedio global de 9%.

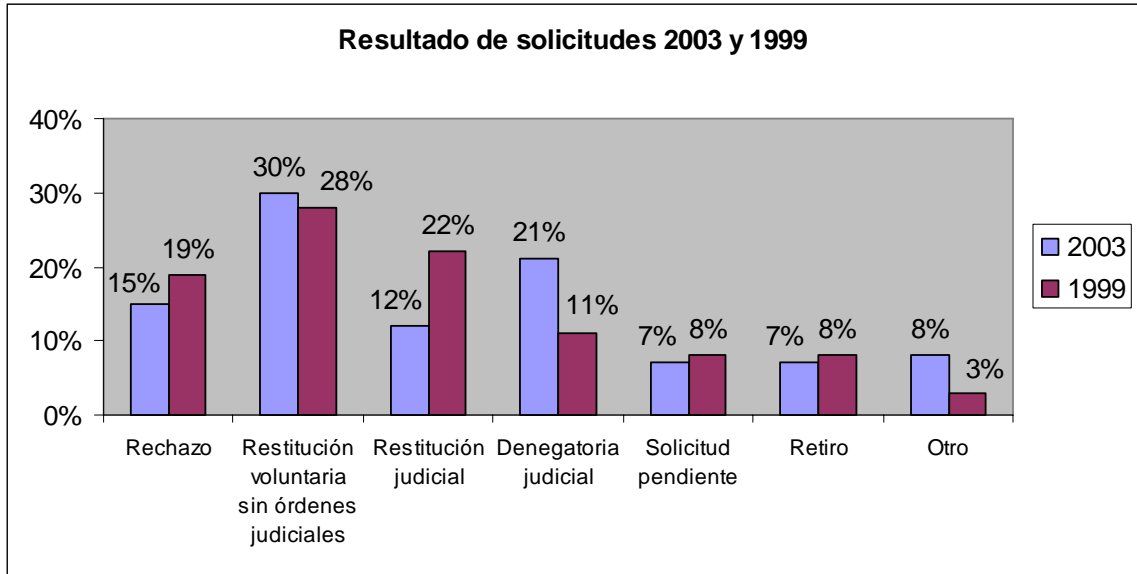
Tres solicitudes concluyeron con un acuerdo efectuado entre las partes en el que se acordó que los menores comprendidos permanecieran en España.⁴ En una solicitud el menor fue trasladado nuevamente al Estado requirente por el solicitante.⁵ En otra solicitud, el menor fue trasladado por el solicitante a un tercer Estado.⁶

³ A nivel global, el 66% terminó con una restitución, el 5% con un derecho de visita y, el 29% con una denegatoria judicial. Véase la Parte I del Informe de 2003, p. 32.

⁴ Los 3 resultados fueron clasificados como 'otro'.

⁵ Registrado como 'otro' resultado.

⁶ Registrado como 'otro' resultado.



El gráfico de arriba clasifica los resultados de manera que sean comparables con las cifras de 1999. Así, 'Restituciones Judiciales' incluyen órdenes efectuadas con o sin consentimiento.

Tal como en 1999, la restitución voluntaria fue el resultado más común de una solicitud, 30%. Como puede apreciarse, el porcentaje de restituciones judiciales descendió de 22% en 1999 a 12% en el 2003. Asimismo, el porcentaje de denegatorias judiciales se incrementó de 11% en 1999 a 21% en el 2003. En consecuencia, el índice total de restituciones descendió de 50% en 1999 a 42% en el 2003.

El índice de rechazos en España ha disminuido de 19% en 1999 a 15% en el 2003. Esto se encuentra muy próximo, aunque aún por encima, del promedio global de 2003 de 6% de rechazos.

Los porcentajes de solicitudes pendientes y de retiros, 7% cada uno, se comparan con los hallazgos de 1999 de 8%. Un porcentaje más elevado que el de 1999 concluyó con un resultado clasificado como 'otro'.

(b) Solicitudes de derecho de visita recibidas

Resultado de la solicitud

	Número	Porcentaje
Rechazo	3	16%
Derecho de visita otorgado extrajudicialmente	2	11%
Derecho de visita otorgado judicialmente	9	47%
Solicitud pendiente	1	5%
Retiro	3	16%
Otro	1	5%
Total	19	100%



Once de 19 (58%) solicitudes concluyeron con un derecho de visita otorgado o acordado frente al 67% de 1999. Esto se encuentra muy próximo, aunque marcadamente por encima, del promedio global de 2003 de 30%. El porcentaje de solicitudes en las que el derecho de visita fue otorgado judicialmente, 47%, se compara con el 50% de 1999. Por otro lado, hubo una ligera disminución en las soluciones voluntarias de derecho de visita, de 17% en 1999 a 11% en el 2003. Esto puede compararse con los promedios globales de 2003 de 17% y 13%, respectivamente.

Todas las solicitudes en las que se otorgó el derecho de visita fueron resueltas como solicitudes del Convenio de La Haya. El índice de retiros (16%) se compara con el porcentaje de 1999 de 17%. Por otro lado, al 5%, el porcentaje de solicitudes pendientes fue considerablemente más bajo que el de 1999 (17%). A nivel global en el 2003, el 22% de solicitudes de derecho de visita fueron retiradas y el mismo porcentaje se encontraba pendiente al 30 de junio de 2005.

12. Las razones de rechazo

(a) Solicitudes de restitución recibidas

Razones de rechazo por la Autoridad Central

	Número	Porcentaje
Menor localizado en otro país	1	8%
Menor no localizado	8	62%
El solicitante no tenía el derecho de custodia	2	15%
Otro	2	15%
Total	13	100%

España rechazó relativamente un gran número de casos, 13 (15%) solicitudes frente al promedio global de 6%. En 1999, 7 (19%) solicitudes fueron rechazadas. Tal como en 1999, la razón más común para el rechazo fue que el menor no fue localizado (8, 62%). A nivel global en el 2003, 27% de solicitudes fueron rechazadas por esta razón. Dos solicitudes, 15%, fueron rechazadas

porque el solicitante no tenía el derecho de custodia y una fue rechazada, 8%, porque el menor fue localizado en otro país.

Las otras 2 solicitudes rechazadas fueron registradas bajo el rubro 'otro'. En ambos casos el menor no era residente habitual del Estado requirente. En efecto, en una el rechazo fue debido a que el menor era residente habitual de España.

(b) Solicitudes de derecho de visita recibidas

Tres de 19 (16%) solicitudes de derecho de visita fueron rechazadas a diferencia de 1999 en la que ninguna fue rechazada. A nivel global en el 2003, 13% de solicitudes de derecho de visita fueron rechazadas.

Una (33%) solicitud fue rechazada porque el menor comprendido no fue localizado. A nivel global, el 10% de los rechazos se sustentaron en una razón. La otra solicitud fue rechazada porque el solicitante no tenía el derecho de custodia y el último rechazo se sustentó en el hecho de que la residencia habitual del menor era España.⁷

13. Las razones de denegatoria judicial

(a) Solicitudes de restitución recibidas

Razón general de denegatoria judicial por solicitud

	Número	Porcentaje
El solicitante no tenía el derecho de custodia	1	6%
Art. 12	2	11%
Artículo 13a consentimiento	2	11%
Objeciones del menor	3	17%
Más de una razón	10	56%
Total	18	~100%

Razones múltiples de denegatoria judicial

	Número	Porcentaje
El menor no era residente habitual del Estado requirente	1	4%
El solicitante no tenía el derecho de custodia	3	11%
Art. 12	8	29%
Art. 13a no se ejercía el derecho de custodia	5	18%
Artículo 13a consentimiento	5	18%
Objeciones del menor	6	21%
Total	28	~100%

De las 29 solicitudes que se ventilaron judicialmente, 18 (62%) fueron denegadas, lo que constituye un incremento de las 4 solicitudes denegadas de 12 (33%) solicitudes de 1999. Esto se encuentra muy por encima del promedio global de 2003 de 29%. De manera interesante, más de la mitad (11, 61%) de las denegatorias se sustentaron en razones múltiples.⁸ En 1999, solamente en 2 (29%) solicitudes, la denegatoria se sustentó en más de una razón. España es el

⁷ Ambas registradas como 'otro'.

⁸ Registradas como 'otra'.

segundo país después de Chile en sustentar con frecuencia denegatorias en razones múltiples.

La razón más común de denegatoria de solicitudes registrada como una sola razón fue la objeción del menor (3, 18%). La otra razón de sustento más común fue el artículo 13a consentimiento (2, 12%). Una solicitud (6%) fue rechazada porque el solicitante no tenía el derecho de custodia y otra solicitud fue rechazada sustentándose en el artículo 12.

Cuando se invocaron razones múltiples para las denegatorias, las objeciones del menor fueron acogidas en todo o en parte en 8 casos, el artículo 13a consentimiento en 7 casos, la ausencia del derecho de custodia en 4 casos y el artículo 12 en 10 casos.

En 1999, en 3 de 4 denegatorias, las objeciones del menor fueron consideradas.

14. Las razones de la denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene

(a) Solicitudes de restitución recibidas

Razón de denegatoria judicial y la relación entre el menor y la persona que se lo lleva o lo retiene

	Relación entre el menor y la persona que se lo lleva o lo retiene		Total
	Madre	Padre	
El solicitante no tenía el derecho de custodia	1	0	1
Art. 12	2	0	2
Artículo 13a consentimiento	2	0	2
Objeciones del menor	0	3	3
Más de una razón	10	0	10
Total	15	3	18

En total, en 14 de las 17 denegatorias, 82%, la persona que se llevo o retuvo al menor era la madre. A nivel global en el 2003, el 77% de denegatorias comprendieron a madres mientras que éstas fueron el 68% de las personas que se llevaron o retuvieron menores en total.

Por otro lado, en 3 de 17 denegatorias, 18%, la persona que se llevo o retuvo al menor era el padre. A nivel global, en el 2003, 21% de las denegatorias comprendieron a padres.

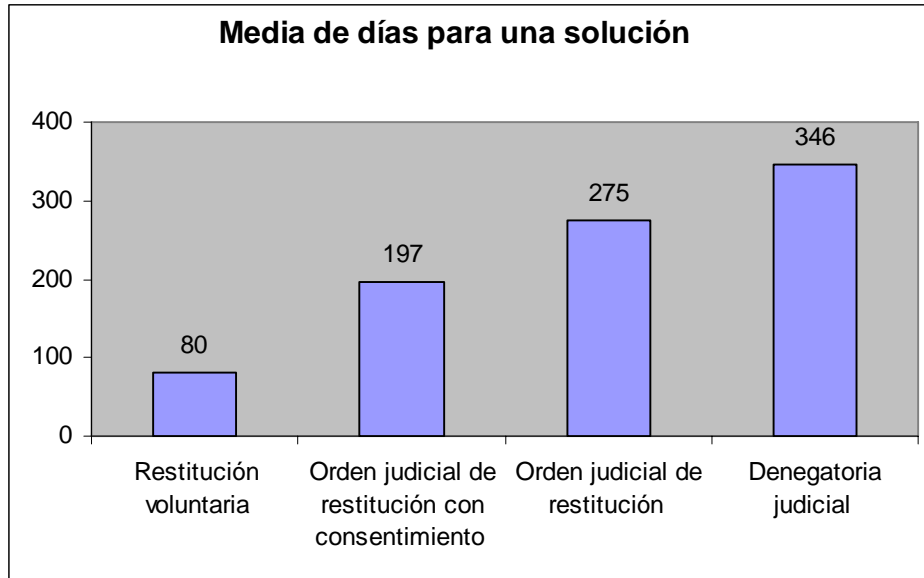
En 1999, en 3 de 4 solicitudes efectuadas a España que concluyeron con una denegatoria judicial, la persona que se llevo o retuvo al menor fue registrada como mujer.

Celeridad

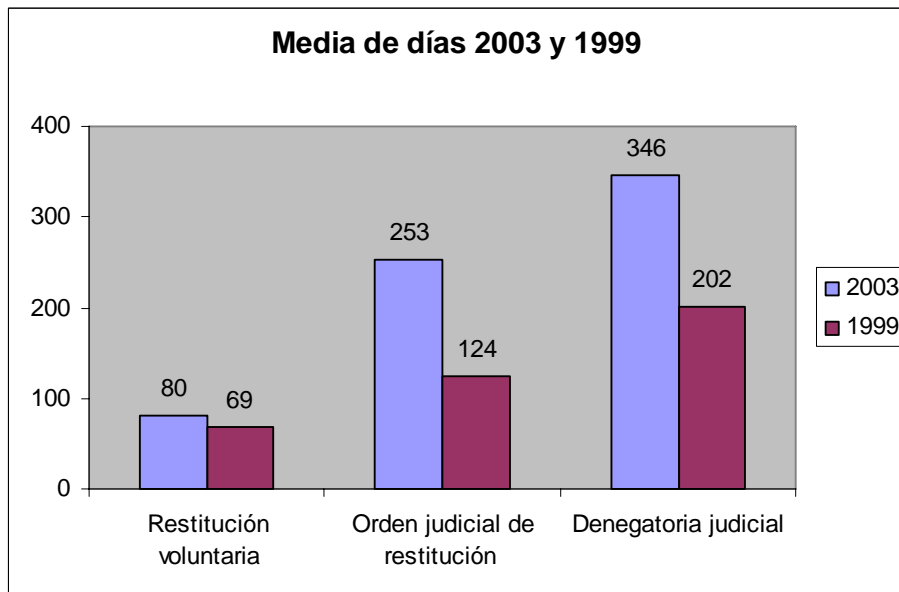
15. El tiempo entre la solicitud y el resultado

(a) Solicitudes de restitución recibidas⁹

⁹ Esta información no estuvo disponible con respecto a 24 restituciones voluntarias y una denegatoria judicial.



De manera predecible, las órdenes de restitución con consentimiento fueron resueltas más rápido que las restituciones sin consentimiento; 197 días frente a 275 días. Esto puede compararse con los promedios globales de 85 días y 143 días, respectivamente. Las restituciones voluntarias tomaron un promedio de 80 días en alcanzar un resultado final, lo que se compara con el promedio global de 98 días. La celeridad de las denegatorias, en promedio de 346 días, fue más lenta que la media global de 233 días.



El gráfico anterior muestra que las restituciones judiciales fueron resueltas en un promedio combinado de 253 días comparado con los 124 días en 1999. Las denegatorias judiciales tomaron una media promedio de 346 días frente a los 202 días en 1999. Las restituciones voluntarias tomaron una media promedio de 80 días para alcanzar un resultado frente a los 69 días en 1999.

**Número de días para alcanzar un resultado final: 2003
(incluye casos en apelación)**

	Restitución voluntaria sin órdenes judiciales	Órdenes judiciales de restitución con consentimiento	Orden judicial de restitución	Denegatoria judicial
Media	80	197	275	346
Mediana	80	160	252	395
Mínimo	1	149	114	35
Máximo	159	282	516	700
Número de casos	2	3	8	17

La tabla de arriba demuestra la variación en el tiempo que tomó cada resultado y provee un cuadro más informativo del sistema de España. La decisión judicial más rápida, una denegatoria judicial de restitución tomó 35 días; la decisión judicial más lenta, una denegatoria judicial, tomó 700 días. De las 2 restituciones voluntarias sobre las cuales contamos con información respecto de la duración, una fue resulta en un día pero otra tomó 159 días.

**Número de días para alcanzar un resultado final: 2003
(excluye casos en apelación)**

	Orden judicial de restitución	Denegatoria Judicial
Media	242	223
Mediana	150	148
Mínimo	114	35
Máximo	463	552
Número de casos	3	7

Como puede apreciarse, con respecto a las restituciones judiciales, la exclusión de casos en apelación no afecta de manera significativa el promedio de la media total para alcanzar el resultado final. Con respecto a las denegatorias judiciales, hubo una diferencia de 123 días en la media promedio antes y después de la exclusión de los casos apelados.

(b) Solicitudes de derecho de visita recibidas¹⁰

¹⁰ No se indicó esta información para ninguna de las soluciones voluntarias de derecho de visita.

Número de días para alcanzar un resultado final: 2003

	Derecho de visita otorgado judicialmente
Media	297
Mediana	251
Mínimo	133
Máximo	541
Número de casos	9

Las solicitudes en las que se otorgó el derecho de visita judicialmente tomaron una media promedio de 297 días en alcanzar un resultado final, lo que se compara con el promedio global de 2003 de 266 días. Como puede verse, la decisión judicial más rápida fue tomada en 133 días y la más lenta en 541 días.

16. Apelaciones**(a) Solicitudes de restitución recibidas****Apelaciones**

	Decisión judicial final de segunda instancia		Total
	Restitución	Denegatoria	
Restitución	3	3	6
Denegatoria	2	7	9
Total	5	10	15

De las 29 solicitudes que se ventilaron judicialmente, 15 (52%) fueron apeladas. A nivel global, solamente el 22% de los casos que se ventilaron judicialmente fueron apelados.

Cinco solicitudes de restitución fueron otorgadas en segunda instancia. En 3 de estas decisiones el tribunal de segunda instancia confirmó las decisiones de primera instancia y en los dos casos restantes el tribunal de segunda instancia revocó las decisiones de primera instancia. Estas solicitudes tomaron una media promedio de 294 días en alcanzar una orden de restitución final.

10 decisiones apeladas concluyeron con una denegatoria judicial. En 7 de estos casos, el tribunal de segunda instancia confirmó la denegatoria judicial de restitución emitida en primera instancia y en los 3 casos restantes el tribunal de segunda instancia revocó la restitución judicial otorgada en primera instancia. Las denegatorias de restitución tomaron una media promedio de 432 días en alcanzar un resultado final.

En 1999, por lo menos 2 decisiones fueron apeladas. Ambas resultaron en una restitución judicial y tomaron una media promedio de 172 días.

SRI LANKA

The applications

1. The number of applications

Incoming Return Applications	1
Incoming Access Applications	0
Outgoing Return Applications	0
Outgoing Access Applications	0

According to the Central Authority for Sri Lanka, they received one incoming return application but no incoming access applications in 2003. It is to be noted that the overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

The Central Authority made no outgoing applications either for return or for access in that year. Therefore the overall ratio of incoming to outgoing applications was 100%.

Sri Lanka did not participate in the 1999 statistical survey as it was not then a Contracting State.

2. The Contracting States which made the application

The one return application came from Australia.

The taking person

3. The relationship of the taking person

The taking person was recorded as the father of the child. Globally, 29% of taking persons were fathers.

4. The status of the taking person as carer in relation to the child

Sri Lanka did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

The taking person had Sri Lankan nationality. Globally, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 55% of taking persons recorded as the father of the child had the nationality of the requested State.

The children

7. The total number of children

There were 2 children involved in the one incoming return application in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

The one return application involved a sibling group of 2 children. Globally in 2003, 93% of applications involved one or 2 children.

9. The age of the children

The children involved were 5 and 7 years old. Globally, 42% of children were aged between 5 and 9 years.

10. The gender of the children

Both children involved in the one return application were females. Globally, 51% of children were female.

The outcomes**11. Overall outcomes**

The one application resulted in a voluntary return of the children. Globally, 22% of return applications were resolved voluntarily.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed**15. The time between application and outcome**

The one voluntary return was resolved in 7 days, as opposed to the global average of 98 days.

16. Appeals

Not applicable.

SWEDEN**The applications****1. The number of applications**

Incoming Return Applications	22
Incoming Access Applications	5
Outgoing Return Applications	23
Outgoing Access Applications	2

According to the Central Authority for Sweden, they received 22 incoming return and 5 incoming access applications in 2003, making a total of 27 incoming applications. This is an increase on the 16 incoming applications (14 of which were return applications and 2 of which were for access) made in 1999. The ratio of incoming return applications to access applications, 81% to 19%, compares with the global average of 84% to 16%.

Additionally, the Central Authority made 23 outgoing return applications¹ and 2 outgoing access applications in 2003. This is an increase on the 15 outgoing return applications and one outgoing access application made in 1999.

Altogether, the Central Authority handled 52 new applications in 2003, compared with 32 new applications in 1999.

The overall ratio of incoming to outgoing applications was 52% to 48%.

2. The Contracting States which made the application**(a) Incoming return applications****Requesting States 2003**

	Number	Percent
USA	5	23%
Finland	2	9%
France	2	9%
Greece	2	9%
Italy	2	9%
Norway	2	9%
UK - England & Wales	2	9%
Denmark	1	5%
Netherlands	1	5%
New Zealand	1	5%
Poland	1	5%
Turkey	1	5%
Total	22	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 findings

	Number of Applications 2003	Number of Applications 1999
USA	5 (23%)	3 (21%)
Finland	2 (9%)	0 (0%)
France	2 (9%)	0 (0%)
Greece	2 (9%)	1 (7%)
Italy	2 (9%)	1 (7%)
Norway	2 (9%)	1 (7%)
UK - England & Wales	2 (9%)	1 (7%)
Denmark	1 (5%)	1 (7%)
Netherlands	1 (5%)	0 (0%)
New Zealand	1 (5%)	0 (0%)
Poland	1 (5%)	0 (0%)
Turkey	1 (5%)	0 (0%)
Israel	0 (0%)	2 (14%)
Belgium	0 (0%)	1 (7%)
Canada	0 (0%)	1 (7%)
Switzerland	0 (0%)	1 (7%)
Cyprus	0 (0%)	1 (7%)
Total	22 (~100%)	14 (~100%)

Sweden received applications for return from 12 Contracting States, compared with 11 in 1999.

As in 1999, the highest number of applications were made by the USA. Considering the relatively small number of applications, the Contracting States making them were diverse. Although only 5 of the 22 applications were received by other Scandinavian countries, this is, however, higher than 2 out of 14 in 1999.

Requesting States within the EU 2003

	Number	Percent
Finland	2	15%
France	2	15%
Greece	2	15%
Italy	2	15%
UK - England & Wales	2	15%
Denmark	1	8%
Netherlands	1	8%
Poland	1	8%
Total	13	~100%

The above chart shows the number of applications received from countries that are now part of the EU. These countries account for 13 of the 22 applications received by Sweden, a total of 59% of all applications. This is an increase from the 1999 survey according to which EU countries made 6 out of the 14 applications received by Sweden (43%).²

² Both of these figures are based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

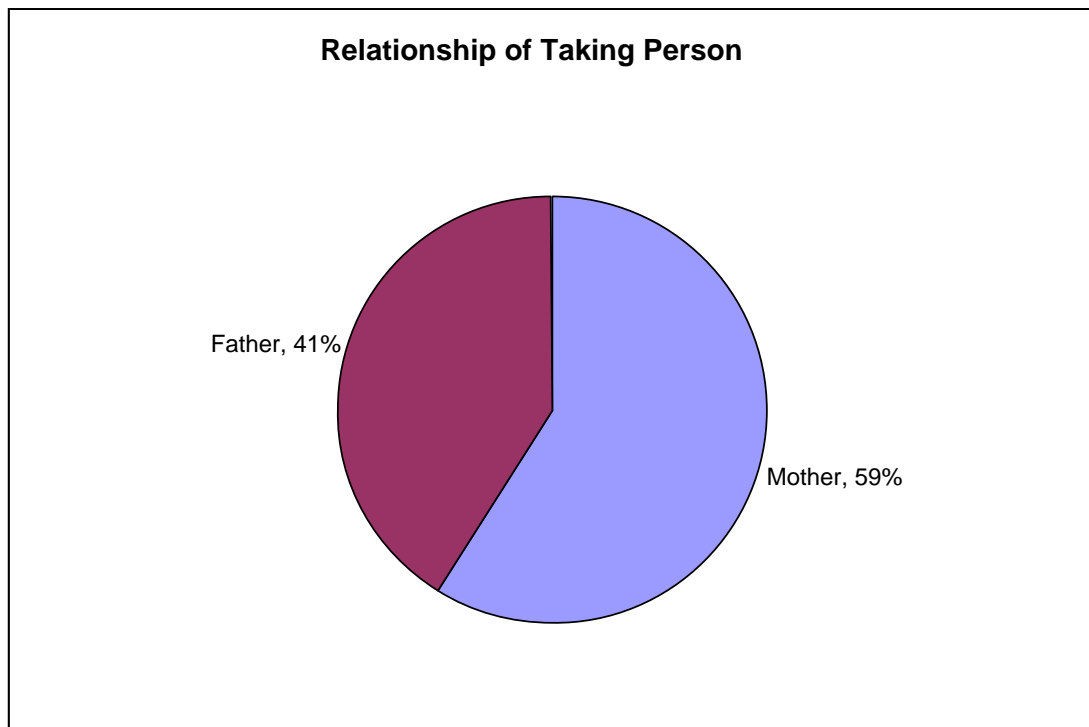
(b) Incoming access applications**Requesting States 2003**

	Number	Percent
Chile	1	20%
Denmark	1	20%
Slovakia	1	20%
Turkey	1	20%
USA	1	20%
Total	5	100%

Sweden received one access application from each of the 5 Contracting States, the USA, Slovakia, Denmark, Chile and Turkey. In 1999 the 2 access applications came from Argentina and Norway.

The taking person / respondent**3. The relationship of the taking person / respondent****(a) Incoming return applications****Relationship of the Taking Person**

	Number	Percent
Mother	13	59%
Father	9	41%
Total	22	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 59% of taking persons were mothers. This is less than the

global average of 68%, and is a marked decrease in respondent mothers since 1999, where 86% of taking persons were recorded as female.

(b) Incoming access application

Relationship of the Respondent

	Number	Percent
Mother	4	80%
Father	1	20%
Total	5	100%

In 4 of the 5 access applications the respondent was the mother. This compares with the 2 1999 cases where both respondents were mothers. Globally in 2003, 79% of respondents in access applications were mothers.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications

Status of the Taking Person as Carer

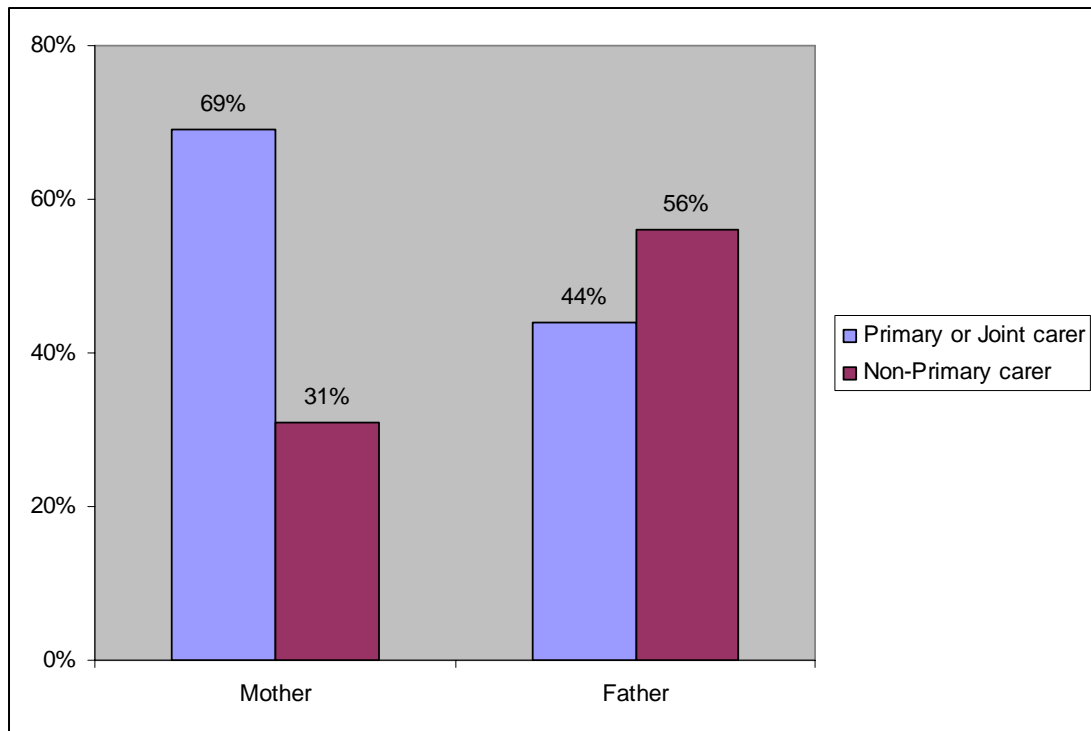
	Number	Percent
Primary or Joint Primary Carer	13	59%
Non-Primary Carer	9	41%
Total	22	100%

The table above shows that in 59% of cases, the taking person was the primary carer or joint primary carer of the child.³ This compares with the 2003 global average of 68%. No comparable information was collected in the 1999 survey.

Status as Carer and Relationship of the Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary or Joint Primary Carer	9	4	13
Non-Primary Carer	4	5	9
Total	13	9	22

³ 2 taking persons were thought to be primary carers (9%) and 11 were thought to be joint primary carers (50%).



The above table and chart show that the majority of mothers (9 out of 13 cases, 69%) were either the primary carer or a joint primary carer of the child. On the other hand, 44% (4 out of 9) of fathers were the joint or primary carer. This can be compared with global averages of 84% and 28% respectively.

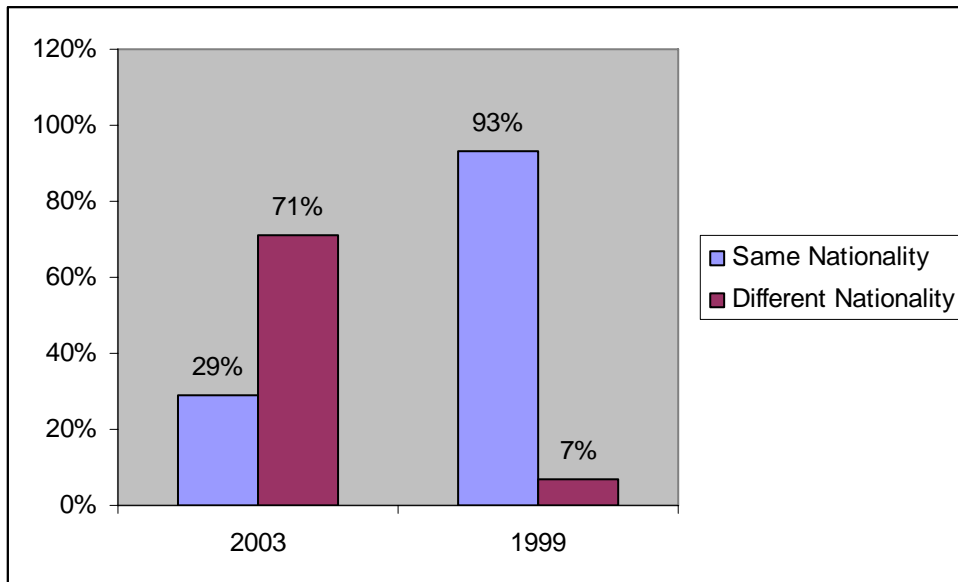
5. The nationality of the taking person / respondent

(a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	6	29%
Different Nationality	15	71%
Total	21	100%

This table shows that in 29% of applications the taking person was a Swedish national (including one case in which the taking person had dual nationality) and in 71% of applications they were not. This is quite different from the global averages of 55% and 45% respectively.



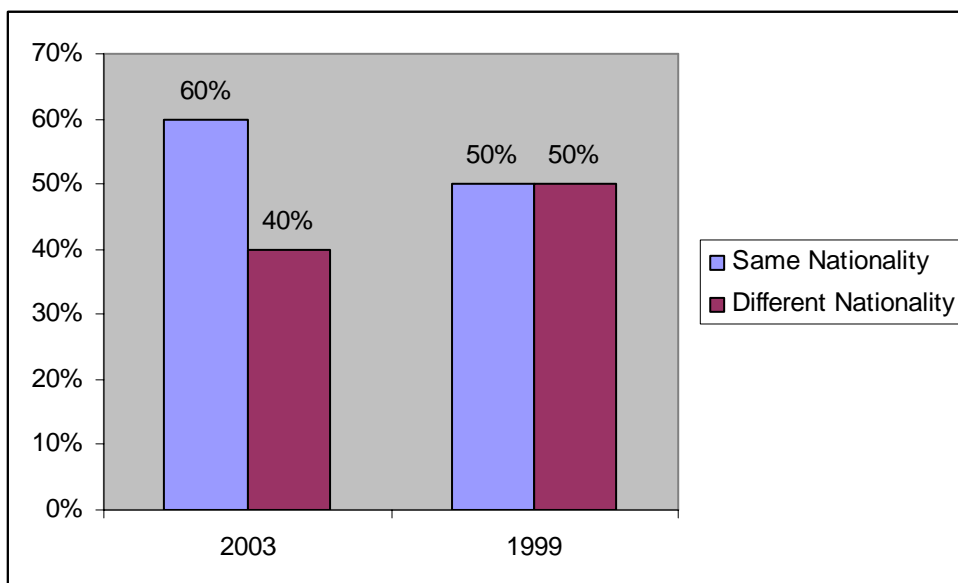
The chart above compares the 2003 findings on nationality with the 1999 survey and shows that the results differ considerably. Whereas in 1999 the vast majority of respondents (93%) were Swedish (which was found to be well above the 1999 global average of 52% of taking persons having the same nationality as the requested State), in this survey only 29% were Swedish (which is well below the global average of 55%).

(b) Incoming access applications

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	3	60%
Different Nationality	2	40%
Total	5	100%

At 60%, the proportion of respondents being Swedish nationals was above the global average of 53%.



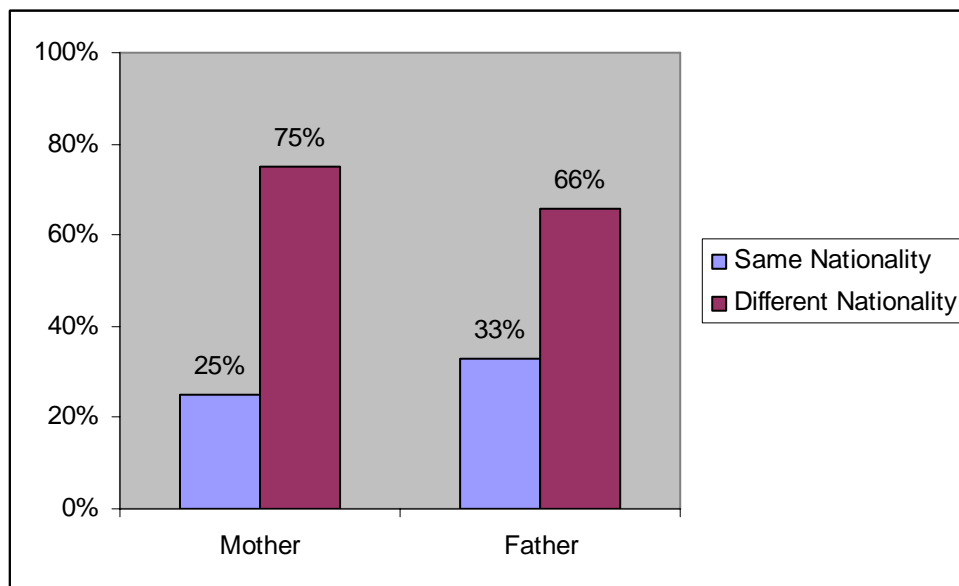
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of Swedish citizens increased from 40% in 1999 to 60% in 2003.

6. The relationship and nationality of the taking person /respondent combined

(a) Incoming return applications

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	3	3	6
Different Nationality	9	6	15
Total	12	9	21

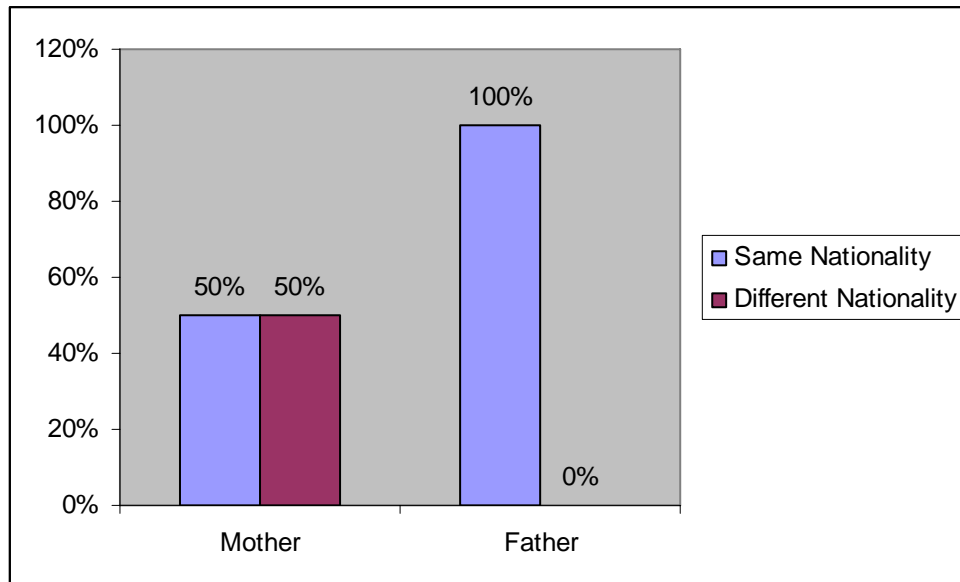


Surprisingly, in relation to both mothers and fathers, the taking person was more often recorded as having a different nationality than the requested State. Indeed, only 3 out of 12 (25%) mothers and 3 out of 9 fathers (33%) were Swedish citizens. This can be compared with the 2003 global average where 54% of mothers and 55% of fathers had the nationality of the requested State. The 1999 survey recorded that all 12 female taking persons and one of the 2 male taking persons were Swedish.

(b) Incoming access applications

Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	2	1	3
Different Nationality	2	0	2
Total	4	1	5



In the access applications received by Sweden, 2 out of 4 (50%) respondent mothers were Swedish nationals. The one respondent father also had Swedish nationality. This compares with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State. In 1999, one of the 2 female respondents had Swedish nationality.

The children

7. The total number of children

(a) Incoming return applications

There were 30 children involved in the 22 incoming return applications in 2003. This compares with the total of 24 children being involved in the 14 return applications in 1999. In 2003, on average 1.36 children were involved in return applications. Proportionally, this represents a decrease in the average number (1.71) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 6 children involved in the 5 incoming access applications in 2003. This compares with a total of 2 children being involved in the 2 access applications in 1999. In 2003, on average 1.2 children were involved in access applications. Proportionally, this is a slight increase in the average number (1.0) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	15	68%
Sibling Group	7	32%
Total	22	100%

Number of Children

	Number	Percent
1 Child	15	68%
2 Children	6	27%
3 Children	1	5%
Total	22	100%

The proportion of single children involved in applications for return, 68%, compares with the global average of 67% but shows an increase on the proportion of 50% recorded in 1999. Also, like the 2003 global average of 93%, the vast majority of applications (95%) involved no more than 2 children. In 1999, 86% of applications involved no more than 2 children.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	4	80%
Sibling Group	1	20%
Total	5	100%

Single Child or Sibling Group

	Number	Percent
1 Child	4	80%
2 Children	1	20%
Total	5	100%

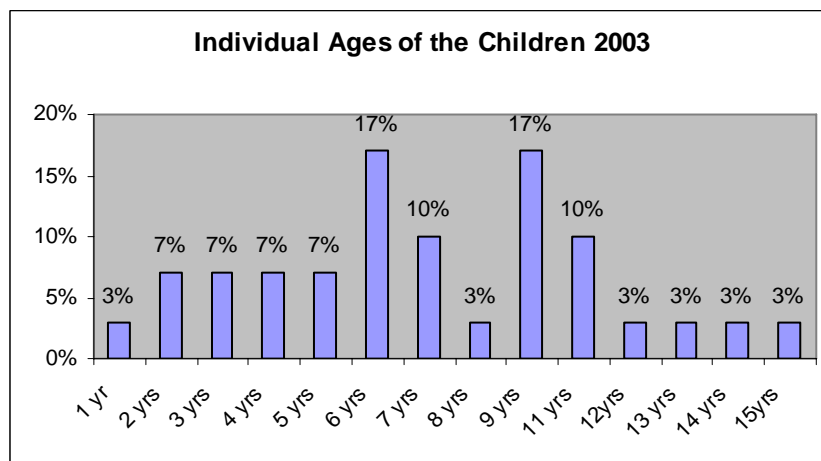
For access applications the proportion of single children, 80%, is above the global average of 71%. In 1999, both of the access applications involved single children.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	1	3%
2 yrs	2	7%
3 yrs	2	7%
4 yrs	2	7%
5 yrs	2	7%
6 yrs	5	17%
7 yrs	3	10%
8 yrs	1	3%
9 yrs	5	17%
11 yrs	3	10%
12 yrs	1	3%
13 yrs	1	3%
14 yrs	1	3%
15 yrs	1	3%
Total	30	100%

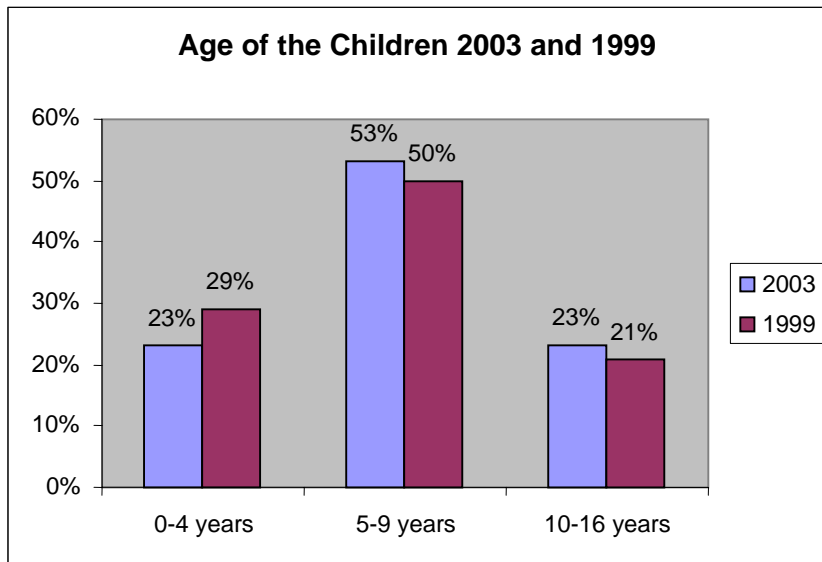


The above table and chart show the ages of the individual children involved. The abduction of children aged 1 - 6 years accounts for 48% of applications compared with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	7	23%
5-9 years	16	53%
10-16 years	7	23%
Total	30	~100%

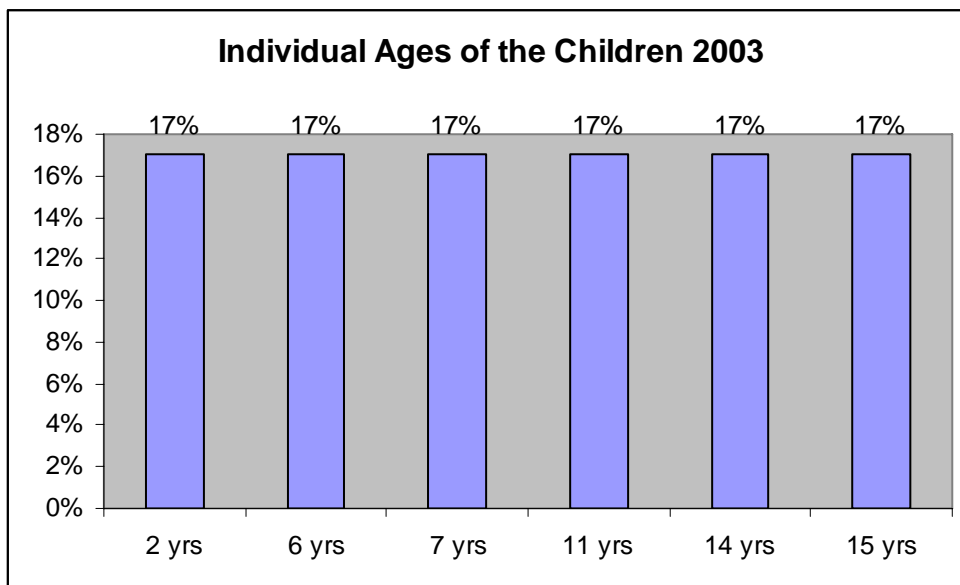


Of the 30 children included, 53% were aged between 5-9 years, compared with 50% in 1999. This can be compared with the 2003 global average of 42%. The number of children aged between 10-16 years increased from 21% to 23%. This is similar to the global average of 22%.

(b) Incoming access applications

Individual Ages 2003

	Number	Percent
2 yrs	1	17%
6 yrs	1	17%
7 yrs	1	17%
11 yrs	1	17%
14 yrs	1	17%
15 yrs	1	17%
Total	6	~100%

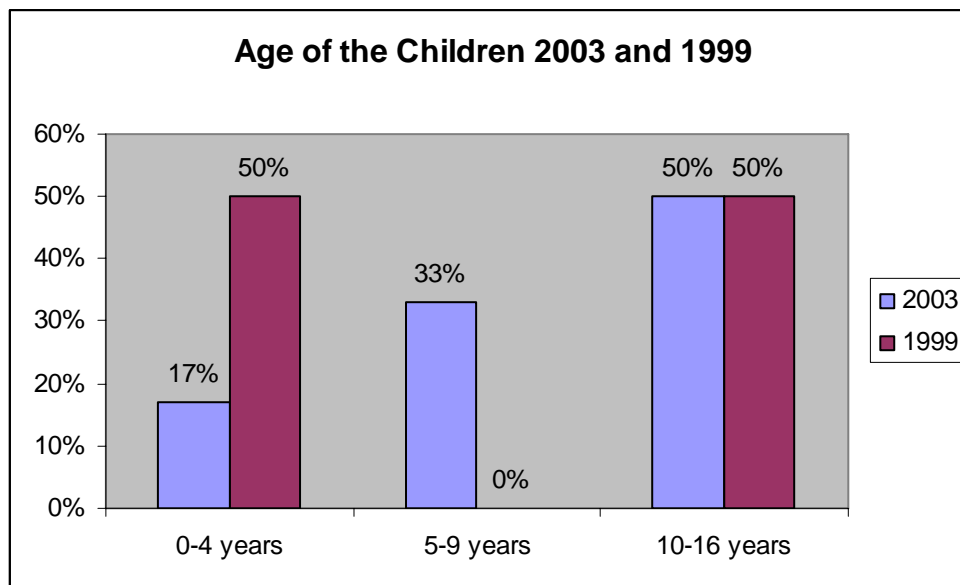


The above chart and table show the ages of the individual children involved. 34% of access applications involved 1 – 6 years olds, compared with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	1	17%
5-9 years	2	33%
10-16 years	3	50%
Total	6	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 3 children (50%) were aged between 10 and 16 years old which is proportionally the same as in 1999. Globally in 2003, 34% of children were aged between 10 and 16 years. 2 children (33%) were aged between 0 and 4 years compared with one (50%) in 1999. Globally in 2003, 20% of children belonged to this age group.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	12	40%
Male	18	60%
Total	30	100%

The proportion of female and male children differs from the 2003 global averages of 51% and 49% respectively. Indeed, males were in the majority, unlike in 1999 where only 38% were male.

(b) Incoming access applications**Individual Ages 2003**

	Number	Percent
Female	4	67%
Male	2	33%
Total	5	100%

4 out of the 6 children (67%) were female. This compares with the global average of 45%. The 2 1999 applications involved one female and one male.

The outcomes**11. Overall outcomes****(a) Incoming return applications****Outcome of Application**

	Number	Percent
Rejection	1	5%
Voluntary Return No Court Orders	7	32%
Judicial Order for Return by Consent	3	14%
Judicial Order for Return Not by Consent	1	5%
Judicial Refusal	3	14%
Withdrawn	4	18%
Other	3	14%
Total	22	~100%

The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Sweden, in 2003, 3 (14%) judicial return orders were made with consent and one (5%) without consent.

Overall, 51% of applications made to Sweden ended in the child being returned either by a court order or voluntarily, which is the same as the global average return rate. At 32%, the proportion of voluntary returns is above the global average of 22%. On the other hand, the proportion of judicial returns (19%) is below the global average of 29%. At 14%, the refusal rate compares with the global average of 13%.

7 applications (33%) went to court. Of these cases, 4 (57%) resulted in a return being ordered and 3 (43%) in a judicial refusal. This compares with the 2003 global averages of 66% and 29% respectively.⁴

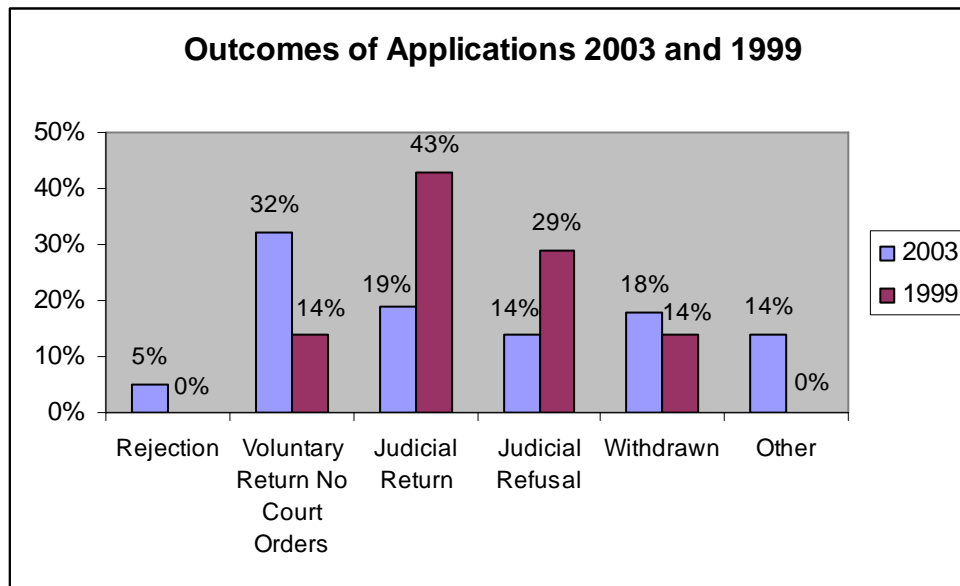
At 18%, the withdrawal rate is above the global average of 15%.

In one case the file was closed as the child turned 16 years.⁵ In another case the Central Authority never received a complete application due to lack of communication and lastly,

⁴ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁵ Recorded as 'other'.

the applicant moved to Sweden where an agreement was reached that one child should live with each parent and contact was agreed.⁶



The above chart categorises the outcomes in a way that is comparable with the 1999 findings. 'Judicial Returns' therefore include orders made with and without consent.

Proportionally, the findings show that unlike in 1999, voluntary return was the most common outcome in 2003, 32% compared with 14%.

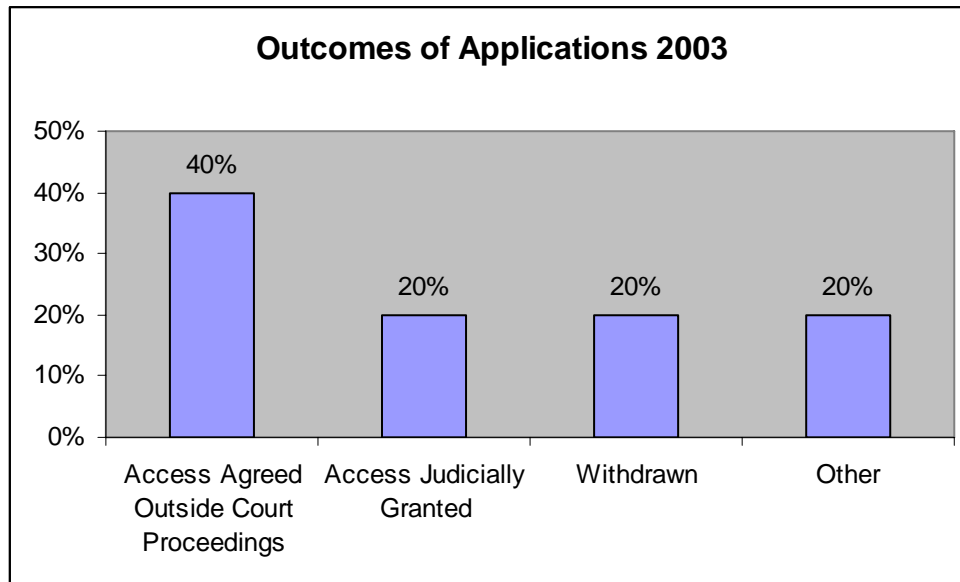
Judicial orders for return (including by consent) decreased, with a combined total of 4 cases (19%). This compares with 43% in 1999. The overall return rate of 51% compares with 57% in 1999.

The withdrawal rate rose from 14% in 1999 to 18% in 2003.

(b) Incoming access applications

Outcome of Application		
	Number	Percent
Access Agreed Outside Court Proceedings	2	40%
Access Judicially Granted	1	20%
Withdrawn	1	20%
Other	1	20%
Total	5	100%

⁶ Both recorded as 'other'.



In 2 cases access was agreed outside of court proceedings. In one application access was granted judicially under domestic law. A fourth case was withdrawn. Globally in 2003, 13% of access applications resulted in a voluntary settlement of access, 16% in access being judicially granted and 22% were withdrawn. The final case was dealt with under the 1977 Nordic Convention and the application was filed directly to court.⁷ In 1999, in one application access was voluntarily agreed and in the other application access was judicially granted.

12. The reasons for rejection

(a) Incoming return applications

The one applicable application was rejected as the child could not be located. Globally, 27% of rejections were based on this reason.

(b) Incoming access applications

Not applicable.

13. The reasons for judicial refusal

(a) Incoming return applications

Of the 7 applications which went to court, 3 (43%) were refused, which is an increase on the 4 out of 10 (40%) applications refused in 1999 and well above the 2003 global average of 29%.

The reason for refusing the 3 applications in 2003 were as follows: the applicant father had no rights of custody; the child was not habitually resident in the requesting State; and Article 12. In 2003, the reasons for refusal were diverse which was more in line with the global pattern. Whereas in 2003 none of the refusals were based on Article 13 *b*), in 1999 all of them were.

14. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

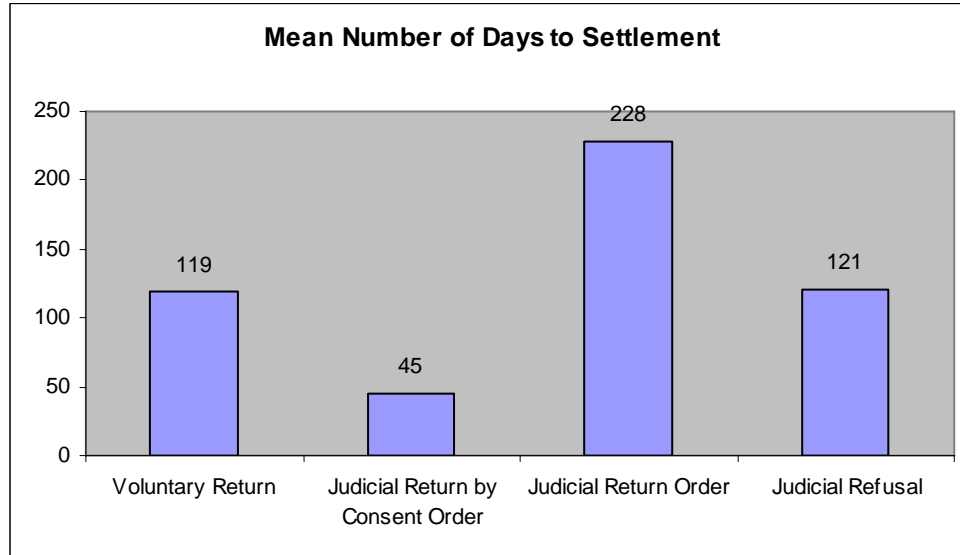
In all 3 refusals the taking person was the mother of the child. Globally, 77% of refusals involved mothers.

⁷ Recorded as 'other'.

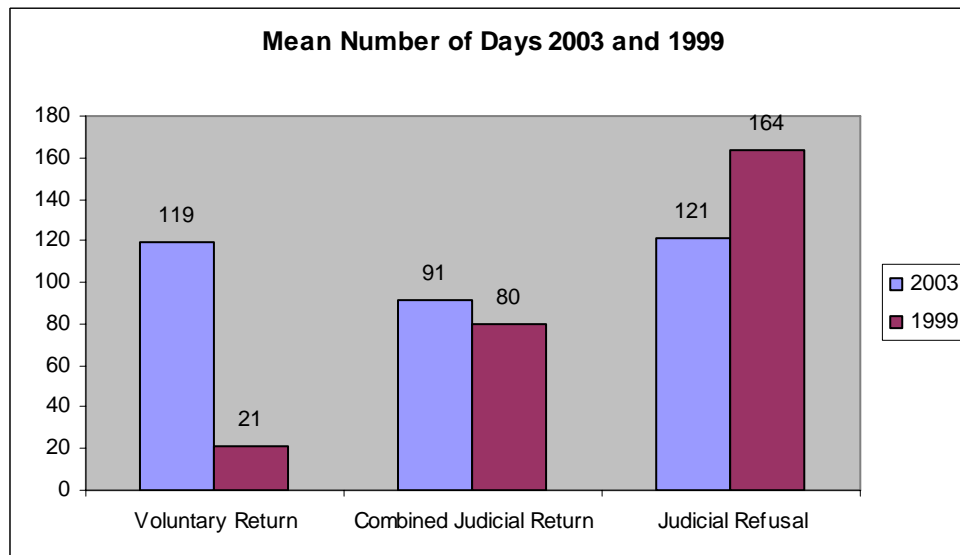
Speed

15. The time between application and outcome

(a) Incoming return applications⁸



Predictably, return orders by consent were resolved quicker than the one return order without consent, in 45 days compared with 228 days. This compares with the global averages of 85 days and 143 days respectively. Voluntary returns took on average 119 days to reach final outcome, which was slower than the global average of 98 days. On the other hand, the speed of judicial refusals, averaging 121 days, was considerably quicker than the global mean of 233 days.



The chart above shows that judicial returns were resolved in a combined average of 91 days compared with 80 days in 1999. Judicial refusals took a mean average of 121 days as against 164 days in 1999. Voluntary returns took a mean average of 119 days to reach the outcome, compared with 21 days in 1999.

⁸ This information was not available in relation to 4 voluntary returns.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	119	45	228	121
Median	110	56	228	136
Minimum	49	19	228	45
Maximum	197	60	228	181
Number of cases	3	3	1	3

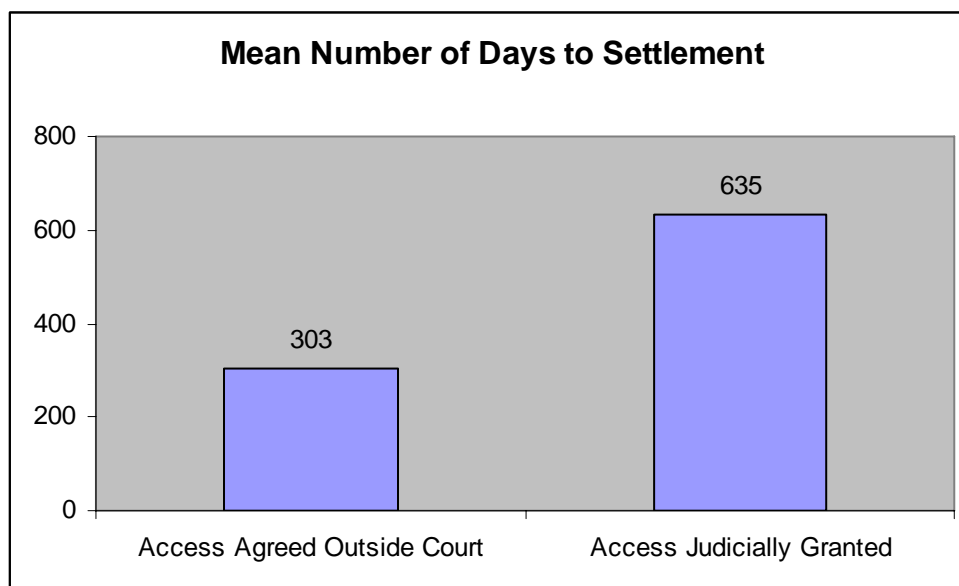
The table above gives a more informative picture of the system in Sweden. It must be noted that as in 1999, no applications were pending, therefore the slowest judicial decision, a judicial return, was reached in under a year (228 days) which is quick compared with other Contracting States in this survey.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Refusal
Mean	159
Median	159
Minimum	136
Maximum	181
Number of cases	2

As can be seen, in relation to judicial refusals, there is a paradoxical difference of 38 days in the mean average before and after the exclusion of appealed cases. Appealed refusals were disposed of more quickly than unappealed refusals.

(b) Incoming access applications



Overall, access cases in Sweden tended to take longer than return applications. The 2 applications in which access was agreed outside court took over an average of 303 days

(256 and 349 days respectively) to reach final conclusion. This compares with the global average of 245 days. The one case that was resolved judicially under domestic law took over a year and a half to reach final settlement (635 days), as against 266 days globally.

16. Appeals

(a) Incoming return applications

Of the 7 applications which went to court, 2 (29%) were appealed. Globally, 22% of all cases which went to court were appealed. In 1999, 3 cases were appealed.

One case was judicially refused at first instance and on appeal. This application took 45 days to reach a final outcome, compared with a global average of 296 days. In the other case a judicial return was ordered at appellate level after a refusal at first instance. This application was concluded within 56 days compared with the global average of 206 days.

(b) Incoming access applications

None of the judicial decisions was appealed.

SWITZERLAND

The applications

1. The number of applications

Incoming Return Applications	39
Incoming Access Applications	11
Outgoing Return Applications	17
Outgoing Access Applications	6

According to the Central Authority for Switzerland, they received 39 incoming return and 11 incoming access applications in 2003, making a total of 50 incoming applications. This is a significant increase on the 16 incoming applications (11 of which were return applications and 5 of which were for access) received in 1999. The ratio of incoming return applications to access applications was 78% to 22% which compares with the global average of 84% to 16%.

Additionally, the Central Authority made 17 outgoing return applications and 6 outgoing access applications in 2003.¹ This is also an increase from the 7 return applications and 4 access applications made in 1999.

Altogether, the Central Authority handled 73 new applications in 2003, compared with only 27 new applications in 1999.

The overall ratio of incoming to outgoing applications was 68% to 32%.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting State 2003

	Number	Percent
Italy	8	21%
France	6	15%
Portugal	4	10%
Serbia & Montenegro	4	10%
Colombia	3	8%
Germany	3	8%
Mexico	2	5%
Spain	2	5%
USA	2	5%
Finland	1	3%
FYR of Macedonia	1	3%
Hungary	1	3%
Sweden	1	3%
Turkey	1	3%
Total	39	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Italy	8 (21%)	2 (18%)
France	6 (15%)	3 (27%)
Portugal	4 (10%)	0 (0%)
Serbia & Montenegro	4 (10%)	0 (0%)
Colombia	3 (8%)	0 (0%)
Germany	3 (8%)	1 (9%)
Mexico	2 (5%)	1 (9%)
Spain	2 (5%)	0 (0%)
USA	2 (5%)	2 (18%)
Finland	1 (3%)	0 (0%)
FYR of Macedonia	1 (3%)	0 (0%)
Hungary	1 (3%)	0 (0%)
Sweden	1 (3%)	0 (0%)
Turkey	1 (3%)	0 (0%)
UK - England and Wales	0 (0%)	1 (9%)
South Africa	0 (0%)	1 (9%)
Total	39 (~100%)	11 (~100%)

Switzerland received applications for return from 14 Contracting States, compared with 7 in 1999.

Neighbouring Italy made the most return applications (21%). There was in fact a significant increase in the number of applications from Italy, 8 compared with 2 in 1999. The number of applications from France was also double that recorded in 1999. There were also multiple applications from Portugal, Serbia & Montenegro and Colombia compared with none in 1999.

(b) Incoming access applications

Requesting States 2003

	Number	Percent
France	2	18%
UK - England & Wales	2	18%
Australia	1	9%
Finland	1	9%
Germany	1	9%
Portugal	1	9%
Serbia & Montenegro	1	9%
Spain	1	9%
USA	1	9%
Total	11	~100%

Switzerland received 11 access applications, 4 of which were from France and England & Wales (2, 18% each). In 1999, only USA made more than one application (2, 40%). Interestingly, England & Wales made no return applications in 2003. It is noticeable that having made the most return applications, Italy made no access applications.

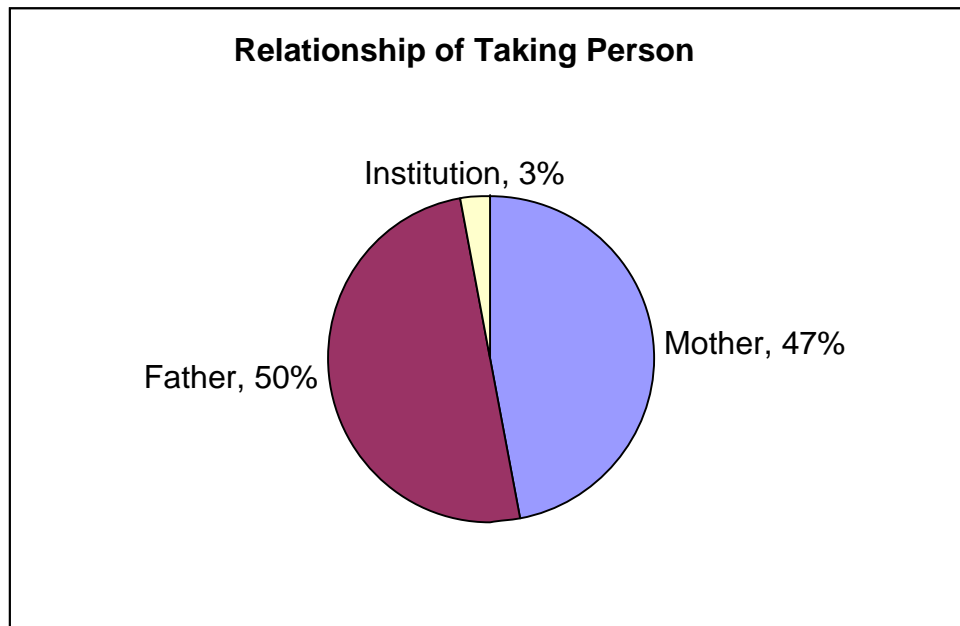
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications²

Relationship of the Taking Person

	Number	Percent
Mother	18	47%
Father	19	50%
Institution	1	3%
Total	38	100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Contrary to the global norm, more fathers than mothers were taking persons (50%) compared with 29% globally. There was a slight decrease in respondent mothers (47%) from 1999,³ where 55% of taking persons were recorded as female and compares with 68% globally.

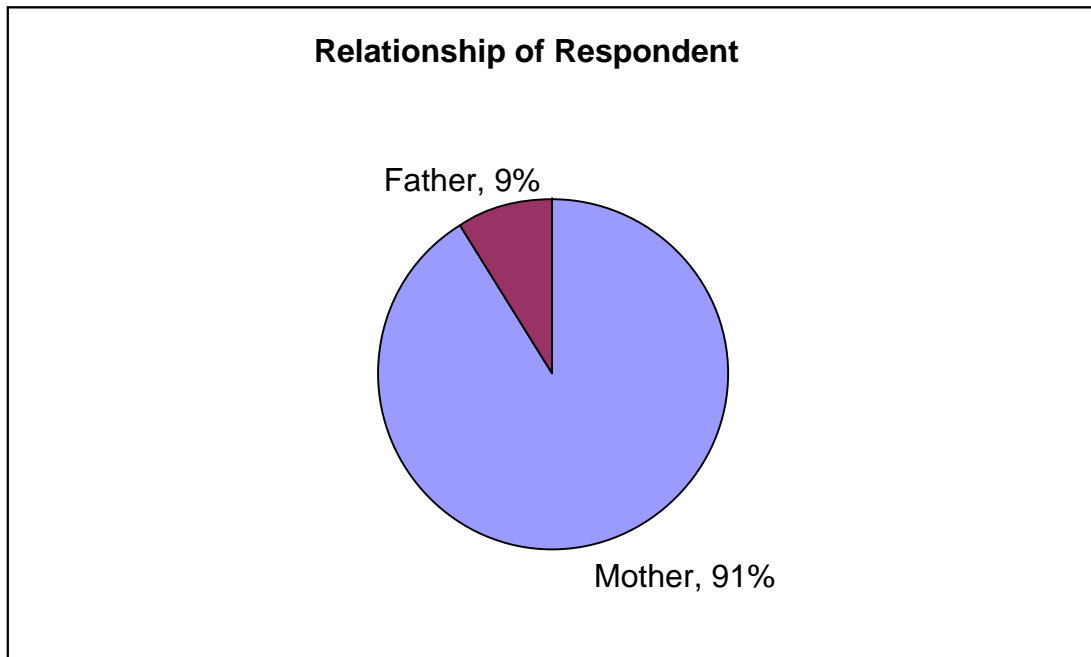
(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	10	91%
Father	1	9%
Total	11	100%

² This information was not available in relation to one application.

³ Insofar as 'female' can normally be taken to mean 'mother'.



In 10 of the 11 applications the respondent was the mother, as opposed to the 2003 global average of 79%. In 1999, all 5 respondents were recorded as female.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications

Status of the Taking Person

	Number	Percent
Primary Carer	1	14%
Non-Primary Carer	6	86%
Total	7	100%

Information regarding the status of the taking person as carer of the child was only available in 7 of the 39 applications. One taking person was known to be the primary carer and six were known to be the non-primary carer. Due to the low proportion of applications in which this information was available, no further comment will be made.

5. The nationality of the taking person / respondent

(a) Incoming return applications⁴

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	9	24%
Different Nationality	29	76%
Total	38	100%

This table shows that in only 24% of applications was the taking person Swiss (this includes 7 cases involving dual nationality). In 76% of applications the taking person had a different nationality. This is markedly different from the global average of 55% of

⁴ Nationality was inapplicable in relation to one application since it involved an institution.

taking persons having the same nationality as the requested State and 45% who had a different nationality. In 1999 information regarding nationality was not available.

(b) Incoming access applications

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	4	36%
Different Nationality	7	64%
Total	11	100%

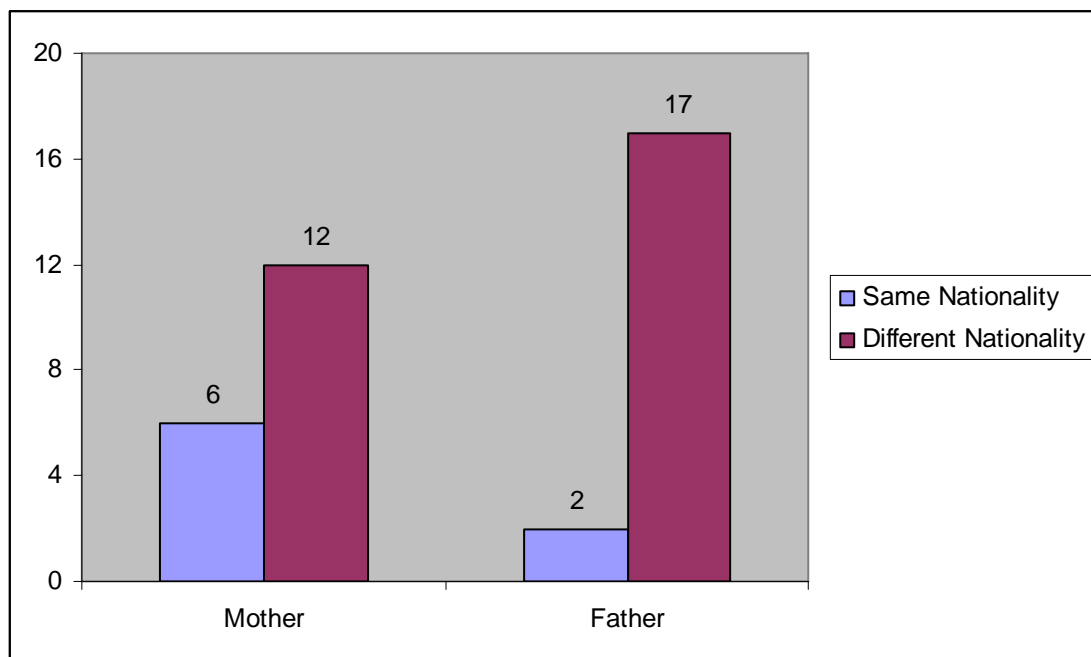
In 4 of the 11 (36%) of access applications the respondents were Swiss (this includes 2 cases involving dual nationality) and in 7 applications (64%) they had a different nationality. These findings can be compared with the 2003 global average of 53% of respondents having the same nationality as the requested State. In 1999 information regarding nationality was not available.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications⁵

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	6	2	8
Different Nationality	12	17	29
Total	18	19	37



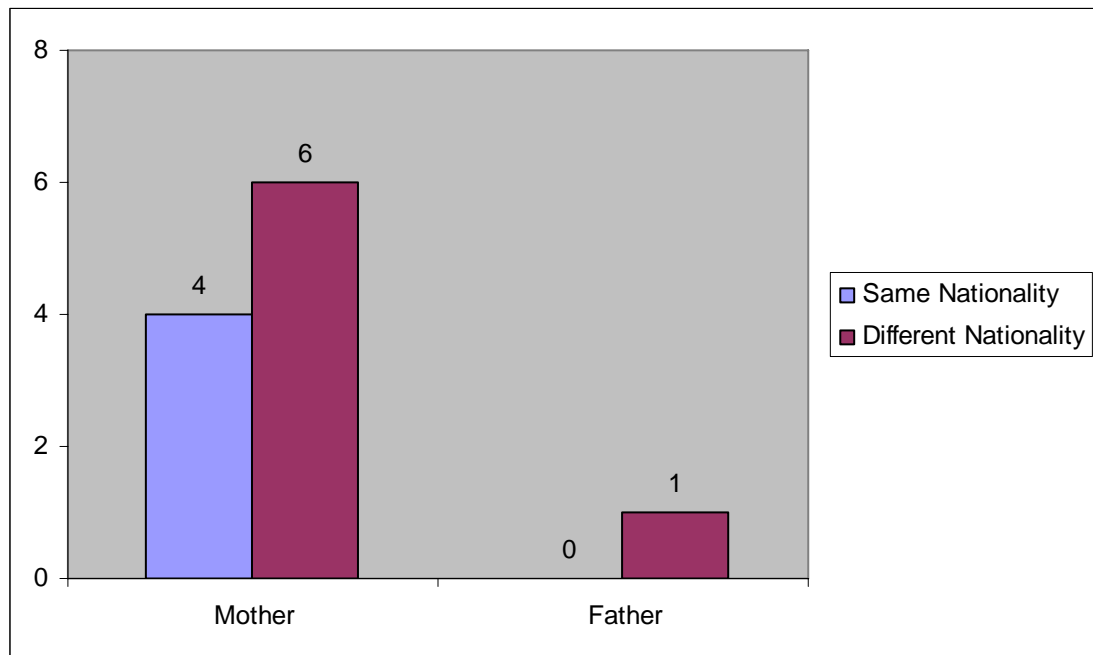
⁵ Information on relationship of the taking person to the child was not available in relation to one application. Nationality was again inapplicable in relation to the one application involving an institution.

In relation to both mothers and fathers the taking person was more often recorded as having a nationality other than Swiss. 12 out of 18 (67%) of mothers and 17 out of 19 (89%) of the fathers were not Swiss nationals. These figures can be compared with the 2003 global averages where 46% of mothers and 45% of fathers were not nationals of the requested State.

(b) Incoming access applications

Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	4	0	4
Different Nationality	6	1	7
Total	10	1	11



In access applications received by Switzerland, only 4 out of 10 (40%) respondent mothers were Swiss nationals. This can be compared with the 2003 global average of 49% of respondent mothers having the nationality of the requested State. The one respondent father had a nationality other than Swiss.

The children

7. The total number of children

(a) Incoming return applications

There were 48 children involved in the 39 incoming return applications in 2003. This can be compared with the total of 13 children being involved in the 11 return applications in 1999. In 2003, on average 1.23 children were involved in return applications. Proportionally, this represents an increase in the average number (1.18) of children per

return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 14 children involved in the 11 access applications in 2003. This can be compared with the total of 5 children being involved in the 5 access applications in 1999. In 2003, on average 1.27 children were involved in access applications. Proportionally, this represents an increase in the average number (1.0) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	31	79%
Sibling Group	8	21%
Total	39	100%

Number of Children

	Number	Percent
1 Child	31	79%
2 Children	7	18%
3 Children	1	3%
Total	39	~100%

There was a slight decrease in the number of applications involving single children, from 82% in 1999 to 79% in 2003. This can be compared with the 2003 global average of 67%. The overall proportion of applications involving one or 2 children decreased from 100% in 1999 to 97% in 2003. Globally in 2003, 93% of applications involved one or 2 children.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	8	73%
Sibling Group	3	27%
Total	11	100%

Number of Children

	Number	Percent
1 Child	8	73%
2 Children	3	27%
Total	11	100%

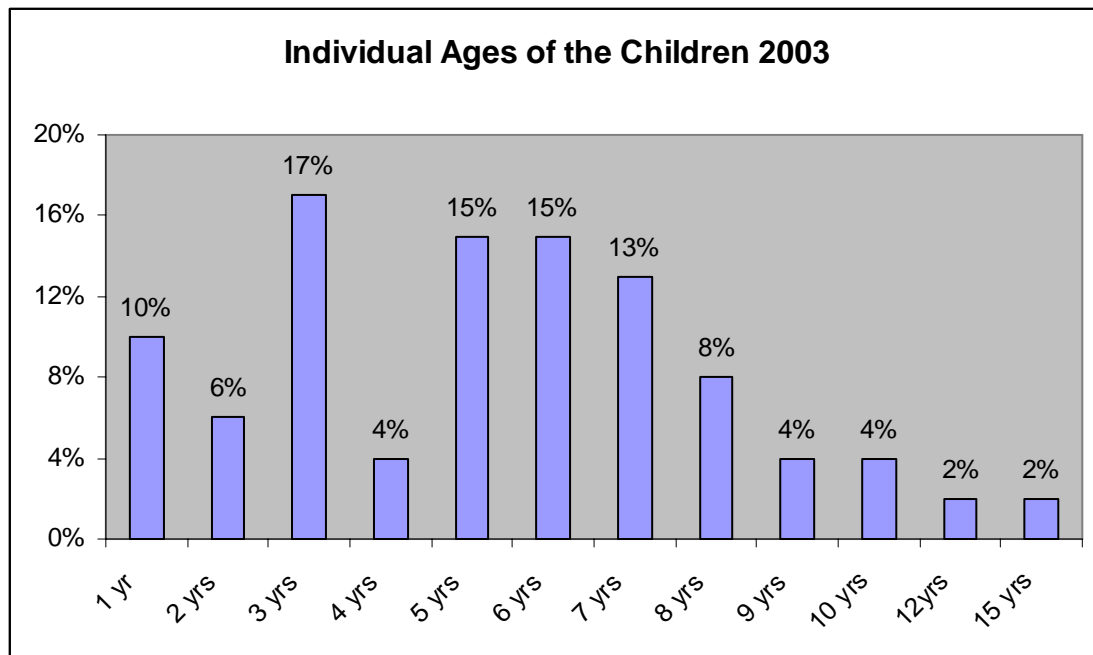
There were 8 applications involving single children and 3 applications involving 2 children. In 1999, all 5 access applications involved single children. Globally in 2003, 71% of access applications involved a single child.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
1 yr	5	10%
2 yrs	3	6%
3 yrs	8	17%
4 yrs	2	4%
5 yrs	7	15%
6 yrs	7	15%
7 yrs	6	13%
8 yrs	4	8%
9 yrs	2	4%
10 yrs	2	4%
12 yrs	1	2%
15 yrs	1	2%
Total	48	100%

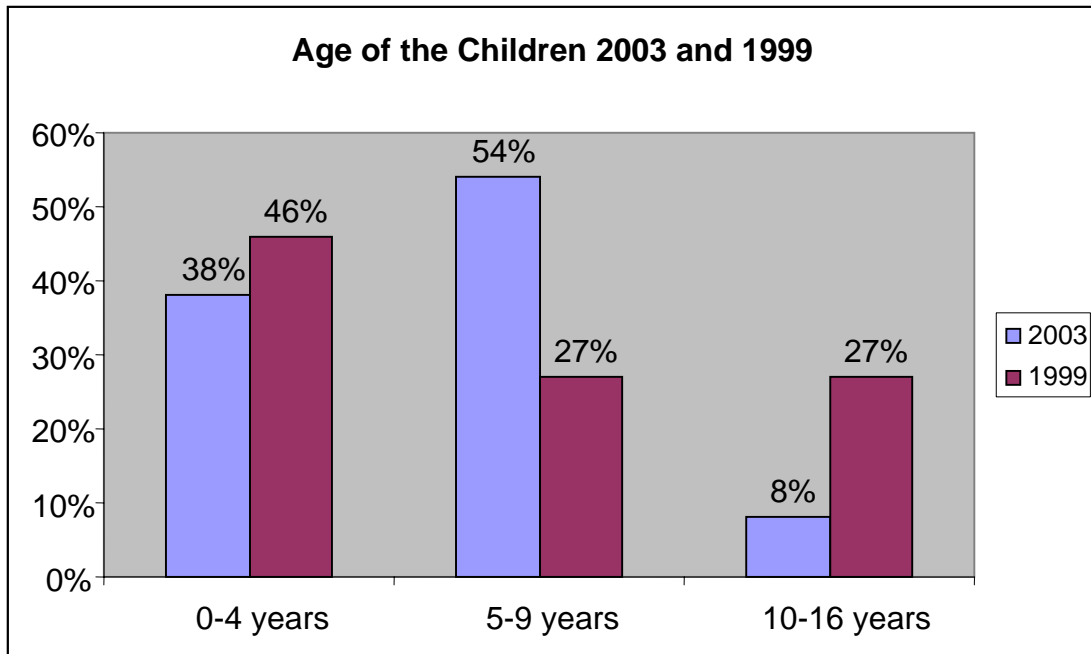


The above table and chart show the ages of the individual children involved. 67% of the children were aged between ages 1 and 6 compared with the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

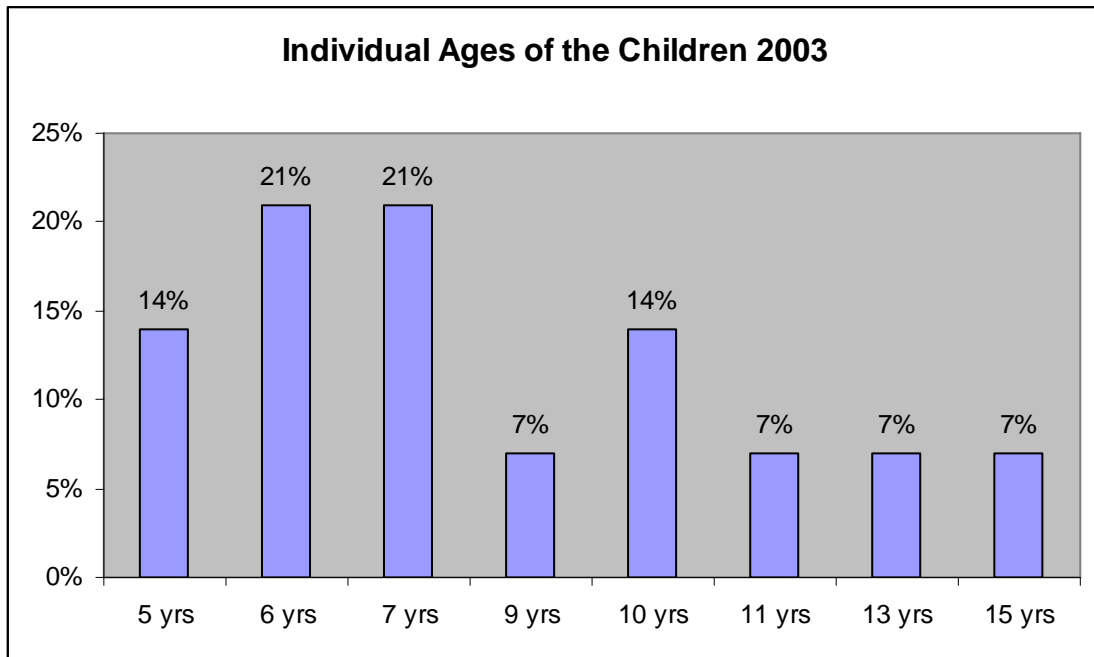
	Number	Percent
0-4 years	18	38%
5-9 years	26	54%
10-16 years	4	8%
Total	48	100%



Of the 48 children included, 38% were aged between 0-4 years, compared with 46% in 1999. This is similar to the global average of 36%. The proportion of children aged between 10-16 years decreased from 27% to 8%. This is much lower than the global average of 22%. On the other hand, the proportion of children aged 5-9 years old doubled from 27% to 54%. This can be compared with the 2003 global average of 42%

(b) Incoming access applications**Individual Ages 2003**

	Number	Percent
5 yrs	2	14%
6 yrs	3	21%
7 yrs	3	21%
9 yrs	1	7%
10 yrs	2	14%
11 yrs	1	7%
13 yrs	1	7%
15 yrs	1	7%
Total	14	~100%

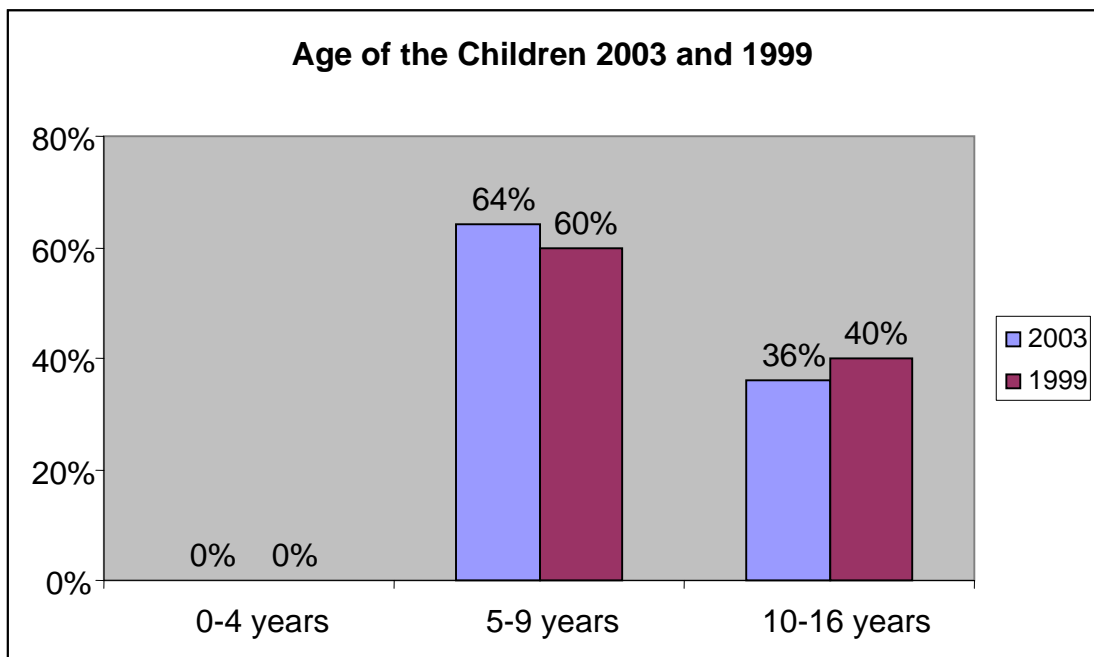


The above chart and table show ages of the individual children involved. 35% of access applications involved 1 – 6 years olds, which compares with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
5-9 years	9	64%
10-16 years	5	36%
Total	14	100%



The charts above show comparable information regarding the age bands of the children in 2003. As can be seen, 9 (64%) children were aged between 5 and 9 and 5 (36%) were over 10 years old. This can be compared with the 2003 global averages of 46% and 34% respectively. In 1999, 3 children were aged 5-9 years and 2 children were aged 10-16 years. Surprisingly as was found in 1999, no children were aged under 5 years.

10. The gender of the children

(a) Incoming return applications

Gender of the Children

	Number	Percent
Female	23	48%
Male	25	52%
Total	48	100%

As can be seen, the gender of the children in return applications was almost evenly split between males and females. Males accounted for 52% and females for 48% of all children involved in the return applications. Globally in 2003, 49% of children were male and 51% were female. In 1999, 46% of children involved in the return applications to Switzerland were male.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	6	43%
Male	8	57%
Total	14	100%

In access applications 8 out of the 14 children (57%) were male. This can be compared with the 2003 global average of 55%. In 1999, 3 out of the 5 children were male.

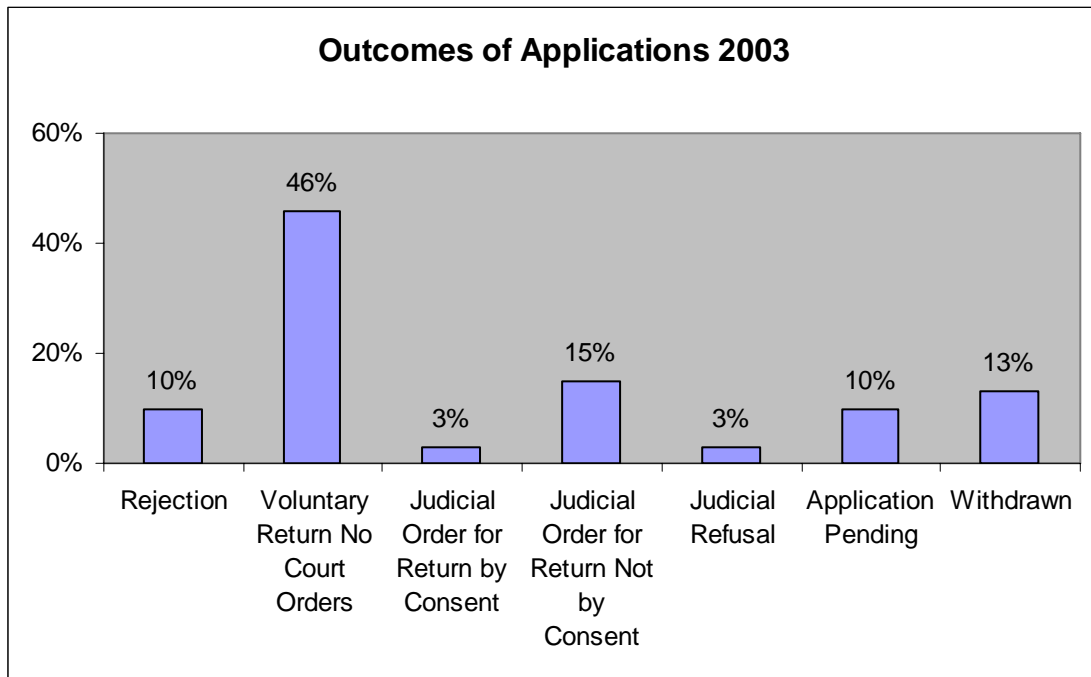
The outcomes

11. Overall outcomes

(a) Incoming return applications

Outcome of Application

	Number	Percent
Rejection	4	10%
Voluntary Return No Court Orders	18	46%
Judicial Order for Return by Consent	1	3%
Judicial Order for Return Not by Consent	6	15%
Judicial Refusal	1	3%
Application Pending	4	10%
Withdrawn	5	13%
Total	39	100%



The above table and chart shows the outcome of all applications in 2003.

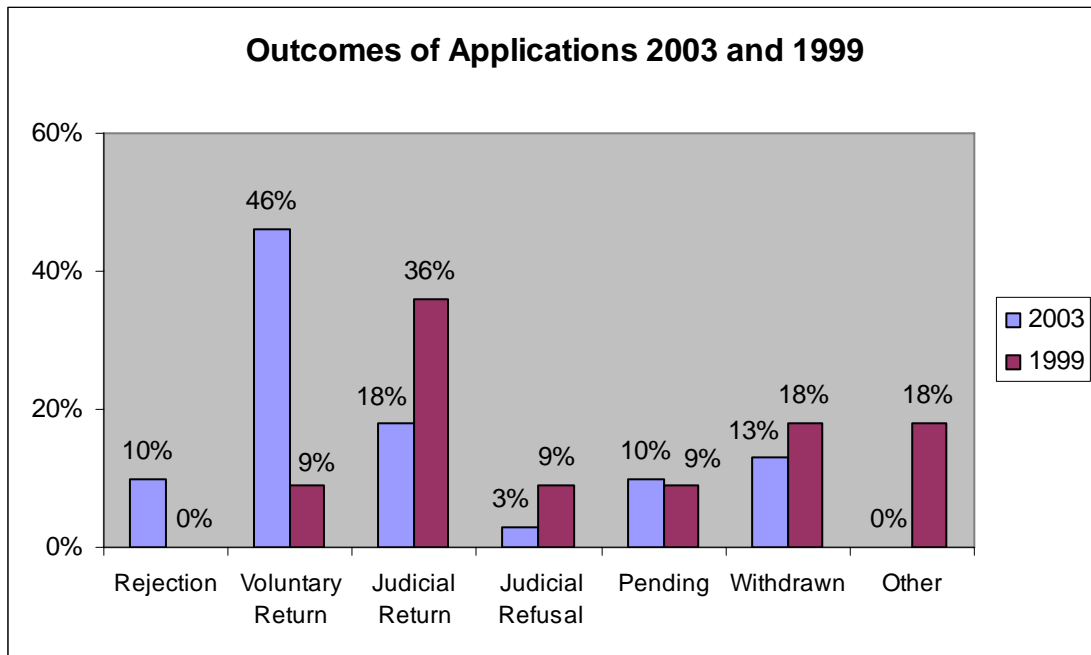
Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In Switzerland, in 2003, one (3%) judicial return order was made with consent and 6 (15%) without consent.

Overall, 64% of applications made to Switzerland ended in the child being returned either by a court order or voluntarily, which favourably compares with the global return average of 51%. The proportion of voluntary returns, 46%, was well above the 2003 global average of 22%. On the other hand, the proportion of judicial returns, 18%, was lower than the 2003 global average of 29%. At 3%, the refusal rate was well below the 2003 global average of 13%.

Of the 8 cases that went to court, 7 (88%) ended in a judicial return and one (12%) in a judicial refusal. This compared with the 2003 global averages of 66% and 29% respectively.⁶

At 13%, the withdrawal rate is slightly below the 2003 global average of 15%. As of 30th June 2005, 4 (10%) applications were still pending, which compares with the 2003 global average of 9%.

⁶ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Proportionally, the figures show that voluntary return of the child was the most common outcome for an application, with a total of 18 (46%) applications. This is an increase on the one voluntary return (9%) made in 1999. Judicial returns accounted for 7 applications (18%), compared with 4 applications (36%) in 1999. The proportion of judicial refusals decreased from 9% in 1999 to 3% in 2003. Consequently, the overall return rate increased, from 45% in 1999 to 64% in 2003.

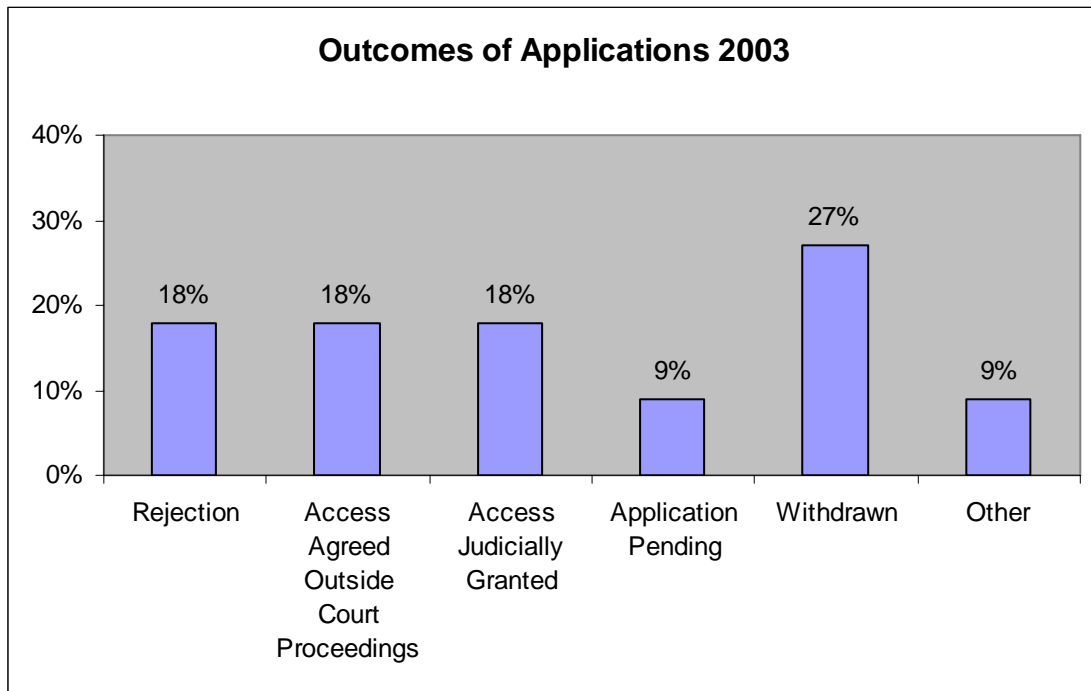
At 13% and 10%, the proportions of withdrawals and pending applications can be compared with the 1999 findings of 18% and 9% respectively.

In 2003, Switzerland rejected 4 cases, compared with none in 1999.

In 2003, there were no applications in which access was ordered or agreed, compared with 2 in 1999 (18%) where they were categorised as 'other'.

(b) Incoming access applications

Outcome of Application		
	Number	Percent
Rejection	2	18%
Access Agreed Outside Court Proceedings	2	18%
Access Judicially Granted	2	18%
Application Pending	1	9%
Withdrawn	3	27%
Other	1	9%
Total	11	~100%



3 access applications (27%) were withdrawn which compares with the 2003 global average of 22%. Of the 2 cases in which access was granted judicially, one order was granted as a Hague application and the other was granted under domestic law. This can be compared with 3 applications in which access was granted in 1999. The 'other' outcome in 2003 was that the child was voluntarily returned. No applications were refused, compared with one in 1999. As in 1999, one case was still pending as at 30th June 2005 which is well below the 2003 global average of 22%.

12. The reasons for rejection

(a) Incoming return applications

In 2003, Switzerland rejected 4 (10%) of applications, as against 6% globally. 2 applications (50%) were rejected because the child was located in another country and one application (25%) was rejected as the applicant had no rights of custody. This can be compared with the 2003 global averages of 24% and 19% respectively. The remaining application was rejected because there was no wrongful removal within the meaning of Article 3.⁷

(b) Incoming access applications

2 access applications were rejected. One was rejected because the child was located in another country; the other was rejected as the child was over 16 years old. Globally in 2003, 20% and 10% of rejections respectively were based on these reasons.

13. The reasons for judicial refusal

(a) Incoming return applications

Of the 8 applications which went to court, one (12%) was refused which is below the 2003 global average of 29%. In 1999, one out of 5 (9%) application was refused. The reason for refusing the application was that the child was not habitually resident in the requesting State. In 1999, the reason for refusal was not stated.

⁷ Recorded as 'other'.

14. The reason for judicial refusals and the relationship of the taking person

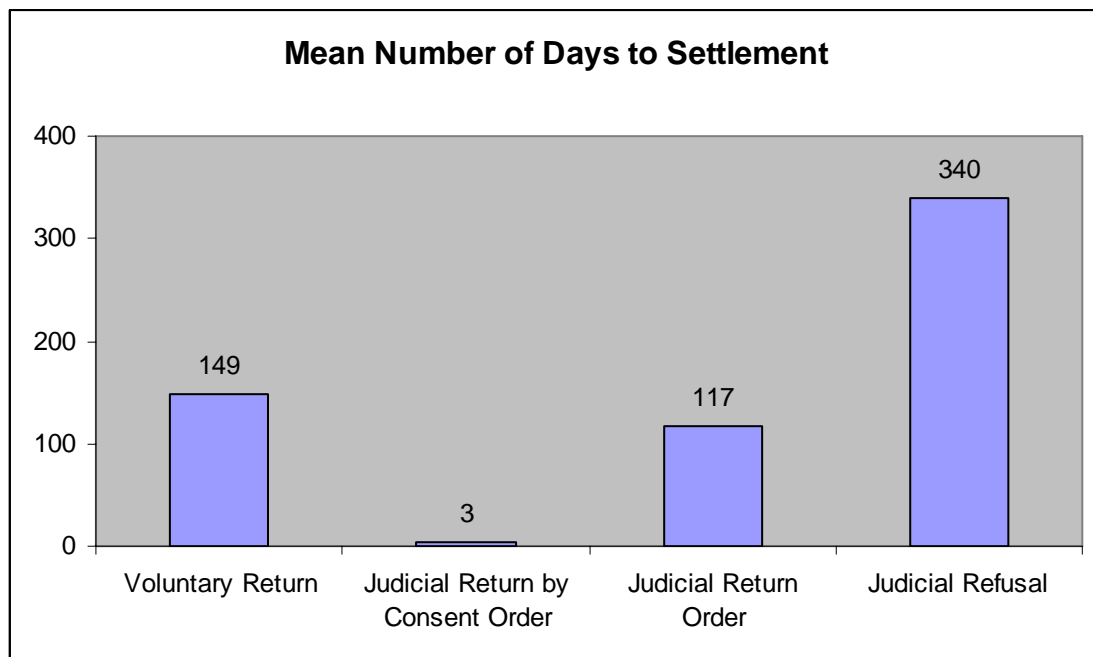
(a) Incoming return applications

In the one application which was judicially refused the taking person was recorded as the father of the child. Globally in 2003, 21% of refusals involved fathers. In 1999, this information was not stated.

The speed

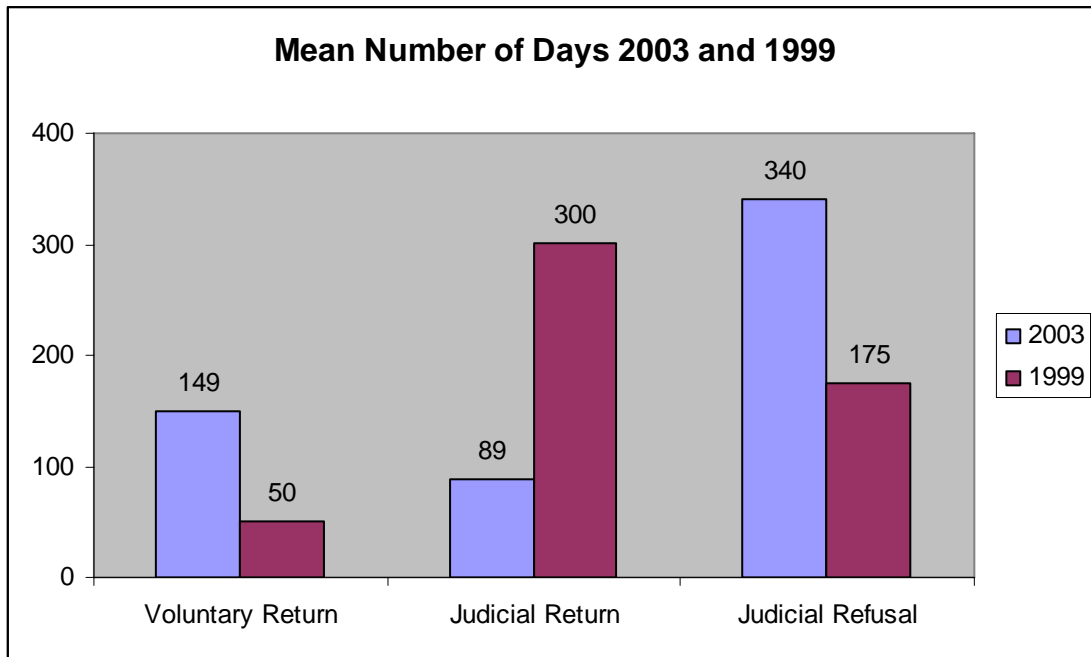
15. The time between application and outcome

(a) Incoming return applications⁸



Predictably, the one return order by consent was resolved quicker than return orders without consent, in 3 days compared with 117 days. This can be compared with the 2003 global averages of 85 days and 143 days respectively. Voluntary returns took on average 149 days to reach final outcome, as opposed to 98 days globally. The one judicial refusal was resolved in 340 days, which is above the 2003 global average of 233 days.

⁸ This information was not available in relation to 11 voluntary returns and 3 judicial returns without consent.



The chart above shows that judicial returns were resolved in a combined average of 89 days compared with 300 days in 1999. The one judicial refusal took 340 days and the one voluntary return took 149 days to reach final outcomes as against 175 days and 50 days respectively in 1999.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	149	3	117	340
Median	102	3	119	340
Minimum	12	3	51	340
Maximum	543	3	181	340
Number of cases	7	1	3	1

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Switzerland. As can be seen, the fastest judicial decision was the one judicial return with consent, which was made in 3 days. On the other hand, the slowest judicial decision was the one judicial refusal, which took 340 days to resolve. The fastest voluntary return was resolved in 12 days. The slowest voluntary return took 543 days to reach a final outcome which seems an extraordinarily long time.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order
Mean	150
Median	150
Minimum	119
Maximum	181
Number of cases	2

Surprisingly, after the exclusion of appealed cases, the overall mean average taken to make a return order is longer than the mean average before the exclusion.

(b) Incoming access applications⁹

One of the applications where access was agreed outside court took over one year (388 days) to reach final conclusion. This can be compared with 245 days globally. The one application resolved judicially as a Hague application took under 6 months (239 days). The one case that was resolved judicially under domestic law was resolved extraordinarily quickly, that is within 6 days. Globally in 2003, access was judicially granted in a mean average of 266 days. In 1999, the 4 access applications which had reached a conclusion all took over 6 months.

16. Appeals

(a) Incoming return applications

Of the 8 applications which went to court, 2 (25%) were appealed. This compares with 22% globally.

One of the 2 appellate decisions resulted in a judicial return and one in a judicial refusal. These applications took 51 and 340 days respectively to reach final outcomes. In both cases the appellate court upheld the first instance decision. In 1999, one case was appealed and resulted in a judicial return. The application took 302 days.

(b) Incoming access applications

None of the judicial decisions were appealed.

⁹ This information was not available in relation to one settlement of access.

SUISSE

Les demandes

1. Nombre de demandes

Demandes de retour reçues	39
Demandes de droit de visite reçues	11
Demandes de retour envoyées	17
Demandes de droit de visite envoyées	6

D'après l'Autorité centrale suisse, en 2003, la Suisse a reçu 39 demandes de retour et 11 demandes de droit de visite, soit 50 demandes au total. Cela traduit une hausse significative par rapport aux 16 demandes reçues en 1999 (dont 11 pour un retour et 5 pour un droit de visite). Le rapport entre les demandes de retour et les demandes de droit de visite reçues est de 78% contre 22%, alors que les résultats d'ensemble révèlent un rapport de 84% contre 16%.

En outre, l'Autorité centrale a envoyé 17 demandes de retour et 6 demandes de droit de visite en 2003¹. Cela traduit aussi une hausse par rapport aux 7 demandes de retour et aux 4 demandes de droit de visite envoyées en 1999.

En tout et pour tout, l'Autorité centrale suisse a traité 73 nouvelles demandes en 2003, contre seulement 27 nouvelles demandes en 1999.

Dans l'ensemble, 68% de demandes ont été reçues pour 32% de demandes envoyées.

2. Etats contractants qui ont envoyé des demandes

(a) Demandes de retour reçues

Etats requérants en 2003

	Nombre	Taux
Italie	8	21%
France	6	15%
Portugal	4	10%
Serbie et Monténégro	4	10%
Colombie	3	8%
Allemagne	3	8%
Mexique	2	5%
Espagne	2	5%
Etats-Unis	2	5%
Finlande	1	3%
Ex-République yougoslave de Macédoine	1	3%
Hongrie	1	3%
Suède	1	3%
Turquie	1	3%
Total	39	~100%

¹ Ceci est le nombre total de demandes sur la base des informations fournies par l'Autorité centrale, c-à-d le nombre de demandes qu'elle a envoyées. Ces demandes peuvent ne pas avoir été transmises à l'Autorité centrale étrangère ; en 2003, par exemple, certaines demandes peuvent avoir été retirées avant leur transmission ou elles peuvent ne pas avoir été envoyées à l'Autorité centrale étrangère (ou reçues par celle-ci) avant le 31 décembre 2003.

Etats requérants par rapport à 1999

	Nombre de demandes en 2003	Nombre de demandes en 1999
Italie	8 (21%)	2 (18%)
France	6 (15%)	3 (27%)
Portugal	4 (10%)	0 (0%)
Serbie et Monténégro	4 (10%)	0 (0%)
Colombie	3 (8%)	0 (0%)
Allemagne	3 (8%)	1 (9%)
Mexique	2 (5%)	1 (9%)
Espagne	2 (5%)	0 (0%)
Etats-Unis	2 (5%)	2 (18%)
Finlande	1(3%)	0 (0%)
Ex-République yougoslave de Macédoine	1(3%)	0 (0%)
Hongrie	1(3%)	0 (0%)
Suède	1(3%)	0 (0%)
Turquie	1(3%)	0 (0%)
RU – Angleterre et Pays de Galles	0 (0%)	1 (9%)
Afrique du Sud	0 (0%)	1 (9%)
Total	39 (~100%)	11 (~100%)

La Suisse a reçu des demandes de retour de 14 Etats contractants, contre 7 en 1999.

Sa voisine l'Italie a envoyé le plus grand nombre de demandes (21%). Cela traduit en fait une hausse du nombre de demandes envoyées par l'Italie, soit 8 contre 2 en 1999. Le nombre de demandes envoyées par la France a également doublé par rapport à 1999. Le Portugal, la Serbie et le Monténégro et la Colombie ont aussi envoyé plusieurs demandes, contre aucune en 1999.

(b) Demandes de droit de visite reçues

Etats requérants en 2003

	Nombre	Taux
France	2	18%
RU – Angleterre & Pays de Galles	2	18%
Australie	1	9%
Finlande	1	9%
Allemagne	1	9%
Portugal	1	9%
Serbie et Monténégro	1	9%
Espagne	1	9%
Etats-Unis	1	9%
Total	11	~100%

La Suisse a reçu 11 demandes de droit de visite, dont 4 de France et d'Angleterre et du Pays de Galles (2, soit 18% chacun). En 1999, seuls les Etats-Unis avaient envoyé plus d'une demande (2, soit 40%).

Il est intéressant de constater qu'aucune demande de retour n'a été envoyée par l'Angleterre et le Pays de Galles en 2003. Il est frappant que l'Italie n'ait envoyé aucune demande de droit de visite, alors qu'elle a envoyé le plus de demandes de retour.

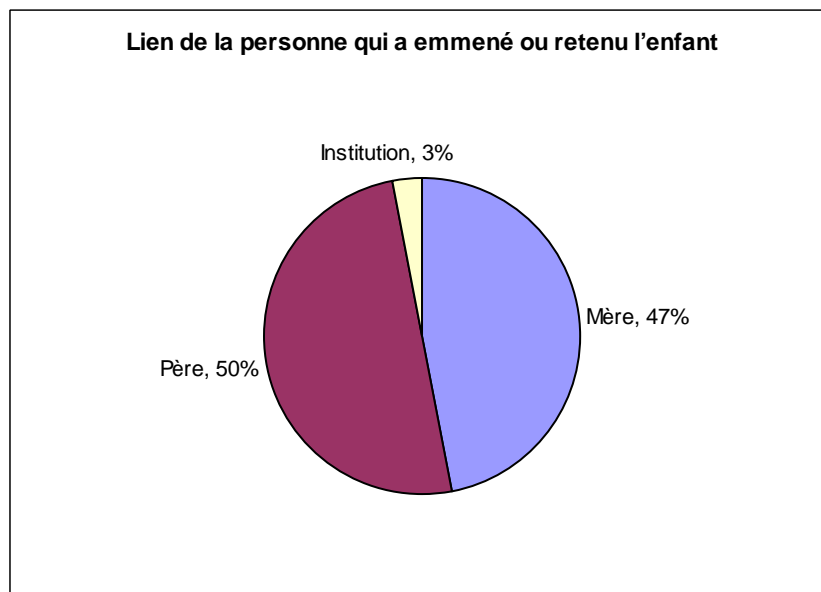
La personne qui a emmené ou retenu l'enfant / le défendeur

3. Lien de la personne qui a emmené ou retenu l'enfant / le défendeur

(a) Demandes de retour reçues²

Lien de la personne qui a emmené ou retenu l'enfant

	Nombre	Taux
Mère	18	47%
Père	19	50%
Institution	1	3%
Total	38	100%



L'étude de 2003 a cherché à obtenir des informations sur le lien entre l'enfant et la personne qui l'a emmené ou retenu, alors qu'en 1999 on ne s'intéressait qu'au sexe de la personne qui a emmené ou retenu l'enfant (homme, femme ou couple). Contrairement aux résultats d'ensemble, les personnes qui ont emmené ou retenu l'enfant étaient plus souvent le père que la mère, soit 50% de cas contre 29% globalement. Le taux de mères défenderesses (47%) est légèrement plus bas qu'en 1999³, où 55% des personnes qui ont emmené ou retenu l'enfant étaient une femme, contre 68% globalement.

(b) Demandes de droit de visite reçues

Lien du défendeur

	Nombre	Taux
Mère	10	91%
Père	1	9%
Total	11	100%

² Cette information n'a pas été communiquée concernant une demande.

³ Dans la mesure où l'on admet que la « femme » est normalement la « mère ».



Dans 10 demandes de droit de visite sur 11, la mère était défenderesse, contre un taux global de 79% pour 2003. En 1999, les 5 défendeurs étaient des femmes.

4. Attributs de la personne qui a emmené ou retenu l'enfant par rapport à la responsabilité de l'enfant

(a) Demandes de retour reçues

Attributs de la personne qui a emmené ou retenu l'enfant

	Nombre	Taux
Responsable principal de l'enfant	1	14%
Pas le responsable principal de l'enfant	6	86%
Total	7	100%

Les informations sur les attributs de la personne qui a emmené ou retenu l'enfant par rapport à la responsabilité de l'enfant de l'enfant n'ont été communiquées que pour 7 demandes sur 39. Une personne avait la responsabilité principale de l'enfant et 6 n'avaient pas la responsabilité principale de l'enfant. En raison du faible nombre de demandes offrant cette information, aucun commentaire ne sera porté.

5. Nationalité de la personne qui a emmené ou retenu l'enfant / défendeur

(a) Demandes de retour reçues⁴

La personne qui a emmené ou retenu l'enfant a la nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	9	24%
Autre nationalité	29	76%
Total	38	100%

⁴ La nationalité n'avait pas d'incidence pour une demande étant donné qu'une institution était mise en cause.

Ce tableau montre que dans 24% seulement des demandes, la personne qui a emmené ou retenu l'enfant était suisse (dont 7 personnes avec une double nationalité). Dans 76% des demandes, elle avait une autre nationalité. Cela diffère considérablement des taux globaux de 55% de personnes avec la nationalité de l'Etat requis et 45% avec une autre nationalité. En 1999, aucun renseignement n'avait été communiqué concernant la nationalité.

(b) Demandes de droit de visite reçues

Le défendeur a la nationalité de l'Etat requis

	Nombre	Taux
Nationalité de l'Etat requis	4	36%
Autre nationalité	7	64%
Total	11	100%

Dans 4 demandes de droit de visite sur 11 (36%), le défendeur était suisse (dont 2 cas de double nationalité) et dans 7 demandes (64%), il avait une autre nationalité. Ces taux sont comparables aux moyennes générales de 2003, avec 53% de défendeurs avec la nationalité de l'Etat requis. En 1999, aucun renseignement n'avait été communiqué concernant la nationalité.

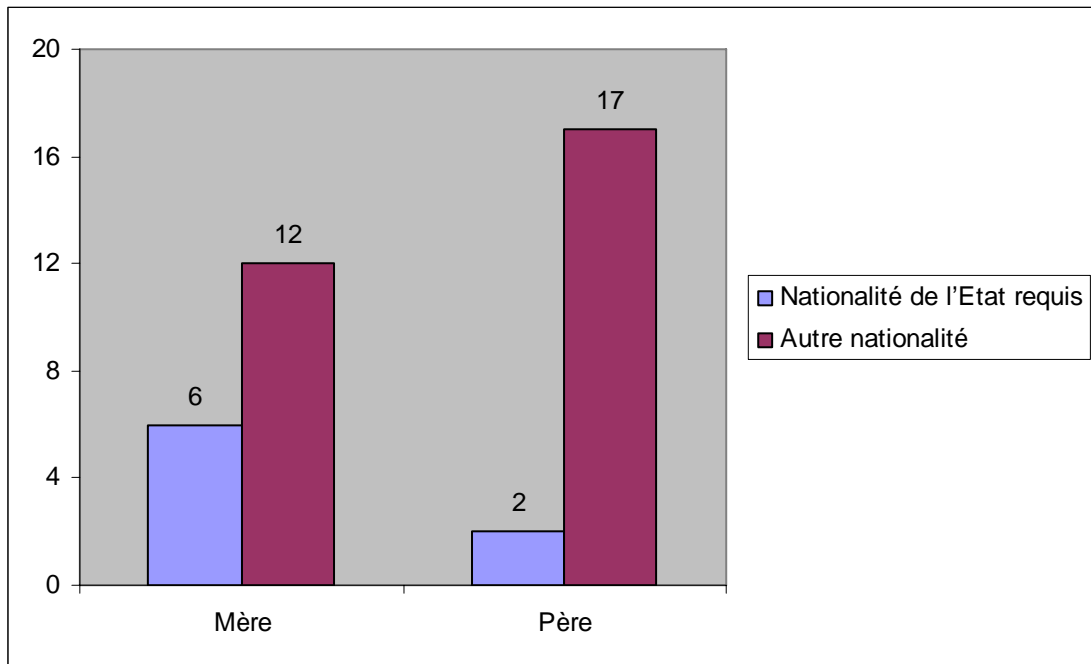
6. Nationalité et lien de la personne qui a emmené ou retenu l'enfant / le défendeur (combinés)

(a) Demandes de retour reçues⁵

Lien et nationalité de la personne qui a emmené ou retenu l'enfant

	Lien de la personne qui a emmené ou retenu l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	6	2	8
Autre nationalité	12	17	29
Total	18	19	37

⁵ Dans une demande, le sexe de la personne qui a emmené ou retenu l'enfant n'a pas été précisé. La nationalité n'avait ici encore pas d'incidence pour la demande mettant en cause une institution.



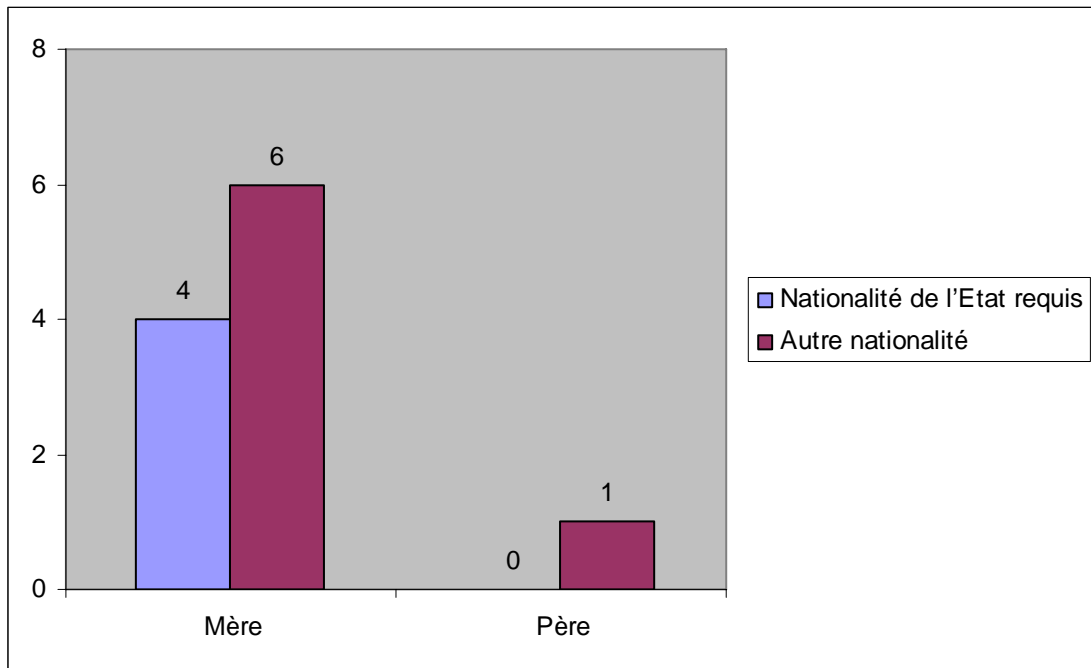
Les mères et les pères qui ont emmené ou retenu l'enfant avaient le plus souvent une autre nationalité que la nationalité suisse. 12 mères sur 18 (67%) et 17 pères sur 19 (89%) n'étaient pas suisses.

Ces chiffres sont à rapprocher des moyennes globales en 2003 de 46% de mères et 45% de pères avec une autre nationalité que celle de l'Etat requis.

(b) Demandes de droit de visite reçues

Lien et nationalité de la personne qui a emmené ou retenu l'enfant

	Lien de la personne qui a emmené ou retenu l'enfant		Total
	Mère	Père	
Nationalité de l'Etat requis	4	0	4
Autre nationalité	6	1	7
Total	10	1	11



Pour les demandes de droit de visite reçues par la Suisse, 4 mères défenderesses seulement sur 10 (40%) étaient suisses. Ceci est comparable avec le taux global de 49% de mères défenderesses avec la nationalité de l'Etat requis. Le seul père défendeur avait une autre nationalité que la nationalité suisse.

Les enfants

7. Nombre total d'enfants

(a) Demandes de retour reçues

48 enfants ont fait l'objet des 39 demandes de retour reçues en 2003. Ces chiffres sont à rapprocher du total de 13 enfants concernés par les 11 demandes de retour reçues en 1999. En 2003, il y avait en moyenne 1,23 enfants par demande de retour. Proportionnellement, cela traduit une hausse par rapport aux 1,18 enfants en moyenne par demande de retour reçue en 1999. Globalement, en 2003, il y avait 1,4 enfants par demande de retour.

(b) Demandes de droit de visite reçues

14 enfants ont fait l'objet des 11 demandes de droit de visite reçues en 2003, soit 1,27 enfants en moyenne par demande de droit de visite. Ces chiffres sont à rapprocher du total de 5 enfants concernés par les 5 demandes de droit de visite reçues en 1999. Proportionnellement, cela traduit une hausse par rapport à la moyenne de 1,0 enfant par demande de droit de visite reçue en 1999. En 2003, tous pays confondus, il y avait en moyenne 1,3 enfants par demande de droit de visite.

8. Enfants uniques ou fratries

(a) Demandes de retour reçues

Enfant unique ou fratrie

	Nombre	Taux
Enfant unique	31	79%
Fratrie	8	21%
Total	39	100%

Nombre d'enfants

	Nombre	Taux
1 enfant	31	79%
2 enfants	7	18%
3 enfants	1	3%
Total	39	~100%

Une légère baisse a marqué le nombre de demandes relatives à un enfant unique : 82% en 1999 contre 79% en 2003. Ce taux est à rapprocher de la moyenne générale pour 2003 de 67%. Le taux de demandes mettant en cause 1 ou 2 enfants a baissé de 100% en 1999 à 97% en 2003. Dans l'ensemble, en 2003, 93% des demandes concernaient 1 ou 2 enfants.

(b) Demandes de droit de visite reçues

Enfant unique ou fratrie

	Nombre	Taux
Enfant unique	8	73%
Fratrie	3	27%
Total	11	100%

Nombre d'enfants

	Nombre	Taux
1 enfant	8	73%
2 enfants	3	27%
Total	11	100%

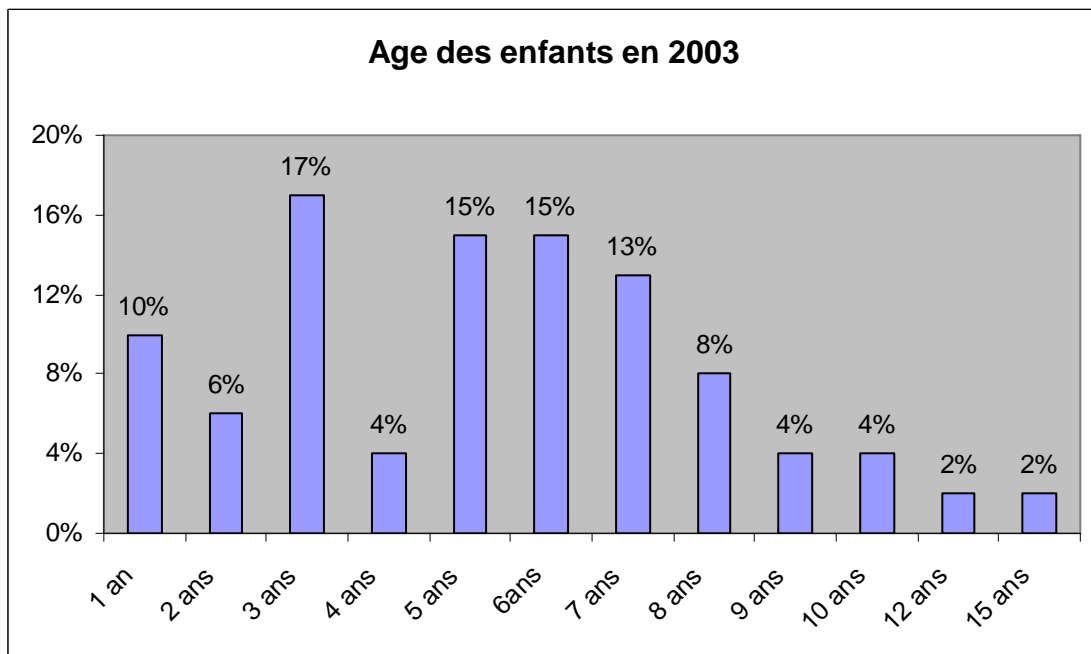
8 demandes ont concerné un enfant unique et 3 demandes 2 enfants. En 1999, les 5 demandes concernaient un enfant unique. Les résultats d'ensemble en 2003 révèlent que 71% des demandes de droit de visite étaient relatives à un enfant unique.

9. Age des enfants

(a) Demandes de retour reçues

Age des enfants en 2003

	Nombre	Taux
1 an	5	10%
2 ans	3	6%
3 ans	8	17%
4 ans	2	4%
5 ans	7	15%
6 ans	7	15%
7 ans	6	13%
8 ans	4	8%
9 ans	2	4%
10 ans	2	4%
12 ans	1	2%
15 ans	1	2%
Total	48	100%

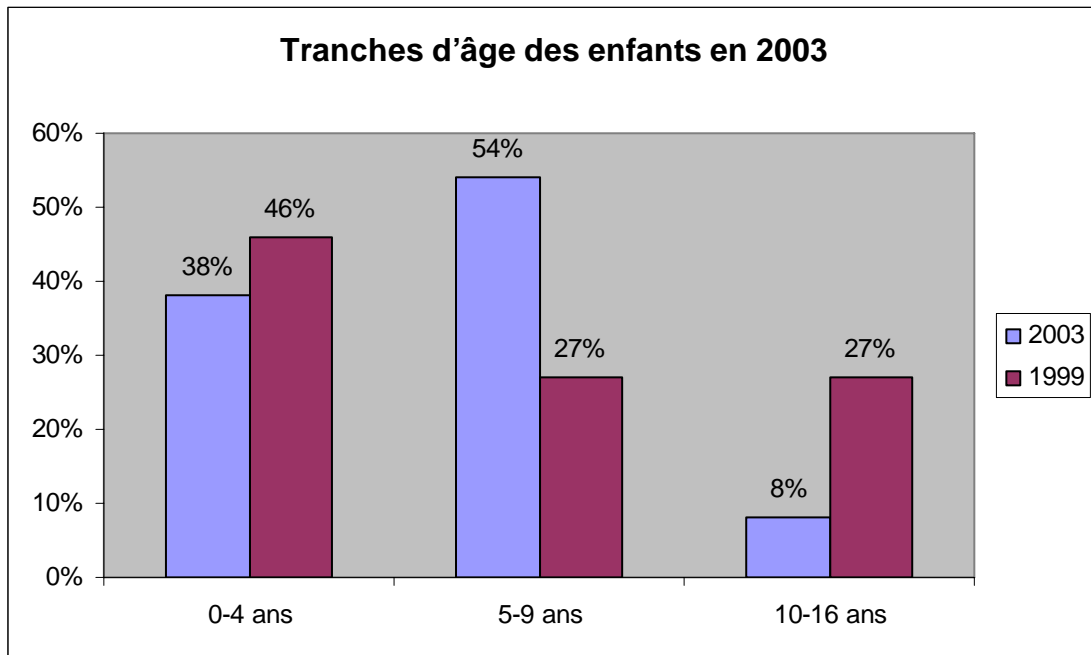


Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant. 67% des enfants étaient âgés de 1 à 6 ans, contre un taux global de 55% pour 2003.

L'étude de 1999 n'était pas à ce niveau suffisamment détaillée pour nous permettre de comparer les résultats. Néanmoins, nous avons des données sur les tranches d'âge des enfants, lesquelles peuvent être comparées.

Tranches d'âge des enfants en 2003

	Nombre	Taux
0-4 ans	18	38%
5-9 ans	26	54%
10-16 ans	4	8%
Total	48	100%

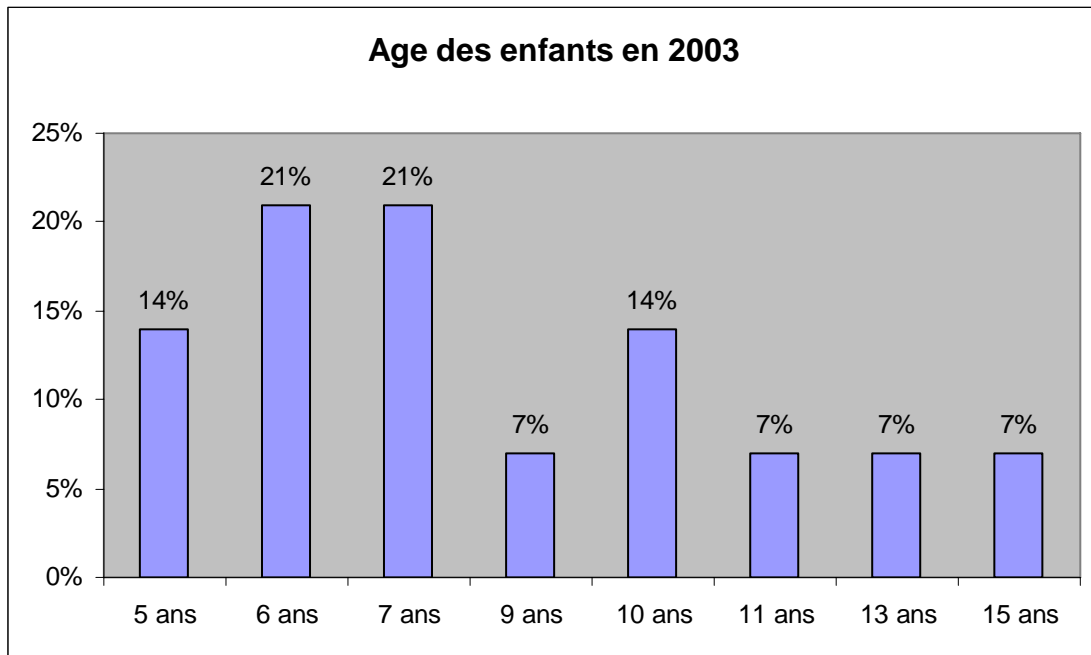


Parmi les 48 enfants ayant fait l'objet d'une demande, 38% étaient âgés de 0 à 4 ans, par rapport à 46% en 1999. Ce taux est à rapprocher de la moyenne générale de 36%. Le taux d'enfants âgés de 10 à 16 ans a baissé de 27% à 8%, ce qui est nettement inférieur au taux global de 22%. D'autre part, la proportion d'enfants âgés de 5 à 9 ans a doublé pour passer de 27% à 54%, ce qui est à rapprocher du taux global de 42% pour 2003.

(b) Demandes de droit de visite reçues

Age des enfants en 2003

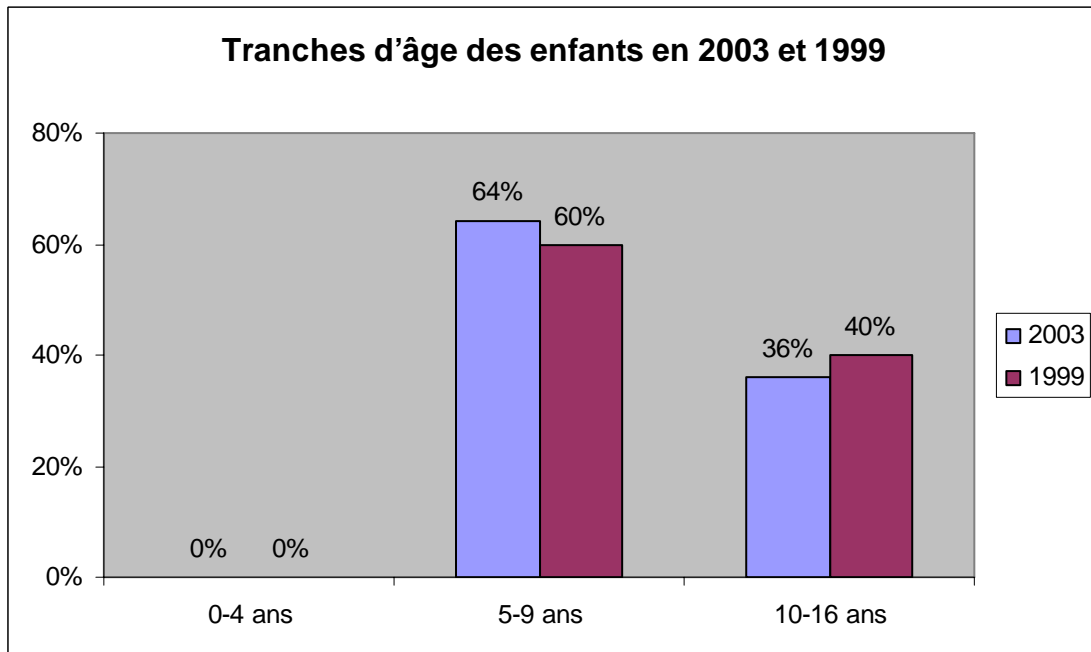
	Nombre	Taux
5 ans	2	14%
6 ans	3	21%
7 ans	3	21%
9 ans	1	7%
10 ans	2	14%
11 ans	1	7%
13 ans	1	7%
15 ans	1	7%
Total	14	~100%



Le tableau et le graphique ci-dessus montrent l'âge de chaque enfant. 35% des demandes de droit de visite concernaient des enfants âgés de 1 à 6 ans, ce qui s'aligne avec la moyenne générale de 35%.

Tranches d'âge des enfants en 2003

	Nombre	Taux
5-9 ans	9	64%
10-16 ans	5	36%
Total	14	100%



Le tableau et le graphique ci-dessus comparent les informations sur les tranches d'âge des enfants pour 2003 et 1999. Comme indiqué, 9 enfants (64%) étaient âgés de 5 à 9 ans et 5 enfants (36%) avaient 10 ans ou plus. Ces chiffres sont à rapprocher des moyennes globales pour 2003 de 46% et 34% respectivement. En 1999, 3 enfants

étaient âgés de 5 à 9 ans et 2 enfants de 10 à 16 ans. Il est surprenant que, comme pour 1999, aucun enfant n'avait moins de 5 ans.

10. Sexe des enfants

(a) Demandes de retour reçues

Sexe des enfants

	Nombre	Taux
Féminin	23	48%
Masculin	25	52%
Total	48	100%

Comme nous pouvons le constater, pour les demandes de retour, il y avait presque autant de filles que de garçons : 52% de garçons et 48% de filles ont fait l'objet de dans les demandes de retour. En 2003, les taux globaux indiquaient 49% de garçons et 51% de filles. En 1999, 46% d'enfants dans les demandes de retour reçues par la Suisse étaient des garçons.

(b) Demandes de droit de visite reçues

Sexe des enfants

	Nombre	Taux
Féminin	6	43%
Masculin	8	57%
Total	14	100%

Pour les demandes de droit de visite, 8 enfants sur 14 (57%) étaient des garçons. Ce chiffre est comparable au taux global de 55% pour 2003. En 1999, 3 enfants sur 5 étaient des garçons.

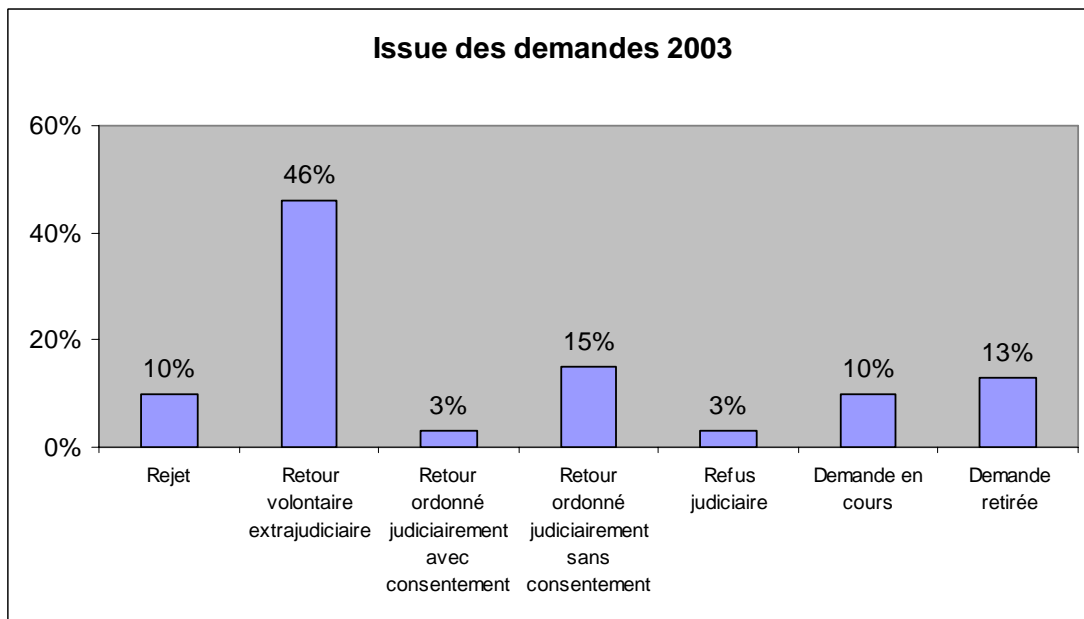
Issues des demandes

11. Issues globales

(a) Demandes de retour reçues

Issue des demandes

	Nombre	Taux
Rejet	4	10%
Retour volontaire extrajudiciaire	18	46%
Retour ordonné judiciairement avec consentement	1	3%
Retour ordonné judiciairement sans consentement	6	15%
Refus judiciaire	1	3%
Demande en cours	4	10%
Demande retirée	5	13%
Total	39	100%



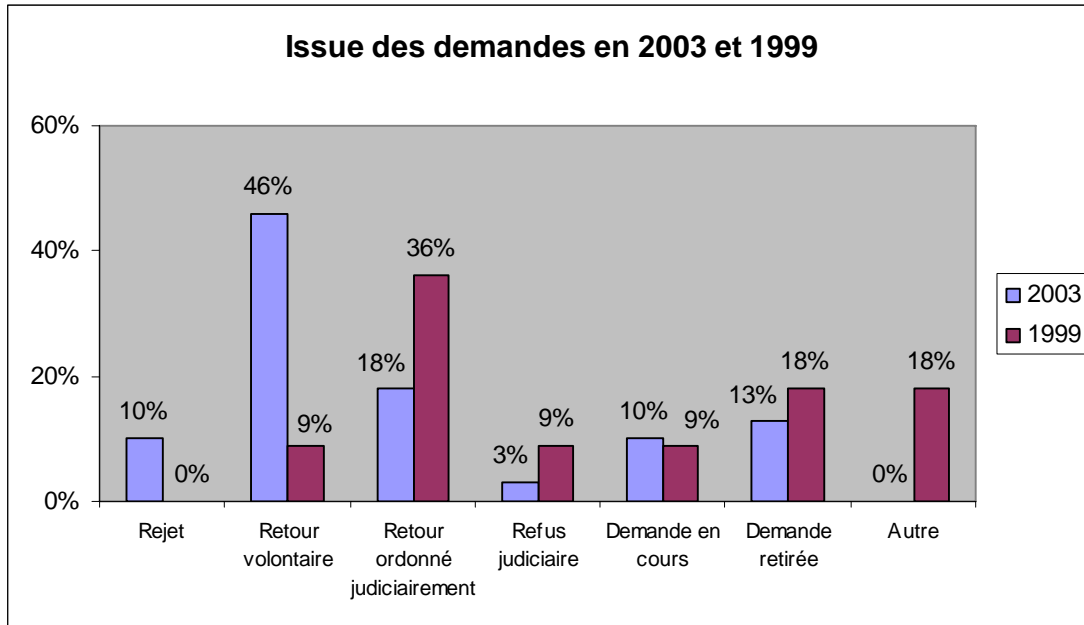
Le tableau ci-dessus montre les issues de toutes les demandes déposées en 2003.

Contrairement à l'étude de 1999, celle de 2003 montre la répartition des retours ordonnés judiciairement avec ou sans consentement. En Suisse, en 2003, un retour ordonné judiciairement (3%) a été prononcé avec consentement et 6 (15%) sans consentement.

64% des demandes reçues par la Suisse ont abouti au retour de l'enfant, soit ordonné judiciairement, soit volontaire, ce qui est un meilleur résultat que le taux global de 51%. Le taux de retours volontaires de 46% est bien supérieur au taux global pour 2003 de 22%. D'autre part, le taux de retours ordonnés judiciairement (18%) reste inférieur au taux global pour 2003 de 29%. Le taux de refus judiciaires de 3% est bien inférieur au taux global de 13% pour 2003.

Sur les 8 demandes traitées par voie judiciaire, 7 (88%) ont abouti à un retour ordonné judiciairement et 1 (12%) à un refus judiciaire. Comparativement, les taux globaux pour 2003 étaient respectivement de 66% et 29%⁶.

Le taux de demandes retirées de 13% est légèrement inférieur au taux global de 15% pour 2003. Au 30 juin 2005, 4 demandes (10%) étaient toujours en cours, contre un taux global pour 2003 de 9%.



Le graphique ci-dessus classe les issues de telle sorte à pouvoir les comparer avec les résultats de 1999. Ainsi, les « retours ordonnés judiciairement » incluent les retours ordonnés judiciairement avec consentement et sans consentement.

Ces résultats indiquent proportionnellement que l'issue la plus courante était le retour volontaire, qui concernait 18 demandes (46%). Cela traduit une hausse par rapport au seul retour volontaire en 1999 (9%). Des retours ordonnés judiciairement ont été prononcés pour 7 demandes (18%), contre 4 demandes (36%) en 1999. Le taux de refus judiciaires a baissé de 9% en 1999 à 3% en 2003. Il en résulte que le taux de retours a augmenté de 45% en 1999 à 64% en 2003.

Les taux de 13% de demandes retirées et 10% de demandes en cours sont à rapprocher des taux respectifs pour 1999 de 18% et 9%.

En 2003, la Suisse a rejeté 4 demandes, contre aucune en 1999.

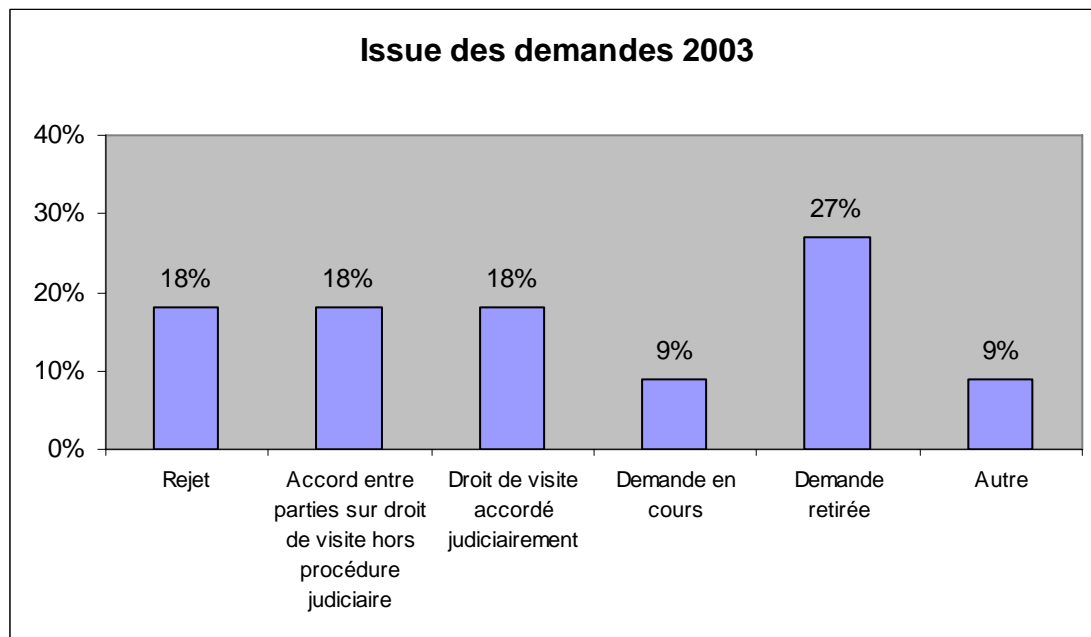
En 2003, aucune demande n'a abouti à un droit de visite ordonné ou par accord des parties, contre 2 cas en 1999 (18%), qui avait été classés dans la catégorie « Autre issue ».

(b) Demandes de droit de visite reçues

⁶ Globalement, 66% ont abouti à un retour, 5% à un droit de visite et 29% à un refus judiciaire. Voir Partie I du Rapport de 2003, p.32.

Issue des demandes

	Nombre	Taux
Rejet	2	18%
Accord entre parties sur droit de visite hors procédure judiciaire	2	18%
Droit de visite accordé judiciairement	2	18%
Demande en cours	1	9%
Demande retirée	3	27%
Autre	1	9%
Total	11	~100%



3 demandes de droit de visite (27%) ont été retirées, à rapprocher du taux global de 22% en 2003. Des 2 affaires dans lesquelles un droit de visite a été accordé judiciairement, une décision a été accordée dans le cadre de la Convention de La Haye et l'autre dans le cadre du droit interne. Comparativement, en 1999, un droit de visite a été accordé pour 3 demandes. En 2003, une autre issue a consisté en un retour volontaire. Aucune demande n'a été refusée, contre une en 1999. Comme en 1999, 1 demande était toujours en cours au 30 juin 2005, ce qui est en deçà du taux global de demandes en cours de 22% pour 2003.

12. Motifs de rejet

(a) Demandes de retour reçues

En 2003, l'Autorité centrale suisse a rejeté 4 demandes (10%), contre 6% globalement. 2 demandes (50%) ont été rejetées parce l'enfant a été localisé dans un autre Etat et 1 demande (25%) a été rejetée parce que le demandeur n'avait pas le droit de garde. Ces chiffres sont à rapprocher des moyennes générales respectives pour 2003 de 24% et 19%. La dernière demande a été rejetée car il n'y avait pas de déplacement illicite au sens de l'article 3⁷.

⁷ Classée dans la catégorie « Autre issue ».

(b) Demandes de droit de visite reçues

2 demandes de droit de visite ont été rejetées : l'une parce que l'enfant a été localisé dans un autre Etat et l'autre parce que l'enfant avait plus de 16 ans. En 2003, globalement, ces motifs étaient invoqués pour respectivement 20% et 10% des rejets.

13. Motifs du refus judiciaire

(a) Demandes de retour reçues

Des 8 demandes qui ont été traitées par voie judiciaire, 1 (12%) a été refusée, ce qui est inférieur au taux global pour 2003 de 29%. En 1999, une demande sur 5 (9%) avait été refusée.

Le refus était dû au fait que l'enfant n'avait pas sa résidence habituelle dans l'Etat requérant. En 1999, le motif du refus n'a pas été communiqué.

14. Motifs du refus judiciaire et lien de la personne qui a emmené ou retenu l'enfant

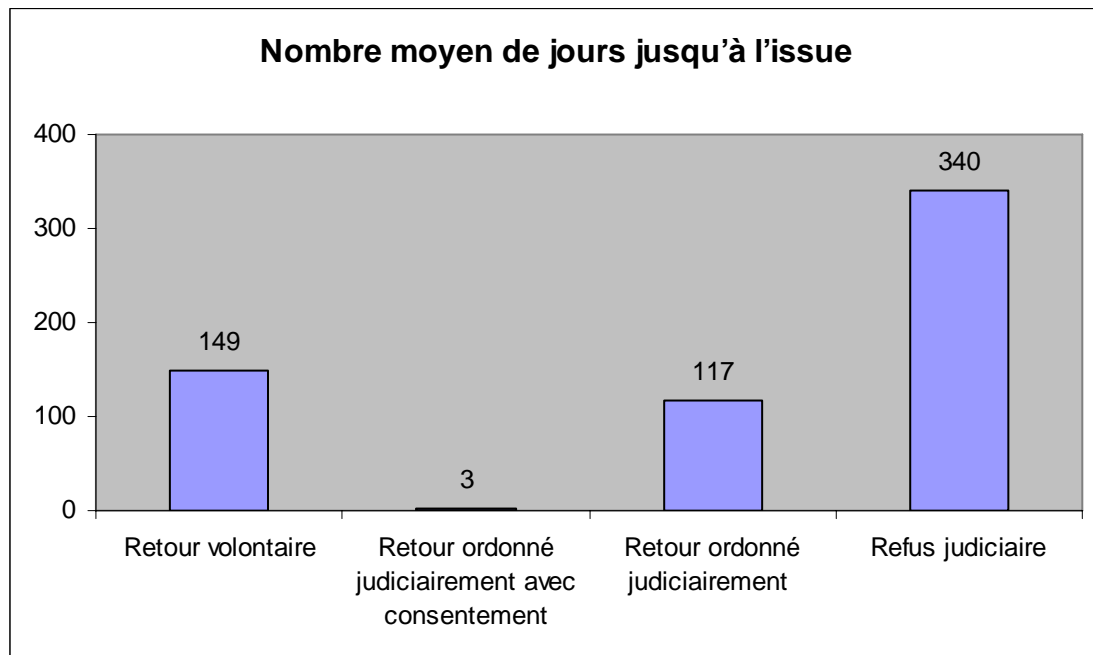
(a) Demandes de retour reçues

Pour la seule demande refusée judiciairement, la personne qui a emmené ou retenu l'enfant était son père. En 2003, globalement, 21% des refus mettaient en cause le père. En 1999, cette information n'avait pas été communiquée.

Rapidité de traitement des demandes

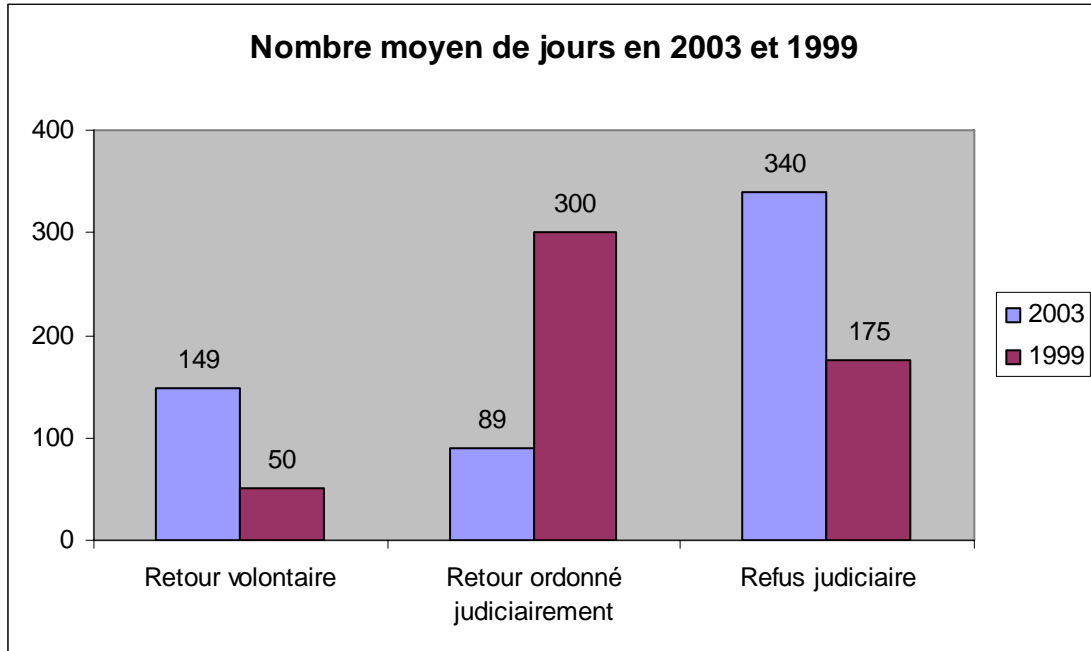
15. Durée entre la demande et son aboutissement

(a) Demandes de retour reçues⁸



⁸ Cette information n'a pas été communiquée pour 11 retours volontaires et 3 retours ordonnés judiciairement sans consentement.

Il était prévisible que le seul retour ordonné judiciairement avec consentement soit prononcé plus rapidement que les retours ordonnés judiciairement sans consentement, en l'occurrence 3 jours contre 117 jours. Les moyennes générales en 2003 indiquent 85 jours contre 143 jours. Les retours volontaires ont eu lieu au bout de 149 jours en moyenne, contre 98 jours globalement. Le seul refus judiciaire a été prononcé au bout de 340 jours, ce qui est supérieur aux 233 jours en moyenne pour 2003.



Le graphique ci-dessus indique que les retours ordonnés judiciairement ont été prononcés au bout de 89 jours en moyenne, contre 300 jours en 1999. Le seul refus judiciaire a été prononcé au bout de 340 jours, contre 175 en 1999 et le seul retour volontaire a été résolu au bout de 149 jours, contre 50 en 1999.

**Nombre de jours jusqu'à l'issue définitive en 2003
(y compris les décisions en appel)**

	Retour volontaire extrajudiciaire	Retour ordonné judiciairement avec consentement	Retour ordonné judiciairement	Refus judiciaire
Moyenne	149	3	117	340
Médiane	102	3	119	340
Minimum	12	3	51	340
Maximum	543	3	181	340
Nombre de demandes	7	1	3	1

Le tableau ci-dessus montre les différences de durées jusqu'à l'issue et offre un aperçu plus informatif du système suisse. Comme indiqué, le délai le plus court s'appliquait pour le seul retour ordonné judiciairement avec consentement, prononcé au bout de 3 jours. Par ailleurs, le délai le plus long pour les décisions judiciaires concernait un refus judiciaire prononcé au bout de 340 jours. Le délai le plus court pour les retours volontaires était de 12 jours. Le délai le plus long pour les retours volontaires était de 543 jours, ce qui semble être extrêmement long.

**Nombre de jours jusqu'à l'issue définitive en 2003
(à l'exclusion des décisions en appel)**

	Retour ordonné judiciairement
Moyenne	150
Médiane	150
Minimum	119
Maximum	181
Nombre de demandes	2

Il est surprenant que la durée moyenne pour ordonner judiciairement un retour soit plus longue si l'on ne comptabilise pas les demandes traitées en appel que la durée moyenne si on les comptabilise.

(b) Demandes de droit de visite reçues⁹

L'une des demandes pour lesquelles les parties ont conclu un accord sur le droit de visite hors procédure judiciaire a abouti au bout d'un an (388 jours). Ce chiffre est à rapprocher de la moyenne globale de 245 jours. La seule demande qui a abouti à un retour ordonné judiciairement dans le cadre de la Convention de La Haye a duré plus de 6 mois (239 jours). La seule demande qui a abouti à un retour ordonné judiciairement dans le cadre du droit interne a abouti incroyablement rapidement, en l'occurrence au bout de 6 jours. En 2003, globalement, un droit de visite a été accordé judiciairement au bout de 266 jours en moyenne. En 1999, les 4 demandes de droit de visite qui avaient abouti à une issue définitive avaient duré plus de 6 mois.

15. Appels

(a) Demandes de retour reçues

Des 8 demandes traitées par voie judiciaire, 2 (25%) ont fait l'objet d'un recours. Le taux global pour 2003 est de 22%.

L'une des 2 décisions d'appel a abouti à un retour ordonné judiciairement et l'autre à un refus judiciaire. Ces demandes ont abouti au bout de respectivement 51 jours et 340 jours. Dans les 2 cas, l'instance d'appel a confirmé la décision de première instance. En 1999, une décision avait fait l'objet d'un recours et avait abouti à retour ordonné judiciairement. La demande avait abouti au bout de 302 jours.

(b) Demandes de droit de visite reçues

Aucune des décisions judiciaires n'a fait l'objet d'un recours.

⁹ Cette information n'a pas été communiquée pour un règlement amiable sur le droit de visite.

THAILAND

The applications

1. The number of applications

Incoming Return Applications	1
Incoming Access Applications	0
Outgoing Return Applications	0
Outgoing Access Applications	0

According to the Central Authority for Thailand, they received one incoming return application and no incoming access applications in 2003. They made no outgoing applications either for return or for access in that year.

Thailand did not participate in the 1999 statistical survey as it was not then a Contracting State.

2. The Contracting States which made application

The one application came from Israel.

The taking person

3. The relationship of the taking person

The taking person was recorded as the mother of the child. Globally, 68% of taking persons were mothers.

4. The status of the taking person as carer in relation to the child

Thailand did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

The taking person had a Thai nationality. Globally, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above. Globally, 54% of taking persons recorded as the mother of the child had the nationality of the requested State.

The children

7. The total number of children

There were 2 children involved in the one incoming return application in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

The one return application involved a sibling group of 2 children. Globally in 2003, 93% of applications involved no more than 2 children.

9. The age of the children

The children involved were 6 and 9 years old. Globally, 42% of children were aged between 5 and 9 years.

10. The gender of the children

The one application involved one male and one female child. Globally, 49% of children were male and 51% were female.

The outcomes**11. Overall outcomes**

The return application was rejected by the Central Authority. Globally, 6% of return applications were rejected.

12. The reasons for rejection

The reason for rejection was that the Convention not in force at time between Thailand and Israel. Globally in 2003, 8% of rejections were based on this reason.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed**15. The time between application and outcome**

Not applicable.

16. Appeals

Not applicable.

TURKEY

The applications

1. The number of applications

Incoming Return Applications	35
Incoming Access Applications	0
Outgoing Return Applications	6
Outgoing Access Applications	0

According to the Central Authority for Turkey, they received 35 incoming return applications but no incoming access applications in 2003. It is to be noted that the ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made 6 outgoing return applications¹ but no outgoing access application in 2003.

Altogether, the Central Authority handled 41 new applications in 2003.

The overall ratio of incoming to outgoing applications was 85% to 15%.

Turkey did not participate in the 1999 statistical survey as they were not then a Contracting State.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
Germany	16	46%
France	4	11%
Netherlands	4	11%
Australia	2	6%
Finland	2	6%
USA	2	6%
Canada	1	3%
Italy	1	3%
Slovakia	1	3%
Sweden	1	3%
UK - England & Wales	1	3%
Total	35	100%

Turkey received applications from 11 Contracting States, almost half of which (46%) were predictably made by Germany. Both France and the Netherlands made 4 (11%) applications each. As can be seen, 30 of the 35 applications (86%) received by Turkey came from what are now European Union Member States.²

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

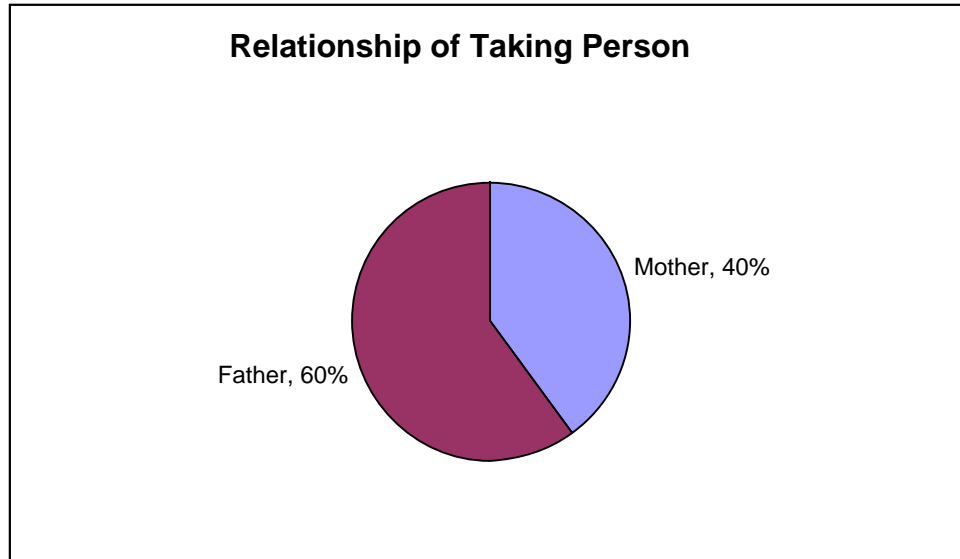
² This figure is based on Membership of the European Union as of 2006 as opposed to 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

The taking person

3. The relationship of the taking person

Relationship of the Taking Person

	Number	Percent
Mother	14	40%
Father	21	60%
	35	100%



As the above table and chart show, the relationship of the taking person was different from the global average where 68% of taking persons were mothers. In applications to Turkey fathers were in the majority, with only 40% of applications involving mothers. Given the fact that such a pattern is fairly unusual for a newly acceding State, this is very interesting.

4. The status of the taking person as carer in relation to the child

Turkey did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Taking Person Same Nationality as the Requested State

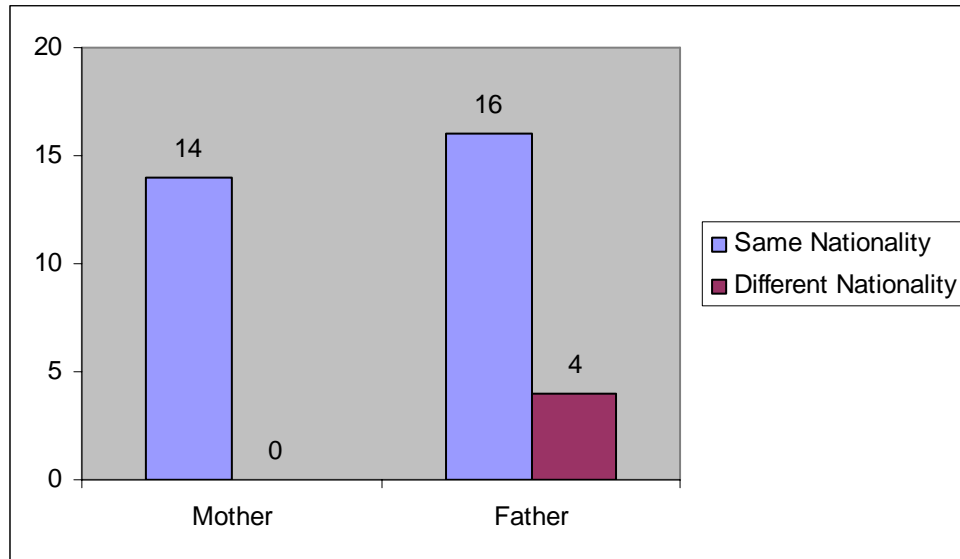
	Number	Percent
Same Nationality	30	88%
Different Nationality	4	12%
Total	34	100%

At 88%, the proportion of taking persons being Turkish citizens (including 6 taking persons with dual nationality) was markedly higher than the 2003 global average of 55%.

6. The relationship and nationality of the taking person combined

Nationality and the Relationship of the Taking Person to the Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	14	16	30
Different Nationality	0	4	4
Total	14	20	34



As can be seen, all taking persons recorded as mothers had Turkish nationality. In relation to fathers, 16 out of 20 (80%) of taking persons were Turkish. Globally, 54% of mothers and 55% of fathers had the nationality of the requested State.

The children

7. The total number of children

There were 47 children involved in the 35 incoming applications in 2003. On average, 1.34 children were involved in the applications received by Turkey, as opposed to 1.4 children globally.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	23	66%
Sibling Group	12	34%
Total	35	100%

Number of Children

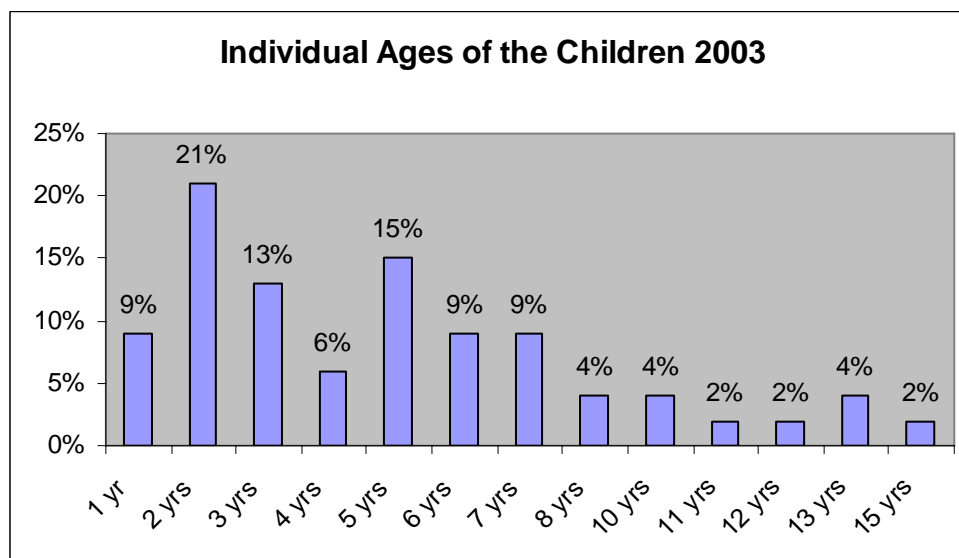
	Number	Percent
1 Child	23	66%
2 Children	12	34%
Total	35	100%

The proportion of single children involved in applications to Turkey, 66%, compares with the 2003 global average of 67%. There were no applications involving more than 2 children. Globally in 2003, 93% of applications involved one or 2 children.

9. The age of the children

Individual Ages 2003

	Number	Percnt
1 yr	4	9%
2 yrs	10	21%
3 yrs	6	13%
4 yrs	3	6%
5 yrs	7	15%
6 yrs	4	9%
7 yrs	4	9%
8 yrs	2	4%
10 yrs	2	4%
11 yrs	1	2%
12 yrs	1	2%
13 yrs	2	4%
15 yrs	1	2%
Total	47	100%



The above table and chart show the ages of the individual children involved. 73% of children were aged between 1 and 6 compared with the global average of 55%. At 14%, the proportion of older children, aged between 10-16 years, was below the 2003 global average of 22%.

10. The gender of the children

Gender of the Children 2003

	Number	Percent
Female	29	62%
Male	18	38%
Total	47	100%

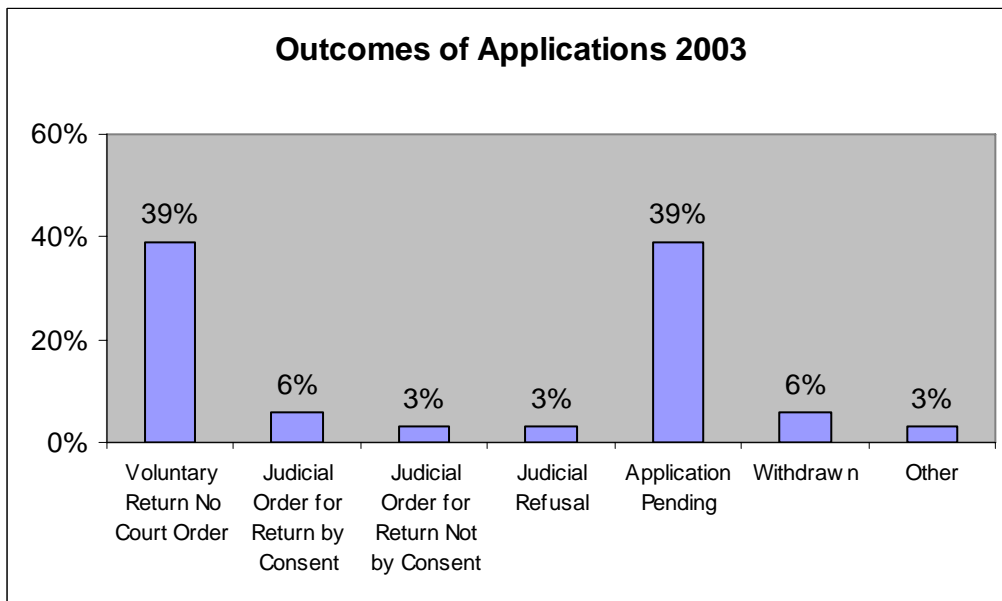
As can be seen, females accounted for 62% and males for 38% of all children involved in the applications to Turkey. Globally in 2003, 51% of children were female and 49% were male.

The outcomes

11. Overall outcomes³

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	13	39%
Judicial Order for Return by Consent	2	6%
Judicial Order for Return Not by Consent	1	3%
Judicial Refusal	1	3%
Application Pending	13	39%
Withdrawn	2	6%
Other	1	3%
Total	33	~100%



The above table and chart show the outcome of all applications in 2003.

³ This information was not available in relation to 2 applications.

As can be seen, 48% of applications resulted in either the voluntary or judicial return of the children which broadly follows with the global average of 51%.⁴ In Turkey 39% of applications resulted in voluntary returns, 6% resulted in judicial returns by consent and 3% resulted in judicial returns without consent as compared with the global averages of 22%, 9% and 20% respectively.

Of the 4 cases going to court, 3 (75%) resulted in a judicial return compared with the global average of 66%⁵, while only one (25%) application was judicially refused as opposed to 29% globally.

In one application involving a sibling group of 2 children there was different outcome for each child.⁶ One child was returned voluntarily and relation to the other the application was still pending.

Two applications (6%) were withdrawn, which is below the global average of 15%. It is, however, to be noted that as of 30th June 2005 13 (39%) applications were still pending.⁷ This is markedly above the 2003 global average of 9%.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

The one application was refused on the basis of Art.13b. Globally, 18% of refusals were based on this ground.

14. The reasons for judicial refusal and the relationship of the taking person

In the one application which was refused the taking person was the father of the child. Globally, 21% of refusals involved fathers.

⁴ In fact the overall proportion of returns was slightly higher because in one further application in which the outcome was described as 'other' one of the children involved was in fact returned, see below.

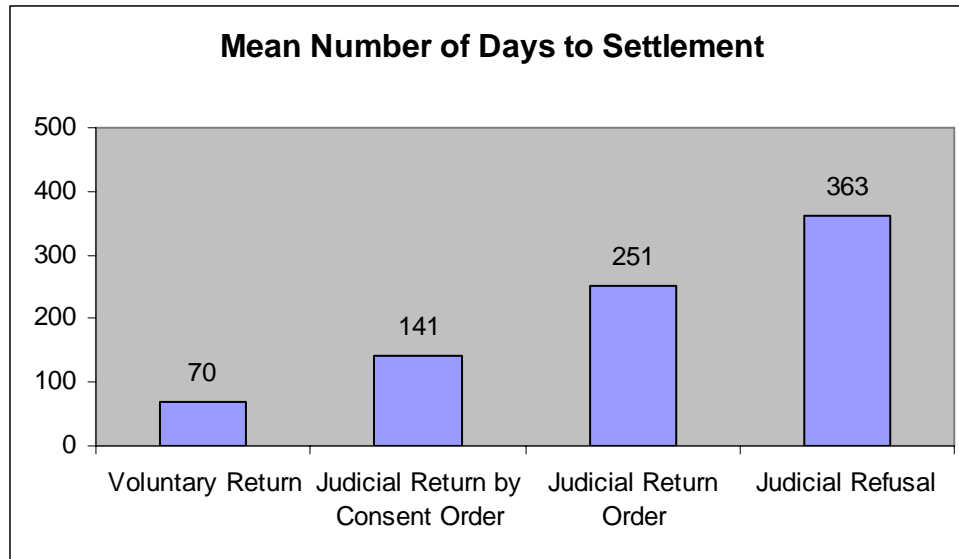
⁵ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

⁶ Recorded as 'other'.

⁷ In fact the overall proportion of pending applications was slightly higher because in the case in which the outcome was classified as 'other' the application was still pending in relation to one child, see above.

Speed

15. The time between application and outcome⁸



Predictably, return orders by consent were resolved quicker than the one return order without consent, in 141 days compared with 251 days. This compares with the 2003 global averages of 85 days and 143 days respectively. Voluntary returns took on average 70 days to reach final outcome, which is quicker than the global average of 98 days. On the other hand, the speed of judicial refusals, averaging 363 days, was considerably slower than the global average of 233 days. It must be noted that the high number of applications which are still pending are excluded from this figure and, once they are resolved, then the mean period for an application to be resolved will increase significantly.

Number of Days Taken to Reach Final Outcome: 2003 (including appealed cases)

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	70	141	251	363
Median	57	141	251	363
Minimum	26	36	251	363
Maximum	129	246	251	363
Number of cases	7	2	1	1

The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in Turkey. As can be seen, the fastest judicial decision, a judicial return with consent, was made in 36 days, the slowest, a judicial refusal, was made in 363 days. The fastest voluntary return took 26 days to reach a final outcome.

16. Appeals

Of the 4 applications which went to court, 2 (50%) were appealed. This can be compared with 22% globally. Both, the one judicial return and the one judicial refusal were the

⁸ This information was not available in relation to 6 voluntary returns.

result of appeals. In both cases the appellate court upheld the first instance decision. The case where the return was ordered took 251 days to reach that conclusion. The one judicial refusal took 363 days to conclude.

UK - ENGLAND AND WALES

The applications

1. The number of applications

Incoming Return Applications	142
Incoming Access Applications	17
Outgoing Return Applications	148
Outgoing Access Applications	43

According to the Central Authority for England and Wales, they received 142 incoming return and 17 incoming access applications in 2003, making a total of 159 incoming applications. This is a decrease on the 174 incoming applications (149 of which were return applications and 25 of which were for access) received in 1999. The ratio of incoming return applications to access applications, 89% to 11% compares with the global average of 84% to 16%.

The latest statistics show that England and Wales therefore accounted for 11% of all incoming return applications made in 2003, as opposed to 16% in 1999.

Additionally, the Central Authority made 148 outgoing return applications and 43 outgoing access applications in 2003.¹ This compares with 126 return applications and 29 access applications made in 1999.

Altogether, therefore, the Central Authority handled 350 new applications in 2003, compared with 329 new applications in 1999. Bearing in mind that in the USA handles incoming and outgoing applications separately, as in 1999, in 2003 the Central Authority for England and Wales handled the greatest number of applications of any Central Authority.

The overall ratio of incoming to outgoing applications was 45% to 55%.

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
USA	25	18%
Ireland	17	12%
Australia	16	11%
France	13	9%
Spain	11	8%
South Africa	10	7%
Germany	9	6%
Netherlands	8	6%
Greece	4	3%
Israel	4	3%
Italy	4	3%
Sweden	4	3%
Belgium	3	2%
New Zealand	3	2%
Norway	2	1%
Chile	1	1%
Colombia	1	1%
Cyprus	1	1%
Ecuador	1	1%
Poland	1	1%
Portugal	1	1%
Romania	1	1%
Sri Lanka	1	1%
Venezuela	1	1%
Total	142	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
USA	25 (18%)	34 (23%)
Ireland	17 (12%)	13 (9%)
Australia	16 (11%)	16 (11%)
France	13 (9%)	13 (9%)
Spain	11 (8%)	5 (3%)
South Africa	10 (7%)	5 (3%)
Germany	9 (6%)	8 (5%)
Netherlands	8 (6%)	1 (1%)
Greece	4 (3%)	6 (4%)
Israel	4 (3%)	5 (3%)
Italy	4 (3%)	9 (6%)
Sweden	4 (3%)	3 (2%)
Belgium	3 (2%)	0 (0%)
New Zealand	3 (2%)	3 (2%)
Norway	2 (1%)	4 (3%)
Chile	1 (1%)	0 (0%)
Colombia	1 (1%)	0 (0%)
Cyprus	1 (1%)	6 (4%)
Ecuador	1 (1%)	0 (0%)
Poland	1 (1%)	1 (1%)
Portugal	1 (1%)	4 (3%)
Romania	1 (1%)	0 (0%)
Sri Lanka	1 (1%)	0 (0%)
Venezuela	1 (1%)	0 (0%)
Austria	0 (0%)	1 (1%)
Canada	0 (0%)	5 (3%)
Zimbabwe	0 (0%)	3 (2%)
Czech Republic	0 (0%)	1 (1%)
Macedonia	0 (0%)	1 (1%)
Mauritius	0 (0%)	1 (1%)
Switzerland	0 (0%)	1 (1%)
Total	142 (~100%)	149 (~100%)

As in 1999, England and Wales received applications for return from 24 Contracting States.

As in 1999 the USA made more applications (18%) than any other Contracting State, but there was a decline in numbers from 34 in 1999 to 25 in 2003. This more than accounts for the overall decline in the number of applications received. As in 1999, Ireland, Australia and *France* also made a high proportion of applications. No applications were received from Canada compared with five in 1999. The number of applications from Italy, Cyprus and Portugal markedly decreased. Conversely the number of applications from Ireland, Spain, South Africa and the Netherlands increased.

Requesting States within the EU 2003

	Number	Percent
Ireland	17	22%
France	13	17%
Spain	11	14%
Germany	9	12%
Netherlands	8	11%
Greece	4	5%
Italy	4	5%
Sweden	4	5%
Belgium	3	4%
Cyprus	1	1%
Poland	1	1%
Portugal	1	1%
Total	76	~100%

The above chart shows the number of applications received from countries that are now part of the EU.² These countries account for 76 of the 142 applications received by England and Wales, a total of 54% of all cases. This can be compared with the 1999 survey where EU countries made up a total of 72 of the 149 applications (48%) in 1999. 22% of the EU applications in 2003 came from neighbouring Ireland.

(b) Incoming access applications**Requesting States 2003**

	Number	Percent
France	2	12%
Netherlands	2	12%
Spain	2	12%
Australia	1	6%
Estonia	1	6%
Germany	1	6%
Greece	1	6%
Ireland	1	6%
Italy	1	6%
Mauritius	1	6%
Norway	1	6%
Poland	1	6%
Portugal	1	6%
Switzerland	1	6%
Total	17	100%

England and Wales received 17 access applications, from various Contracting States. Strikingly, there were no applications from USA and few from Ireland and Australia, in contrast with the high number of return applications made by these states. In contrast to the 2003 survey, the majority of applications came from Denmark, Canada and USA in 1999.

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.

Access applications accounted for only 11% of all the applications received. Similarly, the proportion of outgoing access applications to return applications was low, 23% to 77%.

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
France	2 (12%)	2 (8%)
Netherlands	2 (12%)	1 (4%)
Spain	2 (12%)	1 (4%)
Australia	1 (6%)	2 (8%)
Estonia	1 (6%)	0 (%)
Germany	1 (6%)	0 (0%)
Greece	1 (6%)	1 (4%)
Ireland	1 (6%)	0 (0%)
Italy	1 (6%)	2 (8%)
Mauritius	1 (6%)	0 (0%)
Norway	1 (6%)	0 (0%)
Poland	1 (6%)	0 (0%)
Portugal	1 (6%)	1 (4%)
Switzerland	1 (6%)	0 (0%)
Denmark	0 (0%)	4 (16%)
Canada	0 (0%)	3 (12%)
USA	0 (0%)	3 (12%)
Belgium	0 (0%)	1 (4%)
Czech Republic	0 (0%)	1 (4%)
Sweden	0 (0%)	1 (4%)
New Zealand	0 (0%)	1 (4%)
Slovenia	0 (0%)	1 (4%)
Total	17 (~100%)	25 (~100%)

Combining return and access applications, the top 5 Contracting States which made applications to England and Wales were:

1. USA 25
2. Ireland 18
3. Australia 17
4. France 15
5. Spain 13

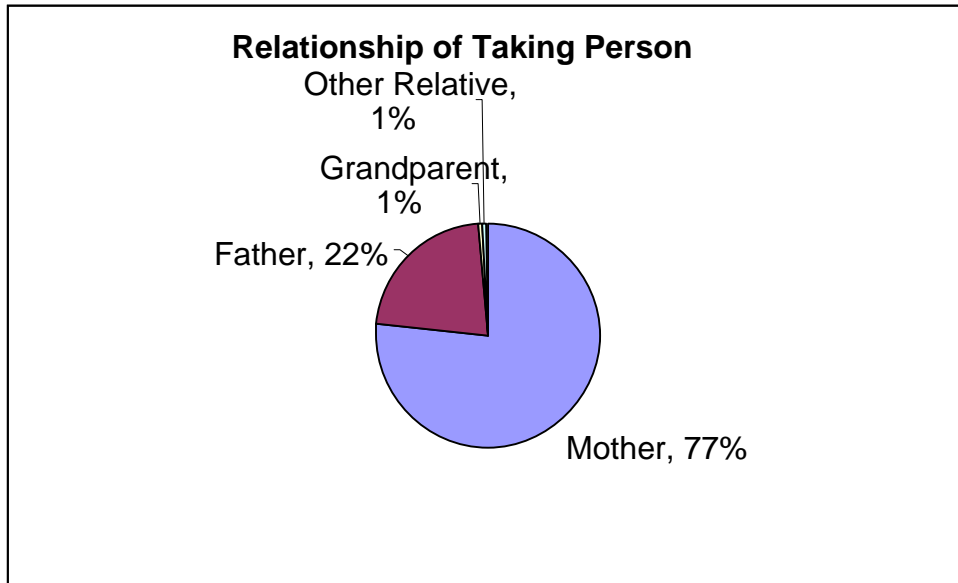
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications

Relationship of the Taking Person

	Number	Percent
Mother	109	77%
Father	31	22%
Grandparent	1	1%
Other Relative	1	1%
Total	142	~100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 77% of taking persons were mothers. This is higher than the global average of 68%, and can be compared with the 1999 survey,³ where 79% of taking persons were recorded as female.

The 'other relative' respondent was stated to be the child's aunt.

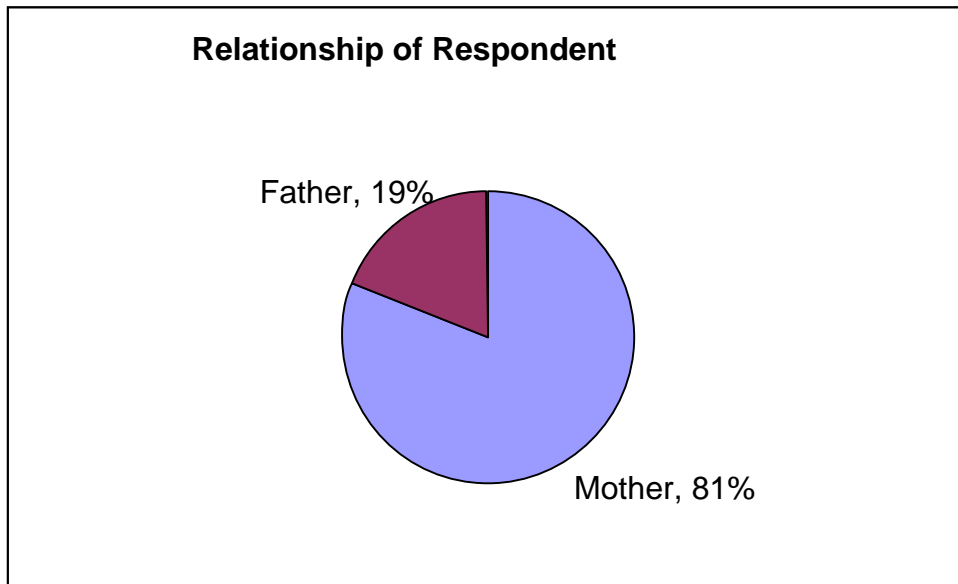
(b) Incoming access applications⁴

Relationship of the Respondent

	Number	Percent
Mother	13	81%
Father	3	19%
Total	16	100%

³ Insofar as 'female' can normally be taken to mean 'mother'.

⁴ This information was not available in relation to one application.



In 13 of the 16 access applications (81%) the respondent was the mother. This can be compared with the global average of 79% and the 1999 survey where 96% of respondents were female.

4. The status of the taking person as carer in relation to the child

(a) Incoming return applications⁵

Status of the Taking Person as Carer

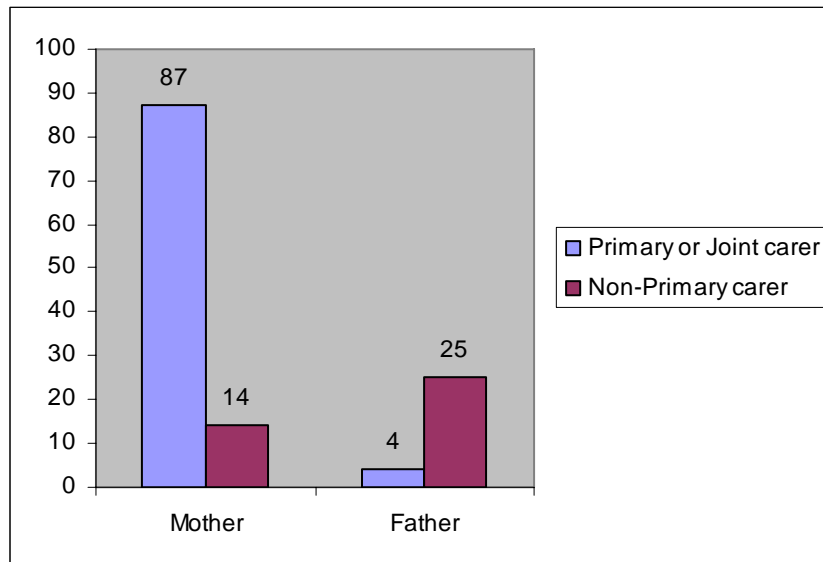
	Number	Percent
Primary or Joint Primary Carer	91	70%
Non-Primary Carer	39	30%
Total	130	100%

The table above shows that in an overwhelming majority of applications, 70%, the taking person was the primary or joint primary carer of the child. 51 respondents were primary carer and 40 respondents were joint primary carer of the child. This compares with the 2003 global average of 68% of taking persons being the primary or joint primary carer of the child.

Status as Carer and Relationship of the Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Primary or Joint Primary Carer	87	4	91
Non-Primary Carer	14	25	39
Total	101	29	130

⁵ This information was not available in 12 applications.



The above table and chart show that where the status as carer and the relationship of the taking person were known, 87 of the 101 (86%) of the respondent mothers were the primary carer of the child. This can be compared with 4 of the 29 (14%) respondent fathers. Globally in 2003, 84% of respondent mothers and 28% of respondent fathers were the primary or joint primary carer of the child.

5. The nationality of the taking person / respondent

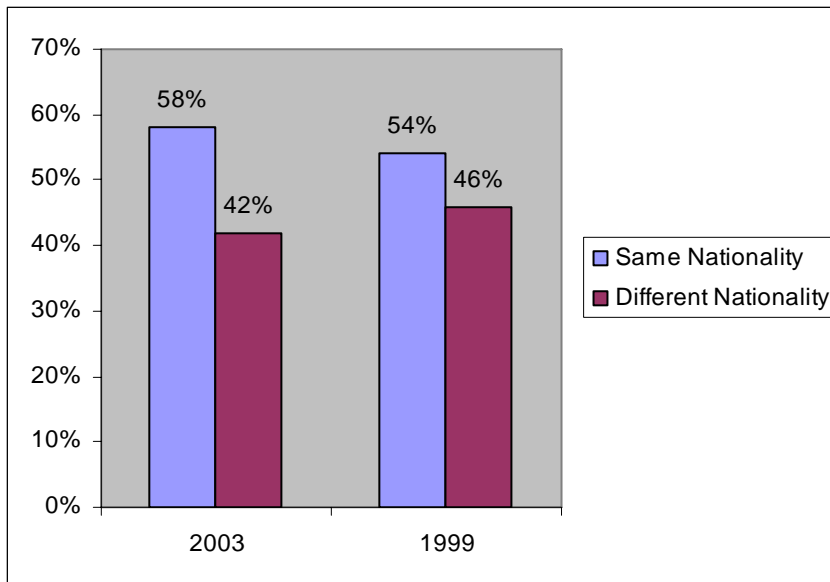
(a) Incoming return applications⁶

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	80	58%
Different Nationality	58	42%
Total	138	100%

This table shows that in 58% of applications, the taking person was British (including 14 taking persons with dual nationality). 42% of taking persons had a different nationality. This compares with the global average of 55% of taking persons known to have the same nationality as the requested State and 45% who had a different nationality.

⁶ This information was not available in relation to 4 applications.

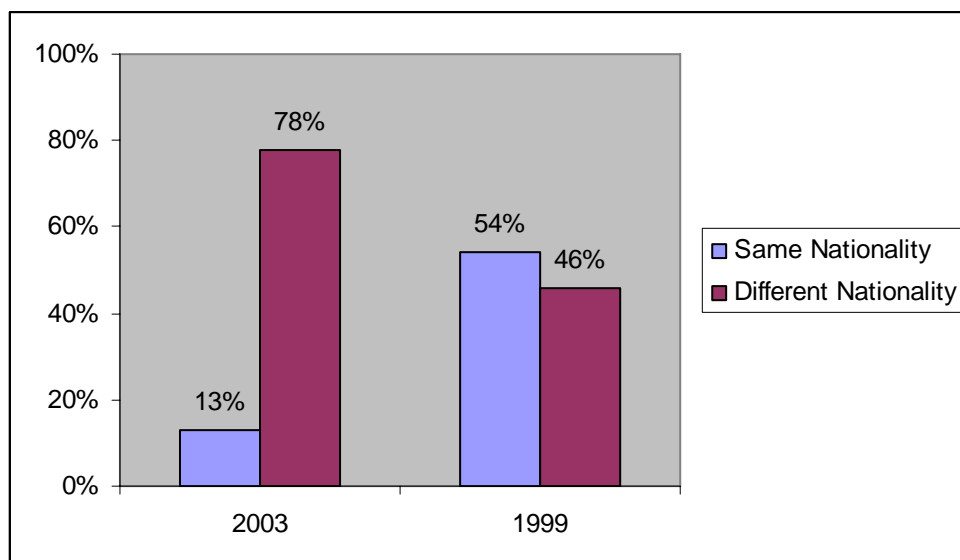


The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of British persons taking children to England and Wales has risen from 54% in 1999 to 58% in 2003. This can be compared with the 2003 global norm of 55%.

(b) Incoming access applications⁷

Respondent Same Nationality as the Requested State

	Number	Percent
Same Nationality	2	13%
Different Nationality	13	87%
Total	15	100%



In only 2 access applications, 13%, were the respondents British. This is very different to the 1999 figures which showed that in 13 applications, 54%, the respondents were British. These figures can be compared with the 2003 global average where 53% of respondents were recorded as being the same nationality as the requested State.

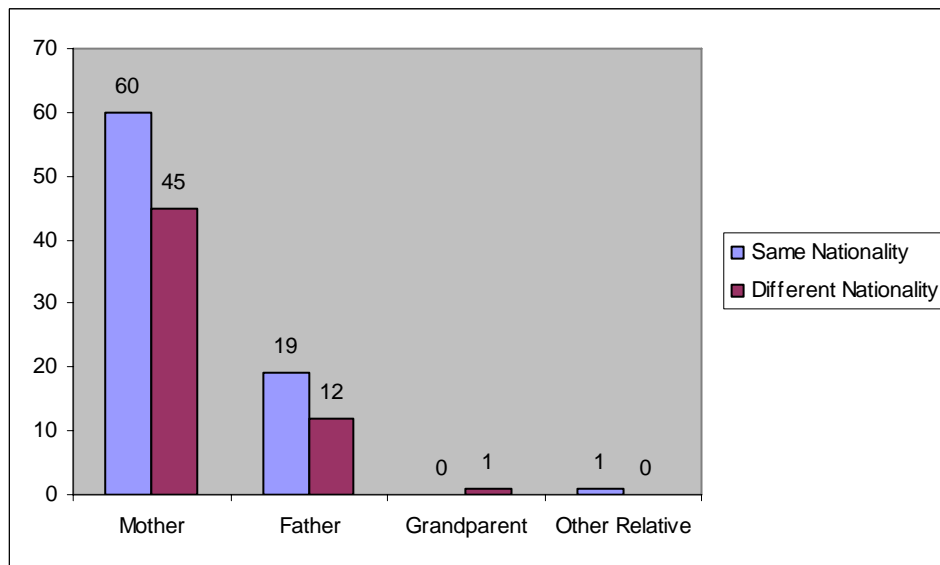
⁷ This information was not available in 2 applications.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications⁸

Nationality and Relationship of Taking Person to Child

	Relationship of Taking Person to Child				Total
	Mother	Father	Grandparent	Other Relative	
Same Nationality	60	19	0	1	80
Different Nationality	45	12	1	0	58
Total	105	31	1	1	138



As in 1999, in relation to both mothers, fathers and other relatives, the taking person was more often recorded as being of the same nationality as the requested State. 60 out of 105 (57%) mothers and 19 out of 31 (61%) fathers were British. This may indicate that they were attempting to take the child 'home' when they take the child from their country of habitual residence.

These figures can be compared with the 2003 global average where 54% of mothers and 55% of fathers were nationals of the requested State. The 1999 survey recorded that 63% of females and 53% of males were British.⁹

(b) Incoming access applications¹⁰

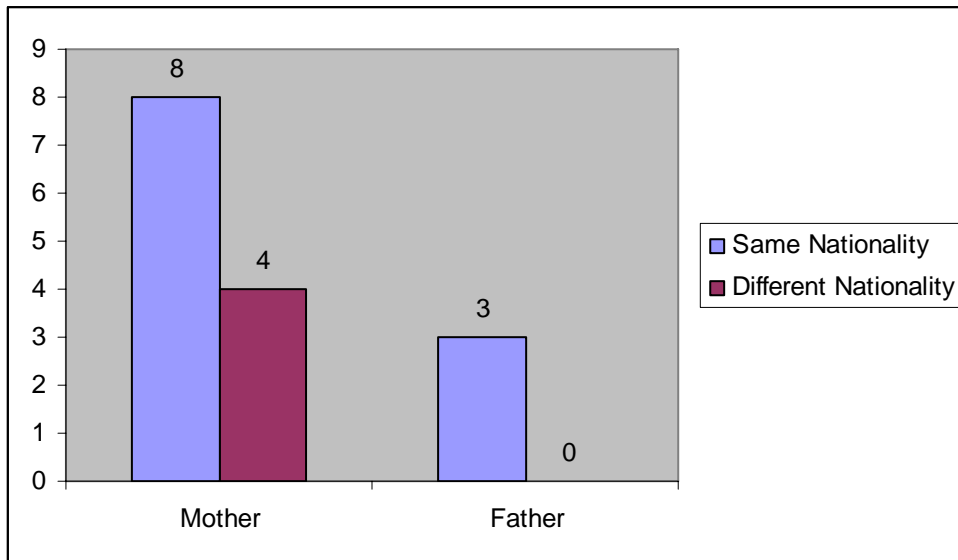
Nationality and Relationship of Respondent to Child

	Relationship of Respondent to Child		Total
	Mother	Father	
Same Nationality	8	3	11
Different Nationality	4	0	4
Total	12	3	15

⁸ This information was not available in 4 applications.

⁹ Again, these results only mirror the 1999 results insofar as 'female' can normally be taken to mean 'mother' and 'male' can normally be taken to mean 'father'.

¹⁰ This information was not available in 2 applications.



In access applications received by England and Wales, 4 out of 8 (50%) respondent mothers and all 3 (100%) respondent fathers were British nationals. This can be compared with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State. The 2003 findings compare with the 1999 proportions of 52% of female and 100% of male respondents being British nationals.

The children

7. The total number of children

(a) Incoming return applications

There were 220 children involved in the 142 incoming return applications in 2003. This can be compared with the total of 256 children being involved in the 149 return applications in 1999.

In 2003, on average 1.5 children were involved in return applications. Proportionally, this represents a slight increase in the average number (1.48) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 21 children involved in the 17 access applications in 2003. This can be compared with the total of 35 children being involved in the 25 access applications in 1999.

In 2003, on average 1.24 children were involved in access applications. Proportionally, this represents a decrease in the average number (1.4) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	84	59%
Sibling Group	58	41%
Total	142	100%

Number of Children

	Number	Percent
1 Child	84	59%
2 Children	40	28%
3 Children	16	11%
4 Children	2	1%
Total	142	~100%

The proportion of single children involved in applications for return, 59%, is below the 2003 global average of 67%. There was a slight decrease in the number of single child applications from 63% in 1999 to 59% in 2003. Compared with 1999, there were more cases involving 3 children, 16 compared with 8. Unlike in 1999, there were no cases involving 5 or 6 children.

The overall number of applications involving one or 2 children, decreased from 93% in 1999 to 87% in 2003. Globally in 2003, it was found that 93% of applications involved one or two children.

(b) Incoming access applications¹¹

Single Child or Sibling Group

	Number	Percent
Single Child	11	69%
Sibling Group	5	31%
Total	16	100%

Number of Children

	Number	Percent
1 Child	11	69%
2 Children	5	31%
Total	16	100%

For access applications the proportion of single children, 69%, compares with the 2003 global average of 71%. The 1999 survey recorded that 64% of access applications to England and Wales involved a single child.

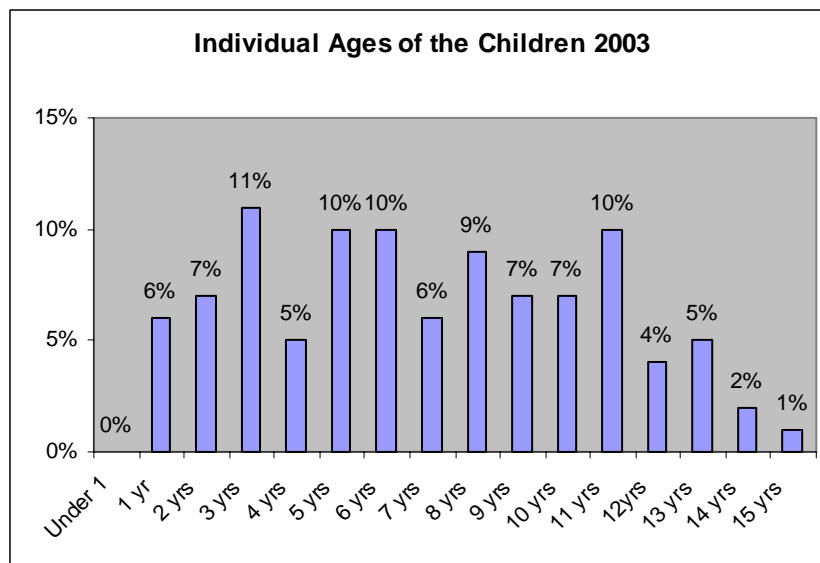
¹¹ This information was not available in one application.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
Under 1	1	<1%
1 yr	13	6%
2 yrs	16	7%
3 yrs	24	11%
4 yrs	12	5%
5 yrs	21	10%
6 yrs	21	10%
7 yrs	14	6%
8 yrs	20	9%
9 yrs	15	7%
10 yrs	15	7%
11 yrs	21	10%
12 yrs	8	4%
13 yrs	12	5%
14 yrs	5	2%
15 yrs	2	1%
Total	220	~100%

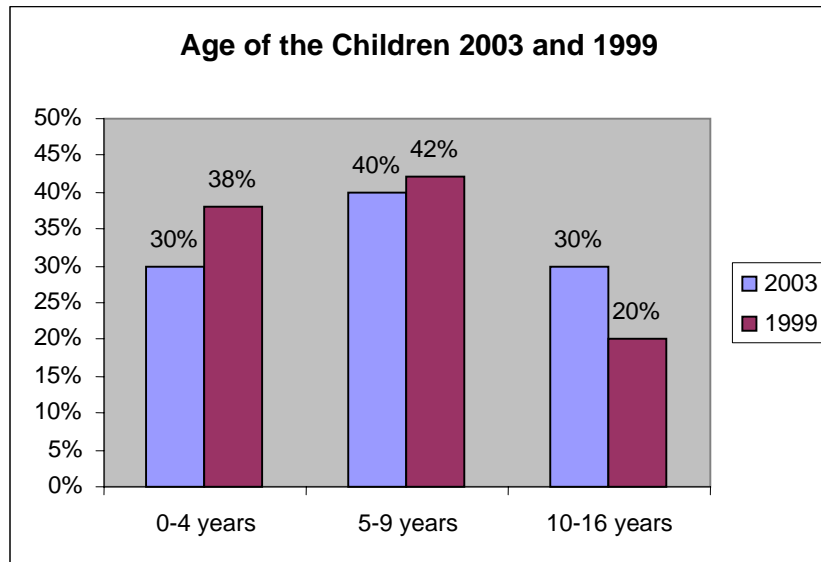


The above table and chart show the ages of the individual children involved. Interestingly, 24 children (11%) were 3 years old. 49% of children were between ages 1 and 6 compared with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	66	30%
5-9 years	89	40%
10-16 years	65	30%
Total	220	100%

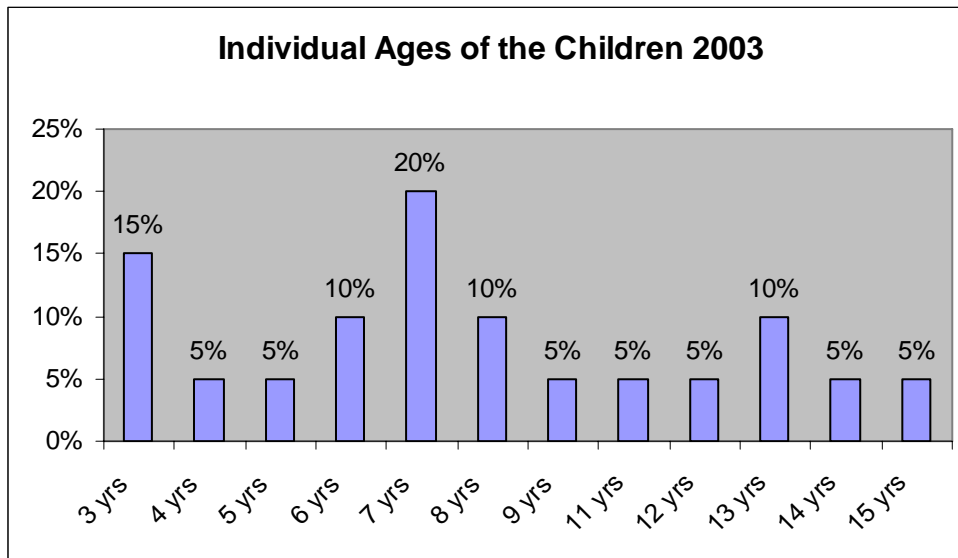


Of the 220 children included, 40% were aged between 5-9 years, compared with 42% in 1999. This can be compared with the global average of 43%. 30% of children were aged between 0-4 years compared with 1999 figures of 38% and the 2003 global average of 36%. 30% of children were aged between 10-16 years compared with 20% in 1999 and a 2003 global average of 22%.

(b) Incoming access applications¹²**Individual Ages 2003**

	Number	Percent
3 yrs	3	15%
4 yrs	1	5%
5 yrs	1	5%
6 yrs	2	10%
7 yrs	4	20%
8 yrs	2	10%
9 yrs	1	5%
11 yrs	1	5%
12 yrs	1	5%
13 yrs	2	10%
14 yrs	1	5%
15 yrs	1	5%
Total	20	100%

¹² This information was not available in relation to one application (for which the number of children involved was unknown) and one child in an application in respect of 2 children.

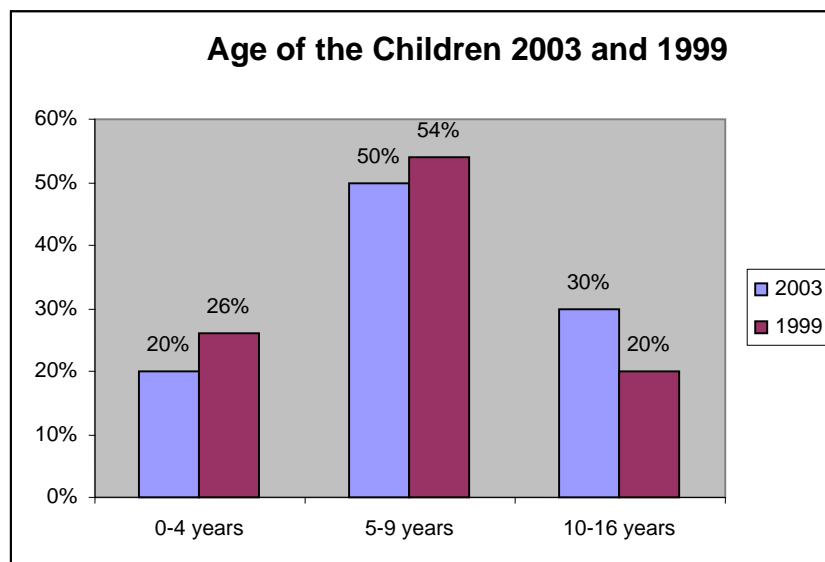


The above table and chart show the ages of the individual children involved. 35% of access cases involved 1 - 6 year olds compared with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band 2003

	Number	Percent
0-4 years	4	20%
5-9 years	10	50%
10-16 years	6	30%
Total	20	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. 50% of children were aged between 5 and 9 years old compared with 54% in 1999. Globally in 2003, 46% of children were aged between 5 and 9 years. In line with global trends, there does appear to have been a slight shift in favour of older

children. The number of children aged between 10-16 years has increased, from 20% to 30%. This can be compared with 34% globally.

10. The gender of the children¹³

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	113	52%
Male	103	48%
Total	216	100%

As can be seen, the gender of the children in return applications was almost evenly split between males and females. Males accounted for 48% and females for 52% of all children involved in the return applications. Globally in 2003, 49% of children were male and 51% were female. In 1999, 54% of children involved in the return applications to England and Wales were male.

(b) Incoming access applications¹⁴

Gender of the Children

	Number	Percent
Female	8	38%
Male	13	62%
Total	21	100%

38% of children involved in access applications to England and Wales were female. This can be compared with the 2003 global average of 45%. In 1999, 46% were female.

¹³ This information was not available in relation to 4 children.

¹⁴ This information was not available in one application.

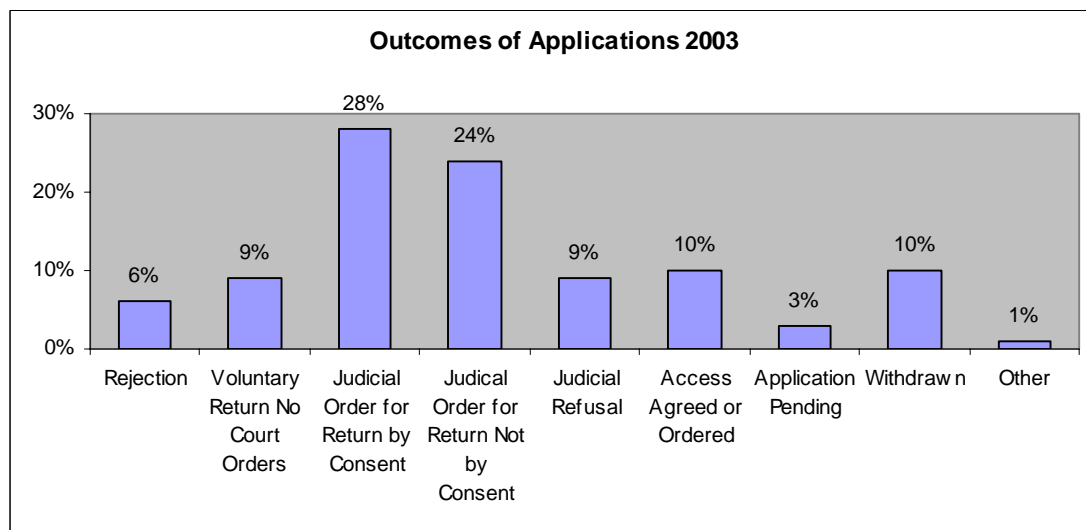
The outcomes

11. Overall outcomes

(a) Incoming return applications

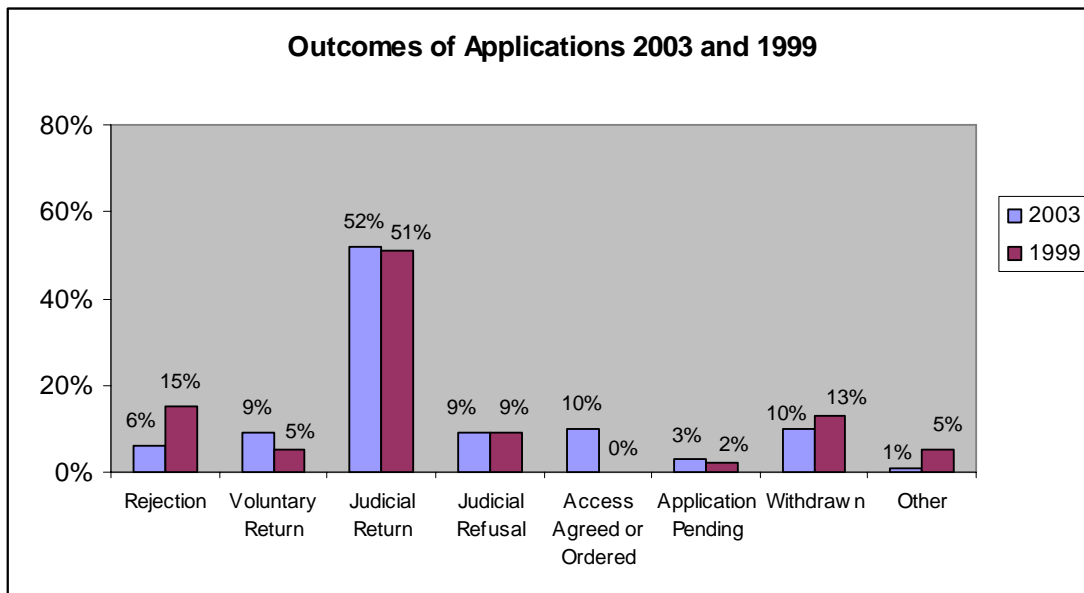
Outcome of Application

	Number	Percent
Rejection	9	6%
Voluntary Return No Court Orders	13	9%
Judicial Order for Return by Consent	39	28%
Judicial Order for Return Not by Consent	34	24%
Judicial Refusal	12	9%
Access Agreed or Ordered	14	10%
Application Pending	4	3%
Withdrawn	14	10%
Other	1	1%
Total	140	100%



The above chart shows the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. It may be noted that more return orders were made with consent than without consent – 39 as opposed to 34.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

Proportionally, the figures show that a judicial order for return (including by consent) was the most common outcome for an application, with a combined total of 73 cases (52%). This can be compared with 51% in 1999. This is much higher than the global average of 29% in 2003. On the other hand, as in 1999 (where it was 5%), the proportion of voluntary returns (9%), remains lower than the global average of 22%. The overall return rate of 61% can be compared with a global norm of 51% and the figure of 56% recorded in 1999.

99 applications (70%) went to court, compared with 60% in 1999. Of these cases, 73% ended in a judicial return compared with 84% in 1999 and a further 14% ended in access being ordered. This is higher than the global proportion of 66% of return orders and 5% access.¹⁵ The remaining 12% were refused as compared with 29% globally.

The withdrawal rate of 10% can be compared with the global average of 15%. 3% of cases were still pending compared with 2% in 1999. This is below the global norm of 9%. The rejection rate in England and Wales fell from 22 cases (15%) to 9 (6%) in 2003. This is more in line with the global average for rejections (6%).

(b) Incoming access applications¹⁶

Outcome of the Application		
	Number	Percent
Rejection	1	6%
Consent Orders for Access	1	6%
Access Judicially Granted	1	6%
Application Pending	2	13%
Withdrawn	11	69%
Total	16	100%

¹⁵ Globally 66% ended in return, 5% ended in access and 29% ended in a judicial refusal. See Part I of the 2003 Report, p. 28.

¹⁶ This information was not available in one application.

11 of the 16 applications, 69%, were withdrawn, compared with 52% in 1999 and 22% globally. As in 1999, this is higher than any other Contracting State analysed and, in 2003, England and Wales accounted for 11 of 37 (30%) of withdrawn access applications globally. According to the Central Authority for England and Wales applications were withdrawn for a variety of reasons including: lack of response from applicants in 4 applications; in one case a consent order for access was made in return proceedings brought in parallel with the access application; in another the applicant was not eligible for legal aid; a further case was withdrawn as access was taking place; in another the child was returned and access was arranged in the requesting State; and the final application was withdrawn to make a return application.

Both of the applications in which access was granted (with or without consent) were resolved under domestic law. As in 1999 there were no judicial refusals. One access application was still pending as at 30th June 2005.

12. The reasons for rejection

(a) Incoming return applications

Reason for Rejection by the Central Authority

	Number	Percent
Child Located in Another Country	2	22%
Child Not Located	1	11%
Applicant Had No Rights of Custody	2	22%
Convention not in force at time	1	11%
Other	3	33%
Total	9	100%

There were 9 cases rejected by England and Wales. 3 of the 9 (33%) rejected applications were recorded as 'other'. One of these other reasons is unclear. In a second case, following issues regarding acquiescence, there was no response from the applicant so the file was closed. In a third case, the application was stayed for care proceedings following Human Rights issues.

In only one case (11%) was the child located in another country. This is different from that found in 1999 where such cases accounted for 11 rejections (50%). Globally in 2003, 24% of cases were rejected for this reason.

(b) Incoming access applications

England and Wales rejected one access application. The reason for rejection was, however, not known.

13. The reasons for judicial refusal¹⁷

(a) Incoming return applications

Reason for Judicial Refusal

	Number	Percent
Child Not Habitually Resident in Requesting State	2	20%
Applicant had No Rights of Custody	1	10%
Article 13 a Consent	1	10%
Art 13a Acquiescence	1	10%
Child's Objections	2	20%
Other	3	30%
Total	10	100%

The proportion of judicial refusals (9%) was lower than the global average of 12% and can be compared with 9% in 1999. The most commonly recorded reason for refusing applications was 'other', comprising one application which was 'dismissed' due to a CAFCASS report; another was similarly stated as being refused because CAFCASS 'heavily criticised' the applicant father (domestic Children Act 1989 proceedings were afoot); and in the final application, more than one reason was relied upon - the child was not habitually resident and it was held that there was acquiescence.

The other 2 most commonly relied upon exceptions were that the child was not habitually resident and child's objections (2 cases involving each, 20%). This can be compared with the 1999 survey where the most commonly relied upon reason for refusal was Article 13 *b*) (4 cases, 31%). Indeed, strikingly, there were no refusals based on Article 13 *b*).

As in 1999, both cases in which the child's objections exception was applied involved children over the age of 11 years (13 and 14 years old).

¹⁷ The reason for refusal was missing in 2 applications.

14. The reasons for judicial refusal and the relationship of the taking person¹⁸

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Refusal

	Relationship of Taking Person to Child		Total
	Mother	Father	
Child Not Habitually Resident in Requesting State	2		2
Applicant had No Rights of Custody	1		1
Article 13 a Consent	1		1
Art 13a Acquiescence	1		1
Child's Objections	1	1	2
Other	1	2	3
Total	7	3	10

Where the reasons for refusal were known, three applications were refused where the taking person was the child's father. There was also an additional case involving a father for which the reason for refusal was unknown. In total, 4 out of the 12 judicial refusal cases involved fathers (33%). Given that 22% of taking persons were fathers this ratio appears to be more proportionate compared with the 1999 survey where 20% of taking persons were male but only 8% of refusals involved males. Globally in 2003, 21% of refusals involved fathers whereas fathers accounted for 29% of taking persons overall.

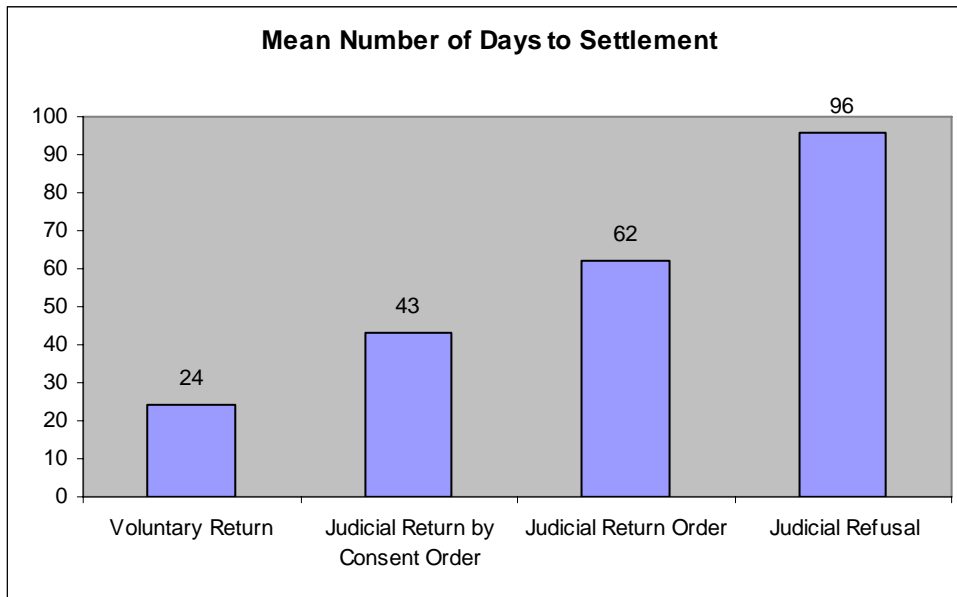
It is interesting that the one case refused as the applicant had no rights of custody involved a mother.

¹⁸ This information was not available in two applications.

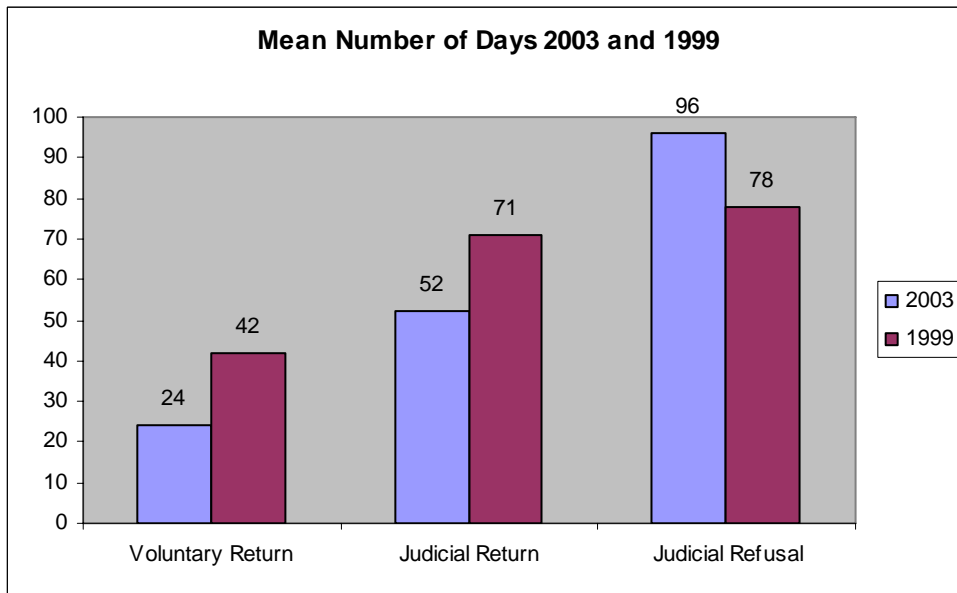
Speed

15. The time between application and outcome

(a) Incoming return applications¹⁹



Information was available in relation to all judicial returns. Return orders without consent took longer than orders made with consent, 62 days compared with 43 days. This can be compared with the global average of 143 days and 85 days respectively.



The chart above shows that judicial returns were resolved in a combined average of 52 days compared with 71 days in 1999. As in 1999, this is quicker than the global average of 125 days. Judicial refusals, averaging 96 days, can be compared with the 2003 global average of 233 days. This can be compared with 78 days in 1999. On average, voluntary returns were concluded within 24 days compared with 42 in 1999 and the 2003 global average of 98 days.

¹⁹ This information was not available in one voluntary return application.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	24	43	62	96
Median	18	34	48	70
Minimum	0	1	6	49
Maximum	95	129	190	203
Number of cases	12	39	34	12

The table above gives a more informative picture of the system in England and Wales. It must be noted that as at 30th June 2005 4 applications were still pending. These aside, the slowest judicial decision was reached within 203 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	60	106
Median	48	74
Minimum	6	49
Maximum	190	226
Number of cases	34	13

As can be seen, neither in relation to judicial returns nor in relation to judicial refusals does the exclusion of appealed cases significantly affect the overall mean averages taken to reach final outcomes.

(b) Incoming access applications

Number of Days Taken to Reach Final Outcome: 2003

	Access Judicially Granted	Consent Order for Access
Mean	352	130
Median	352	130
Minimum	352	130
Maximum	352	130
Number of cases	1	1

The one case that was resolved judicially under domestic law took just under a year to reach final settlement (352 days). The case where a consent order for access was made was resolved in 130 days. One case was still pending as at 30th June 2005.

16. Appeals

(a) Incoming return applications

Only 3 of the 99 applications that went to court (3%) were appealed. This is much lower than the 2003 global norm of 22% and compares with 2% in 1999. One appeal involved a judicial return at first instance and on appeal. One cases concluded in an 'other' outcome following a judicial refusal (access was judicially granted). The final case also resulted in an 'other' outcome following a judicial return by consent (the return order was discharged by the appellate court because of enforcement issues). The 3 applications took 95, 406 and 83 days respectively to reach a final outcome.

(b) Incoming access applications

Not applicable.

UK – ISLE OF MAN

The applications

1. The number of applications

Incoming Return Applications	1
Incoming Access Applications	0
Outgoing Return Applications	0
Outgoing Access Applications	0

According to the Central Authority for the Isle of Man, they received one incoming return application but no incoming access applications in 2003. This is an increase on no incoming applications received in 1999. It is to be noted that the overall ratio of incoming return applications to access applications (100%) is above the global average of 84% to 16%.

As in 1999, the Central Authority made no outgoing applications either for return or for access.

The overall ratio of incoming to outgoing applications was 100%.

2. The Contracting States which made the application

The one return application came from Australia.

The taking person

3. The relationship of the taking person

The taking persons in the application were the child's aunt and grandmother.

4. The status of the taking person as carer in relation to the child

Isle of Man did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Both taking persons had British nationality. Globally in 2003, 55% of taking persons had the nationality of the requested State.

6. The relationship and nationality of the taking person combined

See 3 and 5 above.

The children

7. The total number of children

There was one child involved in the one incoming return application in 2003. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

The one return application involved a single child. Globally in 2003, 67% of applications involved a single child.

9. The age of the children

The child involved was 10 years old. Globally in 2003, 22% of children were aged between 10 and 16 years.

10. The gender of the children

The one application involved a male child. Globally in 2003, 49% of children were male.

The outcomes**11. Overall outcomes**

The one application resulted in a judicial return without consent. Globally, 20% of return applications ended in a judicial return without consent.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed**15. The time between application and outcome**

The return order was made in 32 days from the receipt of the application, which was considerably quicker than the 2003 global average of 143 days.

16. Appeals

The one judicial decision was not appealed.

UK – NORTHERN IRELAND

The applications

1. The number of applications

Incoming Return Applications	2
Incoming Access Applications	0
Outgoing Return Applications	4
Outgoing Access Applications	0

According to the Central Authority for Northern Ireland, they received 2 incoming return applications but no incoming access applications in 2003. This is a decrease on the 7 incoming applications (of which 6 were for return and one for access) received in 1999. It is to be noted that the overall ratio of incoming return applications to access applications (100%) was above the global average of 84% to 16%.

Additionally, the Central Authority made 4 outgoing return applications¹ but no outgoing access applications in 2003. This is an increase on the 3 outgoing applications (all of which were for return) made in 1999.

Altogether, the Central Authority handled 6 new applications in 2003, compared with 10 new applications in 1999.

The overall ratio of incoming to outgoing applications was 33% to 67%.

2. The Contracting States which made the application

Interestingly, both return applications came from the USA. In 1999, the USA made no applications, whereas 4 of the 6 incoming return applications came from Ireland.

The taking person

3. The relationship of the taking person

Both taking persons (100%) were mothers. Globally, 68% of taking persons were mothers. In 1999, 3 of the 6 (50%) taking persons were mothers.

4. The status of the taking person as carer in relation to the child

Northern Ireland did not provide information on the status of the taking person as carer.

5. The nationality of the taking person

Both taking persons had British nationality, as opposed to 55% globally having the nationality of the requested State. The 2003 findings cannot be compared with the 1999 survey as in 1999 information regarding nationality was not available from the data received from Northern Ireland.

6. The relationship and nationality of the taking person combined

Both taking persons were mothers having British nationality. Globally in 2003, 54% of such mothers had the nationality of the requested State.

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

The children

7. The total number of children

There were 2 children involved in the 2 incoming return applications in 2003. This can be compared with the total of 15 children being involved in the 6 return applications in 1999. Proportionally, this represents a decrease in the number of children per return application, compared with 2.5 in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

8. Single children or sibling groups

Both return applications involved single children. Globally in 2003, 93% of applications involved one or two children. In 1999 in Northern Ireland the proportion of applications involving single children was just 33%, whereas unusually, 2 of the 6 applications involved sibling groups of more than 2 children.

9. The age of the children

The children involved in the return applications received by Northern Ireland were relatively young, aged under one year and one year. Globally, 36% of children were aged between 0 and 4 years, 42% between 6 and 10 years and 22% between 10 and 16 years. In 1999, the greatest proportion of children involved in the applications to Northern Ireland (47%) were aged between 5 and 9 years old. Only 4 out of 15 (27%) children involved were aged between 0 and 4 years.

10. The gender of the children

Both of the children involved were male. Globally, 49% of children were male. In 1999, 47% of children involved in the applications to Northern Ireland were male.

The outcomes

11. Overall outcomes

Both applications resulted in the same outcome – judicial order for return by consent. Globally in 2003, 9% of applications ended in the child being returned by a consent order. In 1999, 2 of the 6 (33%) applications resulted in a judicial return. However, it was not known whether these orders were made with or without consent as the 1999 survey did not record the breakdown of judicial return orders with and without consent.

12. The reasons for rejection

Not applicable.

13. The reason for judicial refusal

Not applicable.

14. The reasons for judicial refusal and the relationship of the taking person

Not applicable.

Speed**15. The time between application and outcome**

The judicial orders for return were made in a mean average of 65 days, which is quicker than the global average of 85 days. Conversely, in 1999, applications to Northern Ireland were generally handled slowly, with judicial returns averaging 241 days.

16. Appeals

As in 1999, none of the judicial decisions were appealed. Globally in 2003, 9 % of incoming return applications and 22% of applications going to court were appealed.

UK – SCOTLAND

The applications

1. The number of applications

Incoming Return Applications	12
Incoming Access Applications	0
Outgoing Return Applications	3
Outgoing Access Applications	0

According to the Central Authority for Scotland, they received 12 incoming return applications but no incoming access applications in 2003. This is a slight decrease on the 13 incoming applications (of which 10 were for return and 3 for access) received in 1999. It is to be noted that the ratio of incoming return applications to incoming access applications (100%) is above the global average of 84% to 16%.

Additionally, the Central Authority made 3 outgoing return applications¹ but no outgoing access applications in 2003. This is a slight decrease on the 5 outgoing applications (which were all for return) made in 1999.

Altogether, the Central Authority handled 15 new applications in 2003, compared with 18 new applications in 1999.

The overall ratio of incoming to outgoing applications was 80% to 20%.

2. The Contracting States which made the application

Requesting States 2003

	Number	Percent
USA	3	25%
Netherlands	2	17%
New Zealand	2	17%
Australia	1	8%
Canada	1	8%
Cyprus	1	8%
Ireland	1	8%
Sweden	1	8%
Total	12	~100%

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.* the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.* some cases may have been withdrawn before transmission, or not transmitted to or received by the foreign Central Authority by the 31st December 2003.

Requested States compared with 1999 findings

	Number of Applications 2003	Number of Applications 1999
USA	3 (25%)	4 (40%)
Netherlands	2 (17%)	0 (0%)
New Zealand	2 (17%)	1 (10%)
Australia	1 (8%)	2 (20%)
Canada	1 (8%)	0 (0%)
Cyprus	1 (8%)	0 (0%)
Ireland	1 (8%)	0 (0%)
Sweden	1 (8%)	0 (0%)
Italy	0 (0%)	2 (10%)
Norway	0 (0%)	1 (10%)
Total	12 (~100%)	10 (100%)

Scotland received applications for return from 8 Contracting States, compared with 4 in 1999. As in 1999, USA made more applications, 3 (25%), than any other Contracting State. New Zealand made 2 (17%) applications, compared with one (10%) in 1999. Conversely, in 2003 one (8%) application was received from Australia whereas in 1999 this Contracting State made 2 (20%) applications. Interestingly, only one application was received from Ireland as opposed to 17 applications made by Ireland to England and Wales.

Requesting States within the EU 2003

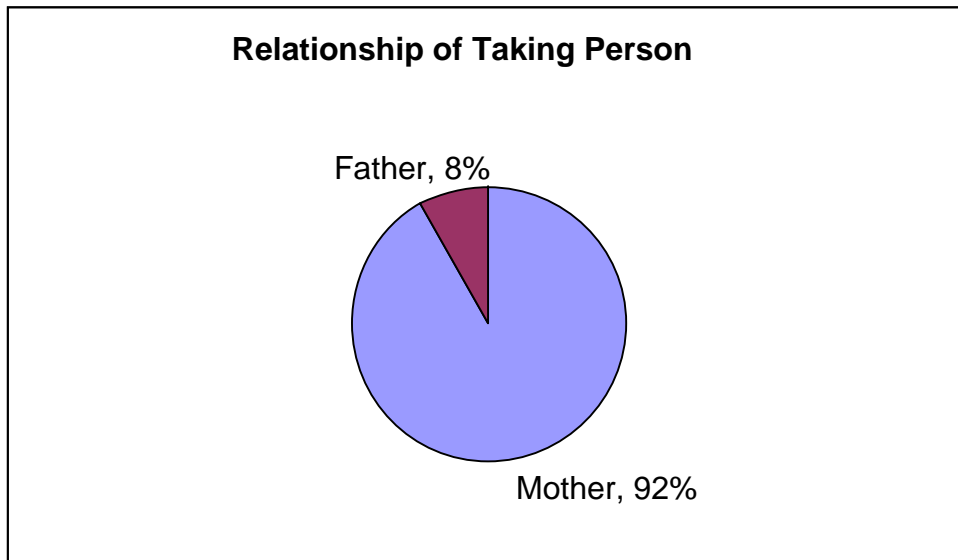
	Number	Percent
Netherlands	2	40%
Cyprus	1	20%
Ireland	1	20%
Sweden	1	20%
Total	5	100%

The above chart shows the number of applications received from countries that are now part of the EU.² The proportion of applications received from these Contracting States was 42% (5 out of 12 applications).

The taking person**3. The relationship of the taking person****Relationship of the Taking Person**

	Number	Percent
Mother	11	92%
Father	1	8%
Total	12	100%

² This figure is based on the European Union as it currently stands as opposed to the EU of 2003. The current EU Member States are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands and United Kingdom.



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. 92% of taking persons were mothers. This is markedly above the global average of 68% and an increase on the 80% of female taking persons in 1999.³

4. The status of the taking person as carer in relation to the child

Scotland did not provide information on the status of the taking person as carer in relation to the child.

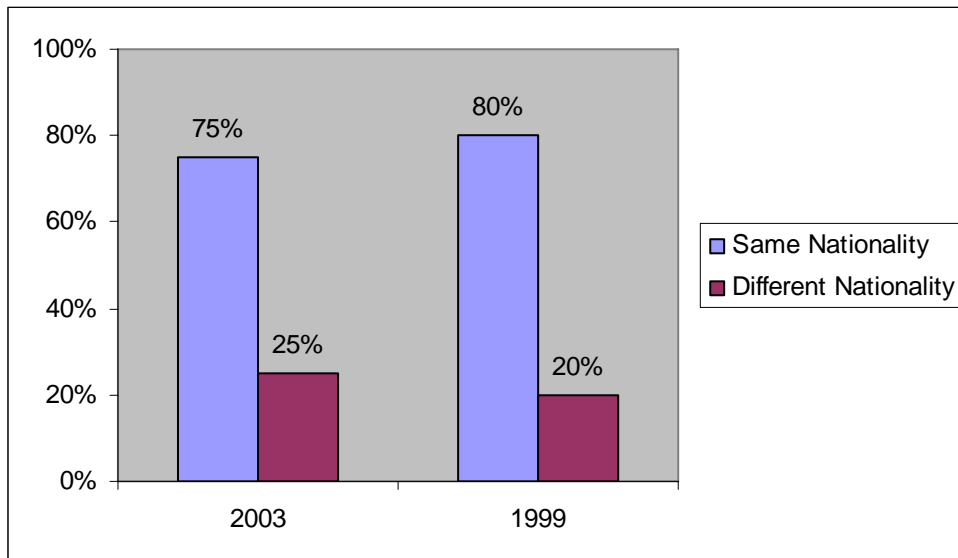
5. The nationality of the taking person

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	9	75%
Different Nationality	3	25%
Total	12	100%

This table shows that 75% of taking persons were British (including one taking person with dual nationality), whereas 25% of taking persons were not. This can be compared with the 2003 global averages of 55% and 45% respectively.

³ Insofar as 'female' can normally be taken to mean 'mother'.

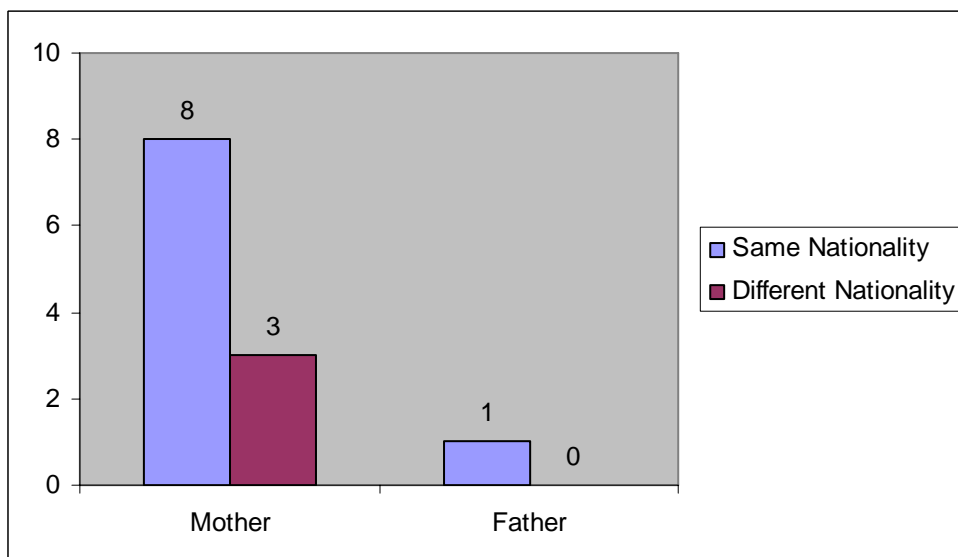


The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of British persons taking children to Scotland slightly decreased from 80% in 1999 to 75% in 2003.

6. The relationship and nationality of the taking person combined

Nationality and Relationship of the Taking Person to Child

	Relationship of Taking Person to Child		Total
	Mother	Father	
Same Nationality	8	1	9
Different Nationality	3	0	3
Total	11	1	12



As can be seen, in relation to mothers, the taking person was more often recorded as having the same nationality as the requested State. Indeed, 8 out of 11 (73%) mothers were British. Similarly, in the one case where the father was the taking person, he had British nationality. This can be contrasted with the global figures of 54% and 55% respectively of taking persons having the nationality of the requested State. The 1999 survey recorded that 6 out of 8 (75%) of the female taking persons and both male taking persons had British nationality.

The children

7. The total number of children

There were 17 children involved in the 12 incoming return applications in 2003. This can be compared with the total of 19 children being involved in the 10 return applications in 1999.

In 2003, on average 1.4 children were involved in return applications. Proportionally, this represents a decrease in the number of children per return application, compared with 1.9 in 1999. Globally in 2003, on average 1.4 children were involved in return applications.

8. Single children or sibling groups

Single Child or Sibling Group

	Number	Percent
Single Child	7	58%
Sibling Group	5	42%
Total	12	100%

Number of Children

	Number	Percent
1 Child	7	58%
2 Children	5	42%
Total	12	100%

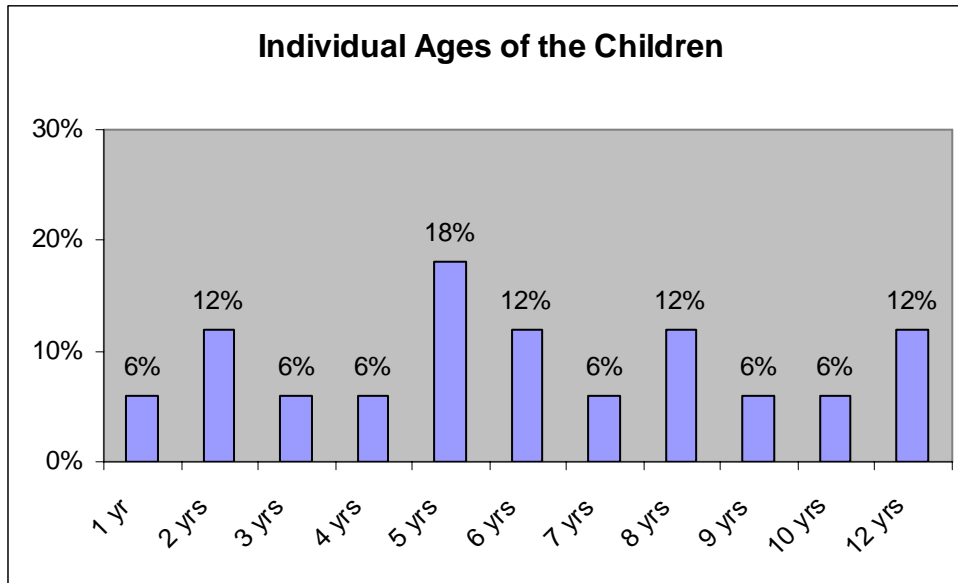
The number of applications involving a single child was 58%, which is below the 2003 global average of 67% but an increase on the 40% of applications recorded in 1999. In 1999, unusually, more sibling groups than single children were involved in return applications to Scotland.

There were no sibling groups of 3 or more children involved in the 2003 applications. Indeed, all of the applications (100%) concerned one or 2 children. This is higher than the global average of 93% and an increase on the 1999 figure of 80%.

9. The age of the children

Individual Ages 2003

	Number	Percent
1 yr	1	6%
2 yrs	2	12%
3 yrs	1	6%
4 yrs	1	6%
5 yrs	3	18%
6 yrs	2	12%
7 yrs	1	6%
8 yrs	2	12%
9 yrs	1	6%
10 yrs	1	6%
12yrs	2	12%
Total	17	~100%

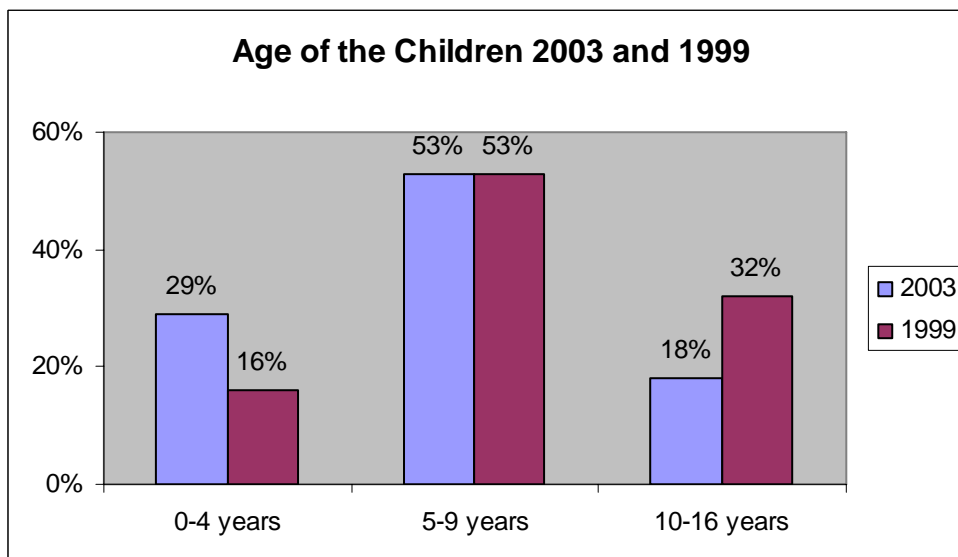


The above table and chart show the ages of the individual children involved. 60% of children were between ages 1 and 6 compared with a global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	5	29%
5-9 years	9	53%
10-16 years	3	18%
Total	17	100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. As in 1999, the largest proportion of children were aged between 5-9 years old. Indeed, of the 17 children included, 53% were aged between 5-9 years. This can be compared with the 2003 global average of 42%. The proportion of children aged between 0-4 years increased from 16% in 1999 to 29% in 2003. On the other hand, the

proportion of older children, aged between 10-16 years old, decreased from 32% in 1999 to 18% in 2003. This can be compared with the 2003 global averages of 36% and 22% respectively.

10. The gender of the children

Gender of the Children

	Number	Percent
Female	9	53%
Male	8	47%
Total	17	100%

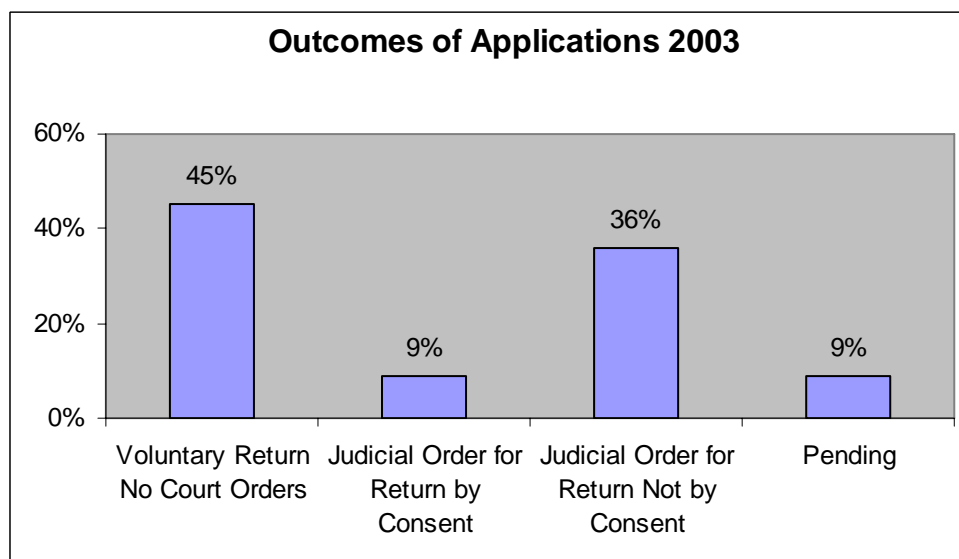
As can be seen, females accounted for 53% and males for 47% of all children involved in the return applications. Globally, in 2003, 51% of children were female and 49% were male. In 1999, 47% of children involved in the return applications to Scotland were female.

The outcomes

11. Overall outcomes⁴

Outcome of Application

	Number	Percent
Voluntary Return No Court Orders	5	45%
Judicial Order for Return by Consent	1	9%
Judicial Order for Return Not by Consent	4	36%
Application Pending	1	9%
Total	11	~100%



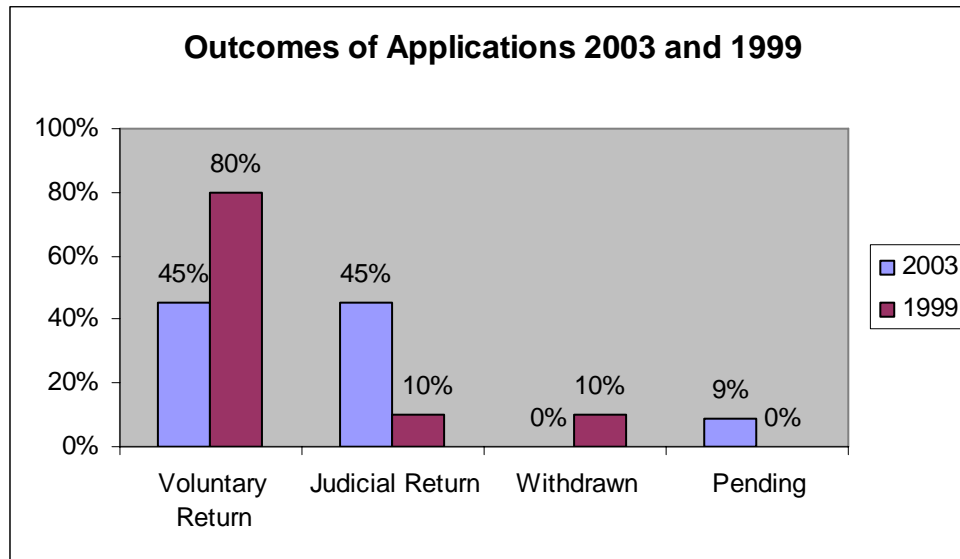
The above chart shows the outcome of all applications in 2003. Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent.

⁴ This information was not available in relation to one application.

In Scotland in 2003, one judicial return order was made with consent and 4 without consent.

The outstanding feature of the outcomes is that 90% of applications resulted in a return, either voluntarily or by court order which is significantly higher than the global average of 51%. Furthermore, all applications heard by a court ended in a return order being made.

Proportionally, a voluntary return was the most common outcome for an application, with a total of 5 (45%) applications. This is markedly above the global average of 22%. It is to be noted that there were no rejections or judicial refusals and no applications were withdrawn. As of 30th June 2005 one application was still pending.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

The figures show that as in the 1999 survey, the overall return rate was 90%. In 2003, voluntary returns accounted for 45% of all outcomes, compared with 80% in 1999. On the other hand, the proportion of judicial returns has increased from 10% in 1999 to 45% in 2003.

12. The reasons for rejection

Not applicable.

13. The reasons for judicial refusal

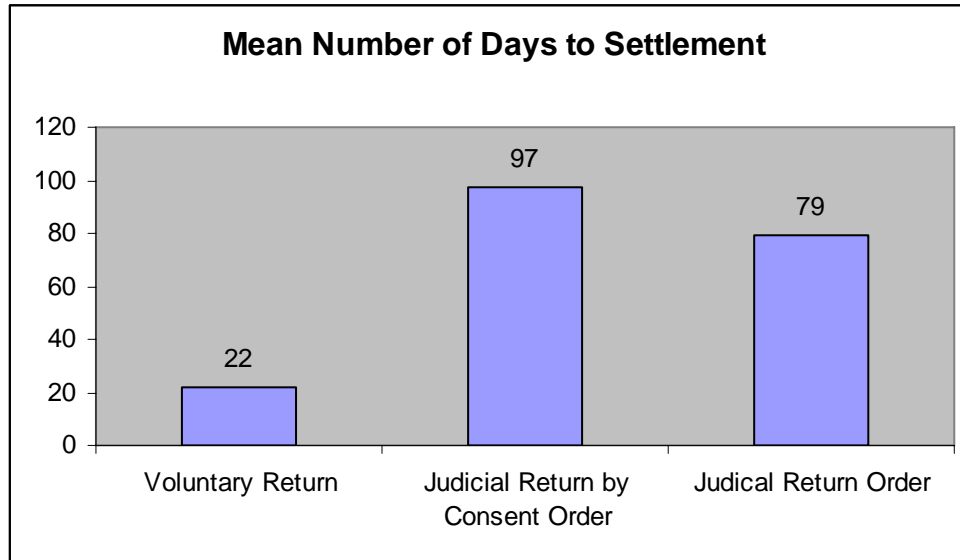
Not applicable.

14. The reasons for judicial refusal and the gender of the taking person

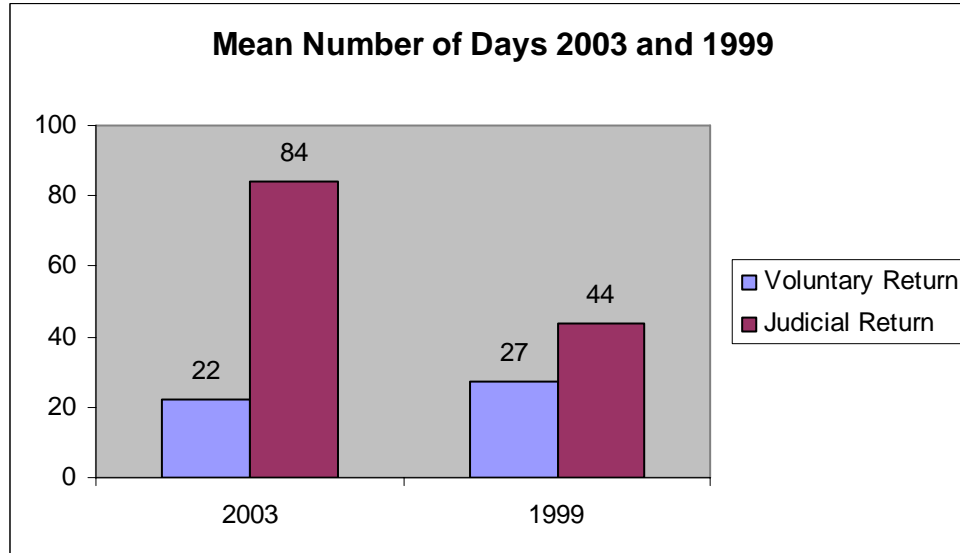
Not applicable.

Speed

15. The time between application and outcome⁵



Surprisingly, return orders without consent were resolved more quickly than those made with consent, taking on average 79 days compared with 97 days. This can be compared with the 2003 global averages of 143 days and 85 days respectively. The one voluntary return where the information regarding timing was available was concluded within 22 days, which is quicker than the global average of 98 days.



The chart above shows that judicial returns were resolved in a combined average of 84 days compared with 44 days in 1999. The one voluntary return case took 22 days compared with the 1999 mean average speed of voluntary returns of 27 days

⁵ This information was not available in relation to 4 voluntary returns and one judicial return.

Number of Days Taken to Reach Final Outcome: 2003

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order
Mean	22	97	79
Median	22	97	65
Minimum	22	97	44
Maximum	22	97	129
Number of Cases	1	1	3

The table above gives a more informative picture of the system in Scotland. The slowest judicial decision was reached within 129 days. Surprisingly, the consent order took 97 days to reach a final settlement which is slower than the quickest judicial return order (44 days).

16. Appeals

None of the judicial decisions were appealed.

USA

Incoming Return Applications	286
Incoming Access Applications	59
Outgoing Return Applications	85
Outgoing Access Applications	21

1. The number of applications

The Central Authority for the USA is the Department of State, Office of Children's Issues. Under a Co-operative Agreement, the National Center for Missing and Exploited Children (NCMEC) acts on behalf of the State Department as the Central Authority for all incoming applications. According to NCMEC, the USA received 286 return and 59 access applications in 2003, making a total of 345 incoming applications. This is an increase on the 254 incoming applications (of which 210 were for return and 44 for access) made in 1999. The ratio of incoming return applications to access applications, 83% to 17% compares with the global average of 84% to 16%.

Additionally, the State Department made 85 outgoing return applications and 21 outgoing access applications in 2003.¹ This is a marked decrease on the 212 outgoing applications (comprising 183 return applications and 29 access applications) made in 1999.

Altogether, the Central Authority in the USA handled 451 new applications in 2003 compared with 466 in 1999. Consequently, the USA received and made more applications, both for return and for access, than any other Contracting State.² Indeed, applications to the USA accounted for over a quarter of all applications in 2003.

The overall ratio of incoming to outgoing applications was 76% to 24%.

¹ This is the total number of applications based on what the Central Authority has told us, *i.e.*; the number they have made. These cases may not have been transmitted to the overseas Central Authority in 2003, *i.e.*; some cases may have been withdrawn before transmission, or not transmitted to (or received by) the foreign Central Authority by the 31st December 2003.

² However, the Central Authority for England and Wales handled the most applications in 2003, with 350, the USA having split incoming and outgoing applications between NCMEC and the office of Children's Issues.

2. The Contracting States which made the application

(a) Incoming return applications

Requesting States 2003

	Number	Percent
Mexico	97	34%
UK - England & Wales	33	12%
Canada	28	10%
Germany	13	5%
Australia	12	4%
Italy	12	4%
Argentina	8	3%
Colombia	8	3%
France	7	2%
Israel	5	2%
Spain	5	2%
Sweden	5	2%
Belgium	4	1%
UK - Nth Ireland	4	1%
Venezuela	4	1%
Finland	3	1%
Greece	3	1%
Hungary	3	1%
Netherlands	3	1%
Norway	3	1%
Poland	3	1%
Belize	2	1%
Czech Republic	2	1%
Ireland	2	1%
New Zealand	2	1%
Switzerland	2	1%
UK- Scotland	2	1%
UK - Bermuda	2	1%
Cyprus	1	< 1%
Denmark	1	< 1%
Ecuador	1	< 1%
Luxembourg	1	< 1%
Panama	1	< 1%
Portugal	1	< 1%
Slovakia	1	< 1%
Turkey	1	< 1%
UK - Cayman Islands	1	< 1%
Total	286	~100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
Mexico	97 (34%)	57 (27%)
UK - England & Wales	33 (12%)	19 (9%)
Canada	28 (10%)	25 (12%)
Germany	13 (5%)	21 (10%)
Australia	12 (4%)	9 (4%)
Italy	12 (4%)	3 (1%)
Argentina	8 (3%)	4 (2%)
Colombia	8 (3%)	2 (1%)
France	7 (2%)	5 (2%)
Israel	5 (2%)	7 (3%)
Spain	5 (2%)	4 (2%)
Sweden	5 (2%)	2 (1%)
Belgium	4 (1%)	0 (0%)
UK - Northern Ireland	4 (1%)	0 (0%)
Venezuela	4 (1%)	2 (1%)
Finland	3 (1%)	2 (1%)
Greece	3 (1%)	3 (1%)
Hungary	3 (1%)	1 (<1%)
Netherlands	3 (1%)	4 (2%)
Norway	3 (1%)	7 (3%)
Poland	3 (1%)	3 (1%)
Belize	2 (1%)	4 (2%)
Czech Republic	2 (1%)	2 (1%)
Ireland	2 (1%)	1 (<1%)
New Zealand	2 (1%)	4 (2%)
Switzerland	2 (1%)	3 (1%)
UK - Scotland	2 (1%)	3 (1%)
UK - Bermuda	2 (1%)	0 (0%)
Cyprus	1 (<1%)	1 (<1%)
Denmark	1 (<1%)	0 (0%)
Ecuador	1 (<1%)	2 (1%)
Luxembourg	1 (<1%)	0 (0%)
Panama	1 (<1%)	1 (<1%)
Portugal	1 (<1%)	3 (1%)
Slovakia	1 (<1%)	0 (0%)
Turkey	1 (<1%)	0 (0%)
UK - Cayman Islands	1 (<1%)	0 (0%)
South Africa	0 (0%)	2 (1%)
Austria	0 (0%)	1 (<1%)
China - Hong Kong	0 (0%)	1 (<1%)
Chile	0 (0%)	1 (<1%)
Honduras	0 (0%)	1 (<1%)
Total	286 (~ 100%)	210 (~ 100%)

As in 1999, almost three times as many applications were received from Mexico as from any other Contracting State. Indeed, 34% of all incoming return applications to the USA were from Mexico. 44% of applications received by the USA were made by its two geographically proximate neighbours, Canada and Mexico, compared with 39% in 1999.

There were also a significant number of applications received from England and Wales and Germany, 12% and 5% compared with 9% and 10% respectively in 1999.

(b) Incoming access applications

Requesting States 2003

	Number	Percent
UK - England & Wales	15	25%
Argentina	6	10%
France	5	8%
Mexico	5	8%
Canada	3	5%
Italy	3	5%
South Africa	3	5%
Spain	3	5%
Australia	2	3%
Colombia	2	3%
Germany	2	3%
Sweden	2	3%
Chile	1	2%
Hungary	1	2%
Israel	1	2%
Netherlands	1	2%
Panama	1	2%
Portugal	1	2%
Switzerland	1	2%
Venezuela	1	2%
Total	59	100%

Requesting States compared with 1999 figures

	Number of Applications 2003	Number of Applications 1999
UK - England & Wales	15 (25%)	7 (16%)
Argentina	6 (10%)	1 (2%)
Mexico	5 (8%)	5 (11%)
France	5 (8%)	5 (11%)
Canada	3 (5%)	2 (5%)
Italy	3 (5%)	1 (2%)
South Africa	3 (5%)	0 (0%)
Spain	3 (5%)	2 (5%)
Australia	2 (3%)	2 (5%)
Colombia	2 (3%)	2 (5%)
Germany	2 (3%)	5 (11%)
Sweden	2 (3%)	0 (0%)
Chile	1 (2%)	0 (0%)
Hungary	1 (2%)	0 (0%)
Israel	1 (2%)	4 (9%)
Netherlands	1 (2%)	0 (0%)
Panama	1 (2%)	1 (2%)
Portugal	1 (2%)	0 (0%)
Switzerland	1 (2%)	1 (2%)
Venezuela	1 (2%)	0 (0%)
New Zealand	0 (0%)	2 (5%)
China - Hong Kong	0 (0%)	1 (2%)
Czech Republic	0 (0%)	1 (2%)
Denmark	0 (0%)	1 (2%)
Finland	0 (0%)	1 (2%)
Total	59 (~100%)	44 (~100%)

One might have thought that as neighbouring Mexico and Canada made a large number of applications for return, they would also make a large number of applications for access. In fact, however, applications for access received from these Contracting States accounted together for only 14% of all access applications. As in 1999, most access applications came from England and Wales, 25% in 2003 compared with 16% in 1999. Interestingly, there were also 6 (11%) applications from Argentina, compared with only one (2%) in 1999.

Combining return and access applications, the top 5 Contracting States which made applications to the USA were:

1. Mexico 102
2. UK – England and Wales 48³
3. Canada 31
4. Italy 15
5. Argentina 14
5. Australia 14.

³ If one includes Northern Ireland and Scotland the UK made 54 applications.

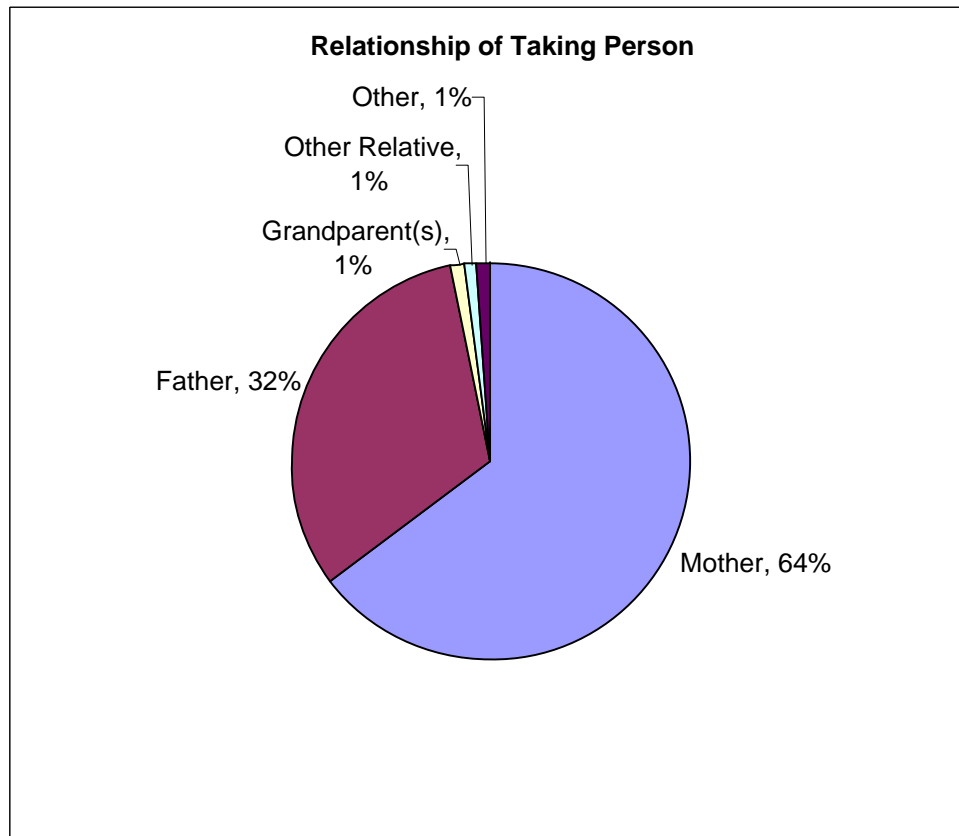
The taking person / respondent

3. The relationship of the taking person / respondent

(a) Incoming return applications⁴

Relationship of the Taking Person

	Number	Percent
Mother	182	64%
Father	90	32%
Grandparent	4	1%
Other Relative	4	1%
Other	3	1%
Two Grandparents	1	<1%
Total	284	~100%



The 2003 survey obtained details of the relationship of the taking person to the child, as opposed to the gender of the taking person (*i.e.* simply male/female or both), as recorded in the 1999 survey. Proportionally, slightly fewer mothers were taking persons than the global average, 64% as opposed to 68%. This is similar to the 1999 findings, where 67% of taking persons were recorded as female.

In 4 cases the child was wrongfully removed or retained by the grandparent and in one case by both grandparents.

In 2 applications the taking person was the aunt of the child, in one application the step mother and in one application the uncle of the child.⁵ Additionally, in 2 applications the

⁴ In 2 applications the relationship of the taking person was not stated.

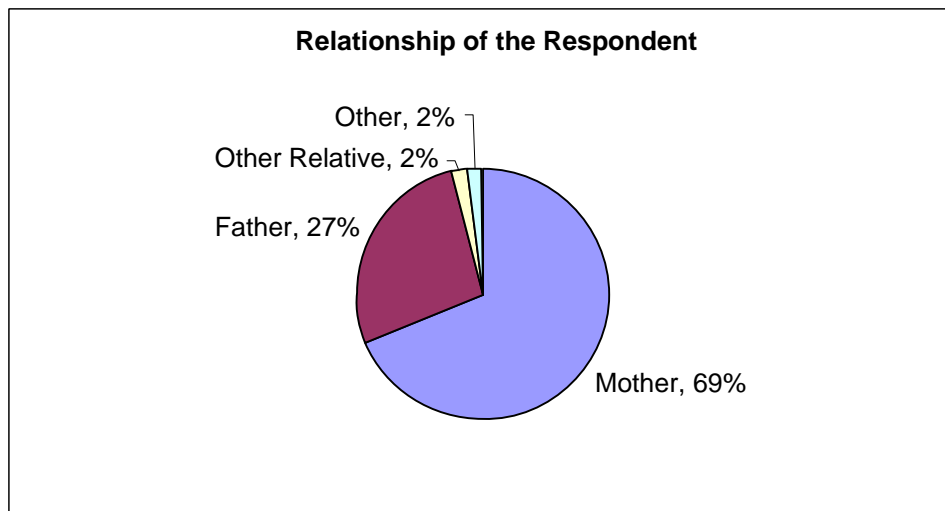
⁵ Recorded as 'other relative'.

relationship of the taking person was not stated and in one application it was the neighbour of the child.⁶

(b) Incoming access applications

Relationship of the Respondent

	Number	Percent
Mother	41	69%
Father	16	27%
Other Relative	1	2%
Other	1	2%
Total	59	100%



In 41 (69%) access applications the respondent was the mother, as opposed to the 2003 global average of 79%. In 1999, 81% of respondents were recorded as female.

In one application the respondents were an uncle and aunt of the child.⁷ Additionally, in one application the respondents were foster parents of the child.⁸

4. The status of the taking person as carer in relation to the child

The USA did not provide information on the status of the taking person as carer.

5. The nationality of the taking person / respondent

(a) Incoming return applications⁹

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	98	36%
Different Nationality	173	63%
Total	271	~100%

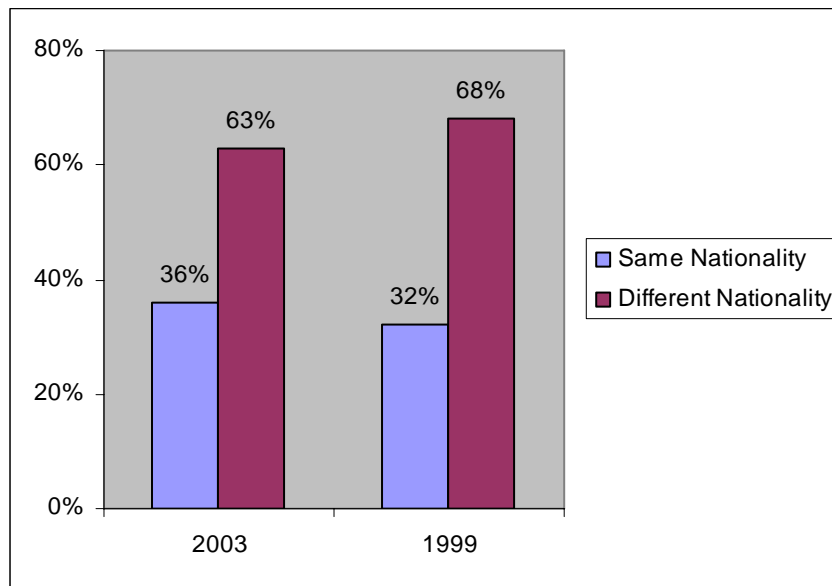
⁶ All 3 of them were recorded as 'other'.

⁷ Recorded as 'other relative'.

⁸ Recorded as 'other'.

⁹ This information was not available in relation to 15 applications.

At 36%, the proportion of taking persons being US citizens (including 11 taking persons with dual nationality) was appreciably lower than the 2003 global average of 55%.



The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of US citizens taking children to the USA has risen from 32% in 1999 to 36% in 2003. This is a little closer to, though still markedly below, the 2003 global average of 55%.

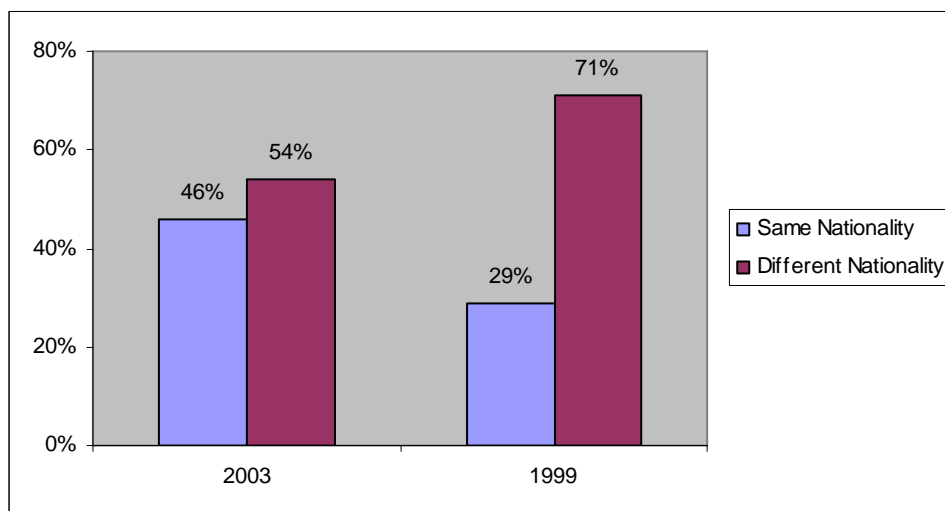
(b) Incoming access applications

Respondent Same Nationality as Requested State

	Number	Percent
Same Nationality	27	46%
Different Nationality ^a	32	54%
Total	59	100%

a. Includes one application where the both respondents (foster parents) were of different nationality.

As in applications for return, the proportion of respondents having the nationality of the requested State (46%) is lower than the global average of 53%.



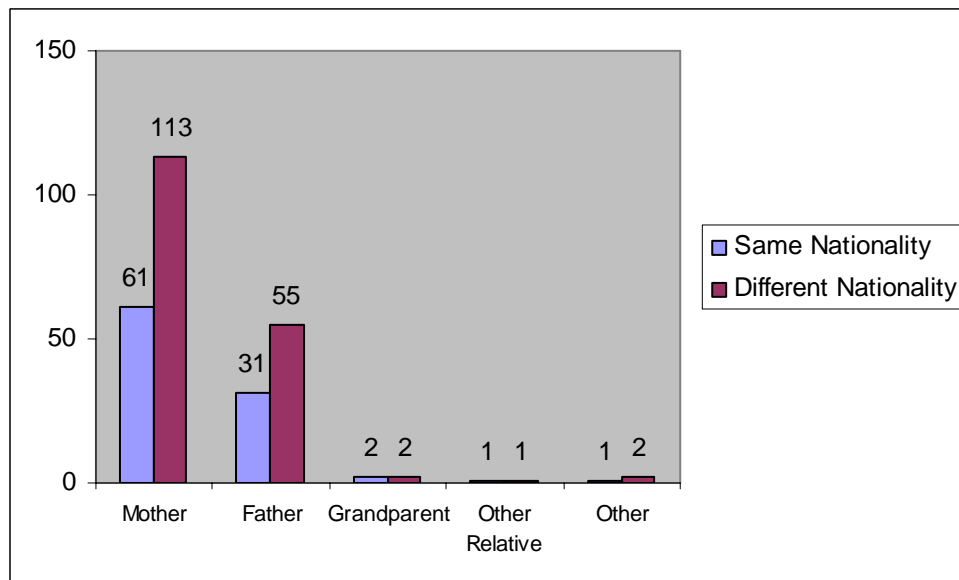
The chart above compares the 2003 findings on nationality with the 1999 survey. As the chart shows, the proportion of respondents having the US nationality has increased from 29% in 1999 to 46% in 2003.

6. The relationship and nationality of the taking person / respondent combined

(a) Incoming return applications¹⁰

Nationality and Relationship of the Taking Person to Child

	Relationship of Taking Person to Child					Total
	Mother	Father	Grandparent	Other Relative	Other	
Same Nationality	61	31	2	1	1	96
Different Nationality	113	55	2	1	2	173
Total	174	86	4	2	3	269

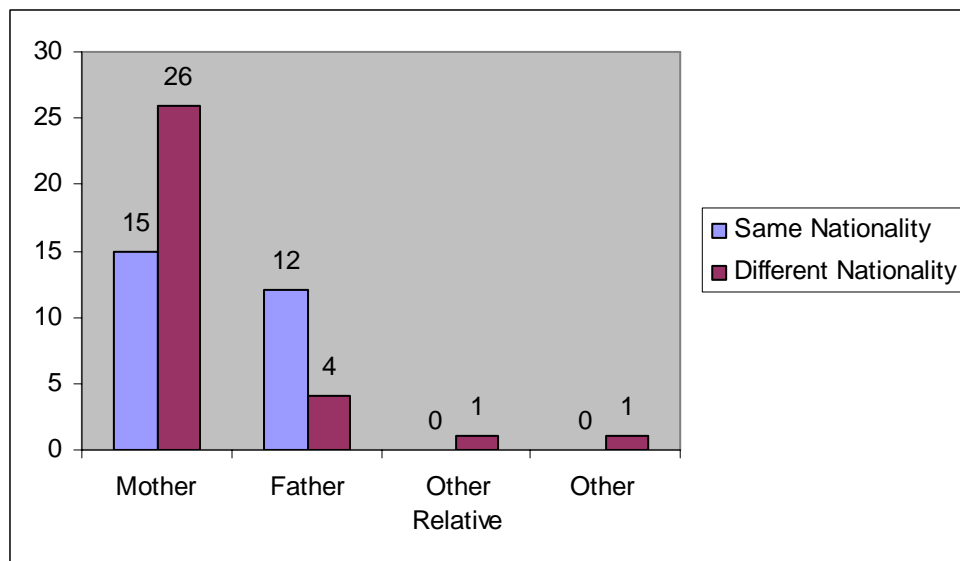


Surprisingly, in relation to both mothers and fathers, the taking person was more often recorded as having a different nationality than the requested State. Indeed, only 61 out of 174 (35%) mothers and 31 out of 86 fathers (36%) were US citizens. This pattern is different from the 2003 average where 54% of mothers and 55% of fathers had the nationality of the requested State. The 1999 survey recorded that 28% of female taking persons and 42% of male taking persons were US citizens.

¹⁰ This information was not available in relation to 17 applications.

(b) Incoming access applications**Nationality and Relationship of the Respondent to Child**

	Relationship of Respondent to Child				Total
	Mother	Father	Other Relative	Other	
Same Nationality	15	12	0	0	27
Different Nationality	26	4	1	0	31
Two Respondents- Different Nationalities	0	0	0	1	1
Total	41	16	1	1	59



In the access applications received by the USA, 15 out of 41 (37%) respondent mothers and 12 out of 16 (75%) respondent fathers were US nationals. This can be compared with the 2003 global averages of 49% of mothers and 68% of fathers respectively having the nationality of the requested State. The 2003 findings differ from the 1999 proportions of 28% of female and 43% of male respondents being US nationals.

The children**7. The total number of children****(a) Incoming return applications**

There were 413 children involved in the 286 incoming return applications in 2003. This can be compared with the total of 304 children being involved in the 210 return applications in 1999. As in 1999, not surprisingly, given that NCMEC received the greatest number of applications, they also dealt with the greatest number of children in incoming applications under the Hague Convention.

In 2003, on average 1.44 children were involved in return applications. Proportionally, this represents a slight decrease in the average number (1.45) of children per return application received in 1999. Globally, on average 1.4 children were involved in return applications in 2003.

(b) Incoming access applications

There were 85 children involved in the 59 incoming access applications in 2003. This can be compared with the total of 71 children being involved in the 44 access applications in 1999.

In 2003, on average 1.44 children were involved in access applications. Proportionally, this represents a decrease in the average number (1.61) of children per access application received in 1999. Globally, on average 1.3 children were involved in access applications in 2003.

8. Single children or sibling groups**(a) Incoming return applications****Single Child or Sibling Group**

	Number	Percent
Single Child	185	65%
Sibling Group	101	35%
Total	286	~100%

Number of Children

	Number	Percent
1 Child	185	65%
2 Children	82	29%
3 Children	13	5%
4 Children	5	2%
5 Children	1	<1%
Total	286	~100%

The proportion of single children involved in applications for return, 65%, compares with the global average of 67% and is similar to the 1999 proportion of 62%. Also, like the 2003 global average of 93% and the 1999 average of 93%, the vast majority of applications (94%) involved no more than 2 children.

(b) Incoming access applications**Single Child or Sibling Group**

	Number	Percent
Single Child	37	63%
Sibling Group	22	37%
Total	59	100%

Number of Children

	Number	Percent
1 Child	37	63%
2 Children	18	31%
3 Children	4	7%
Total	59	~100%

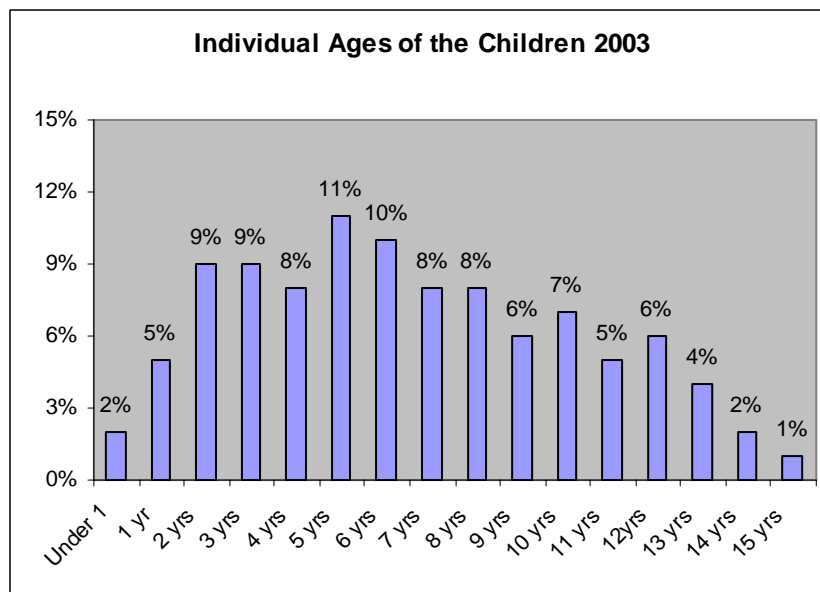
For access applications the proportion of single children, 63%, was lower than the 2003 global average of 71% but an increase on the 57% recorded in 1999.

9. The age of the children

(a) Incoming return applications

Individual Ages 2003

	Number	Percent
Under 1	7	2%
1 yr	22	5%
2 yrs	37	9%
3 yrs	38	9%
4 yrs	32	8%
5 yrs	45	11%
6 yrs	40	10%
7 yrs	34	8%
8 yrs	34	8%
9 yrs	23	6%
10 yrs	29	7%
11 yrs	19	5%
12 yrs	26	6%
13 yrs	16	4%
14 yrs	7	2%
15 yrs	4	1%
Total	413	100%

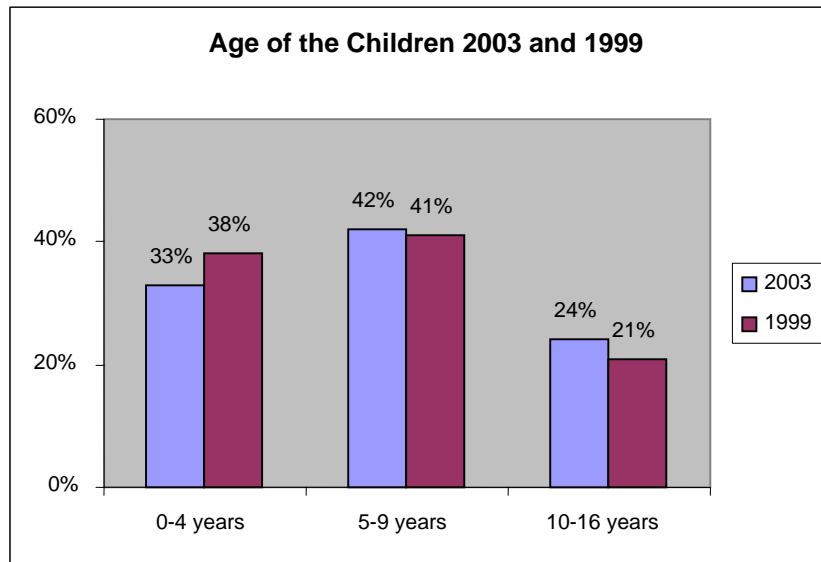


The above table and chart show the ages of the individual children involved. Interestingly, 45 children (11%) were 5 years old. 52% of children were aged between ages 1 and 6, which compares the global average of 55%.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age Band of the Children 2003

	Number	Percent
0-4 years	137	33%
5-9 years	175	42%
10-16 years	101	24%
Total	413	~100%

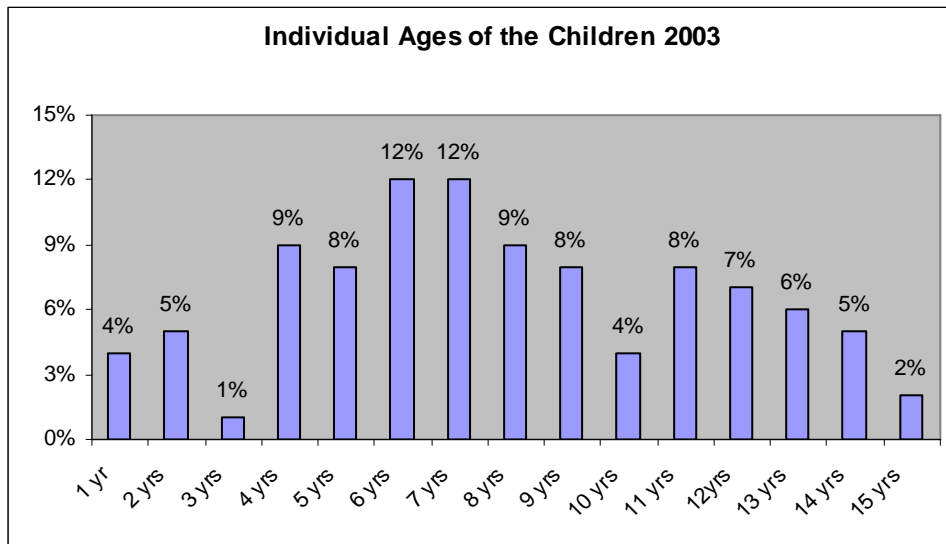


The proportion of children aged between 0-4 years decreased from 38% in 1999 to 33% in 2003. As in 1999, the largest percentage of children were aged between 5-9 years old. Indeed, of the 413 children included, 175 (42%) were aged between 5-9 years. The proportion of older children, aged between 10 and 16 years old, slightly increased, from 21% in 1999 to 24% in 2003.

The division of children between each age group is almost identical to the 2003 global averages of 36%, 42% and 22% respectively.

(b) Incoming access applications**Individual Ages 2003**

	Number	Percent
1 yr	3	4%
2 yrs	4	5%
3 yrs	1	1%
4 yrs	8	9%
5 yrs	7	8%
6 yrs	10	12%
7 yrs	10	12%
8 yrs	8	9%
9 yrs	7	8%
10 yrs	3	4%
11 yrs	7	8%
12 yrs	6	7%
13 yrs	5	6%
14 yrs	4	5%
15 yrs	2	2%
Total	85	100%

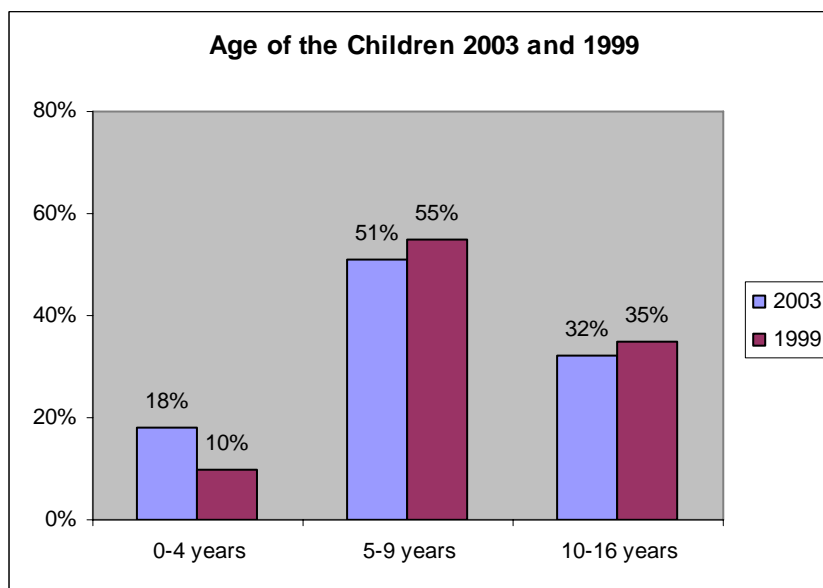


The above chart and table show ages of the individual children involved. 39% of access applications involved 1 – 6 years olds which compares with 35% globally.

We do not have this level of detail from the 1999 survey to be able to compare these results. We do, however, have comparable information regarding the age bands of the children.

Age of the Children 2003

	Number	Percent
0-4 years	15	18%
5-9 years	43	51%
10-16 years	27	32%
Total	85	~100%



The charts above show comparable information regarding the age bands of the children in 2003 and 1999. As in 1999, proportionally fewer younger children, namely those aged between 0 and 4 years, were involved in access applications received by the USA. Indeed, only 18% of children involved in access applications in 2003 were aged between

0 – 4 years old. This compares with the 2003 global average of 20%. The number of children aged between 5-9 years and 10-16 years have both slightly decreased from 55% to 51% and 35% to 32% respectively. These figures can be compared with the 2003 global averages of 46% and 34%.

10. The gender of the children

(a) Incoming return applications

Gender of the Children 2003

	Number	Percent
Female	201	49%
Male	212	51%
Total	413	100%

As can be seen, the gender of the children in return applications was almost evenly split between males and females. Males accounted for 51% and females for 49% of all children involved in the return applications. Globally in 2003, 49% of children were male and 51% were female. In 1999, 53% of children involved in the return applications to the USA were male.

(b) Incoming access applications

Gender of the Children

	Number	Percent
Female	37	44%
Male	48	56%
Total	85	100%

As can be seen, 44% of the children involved in access applications were female which is almost the same as the 2003 global average of 45%. In 1999, 49% of children involved in access applications were female.

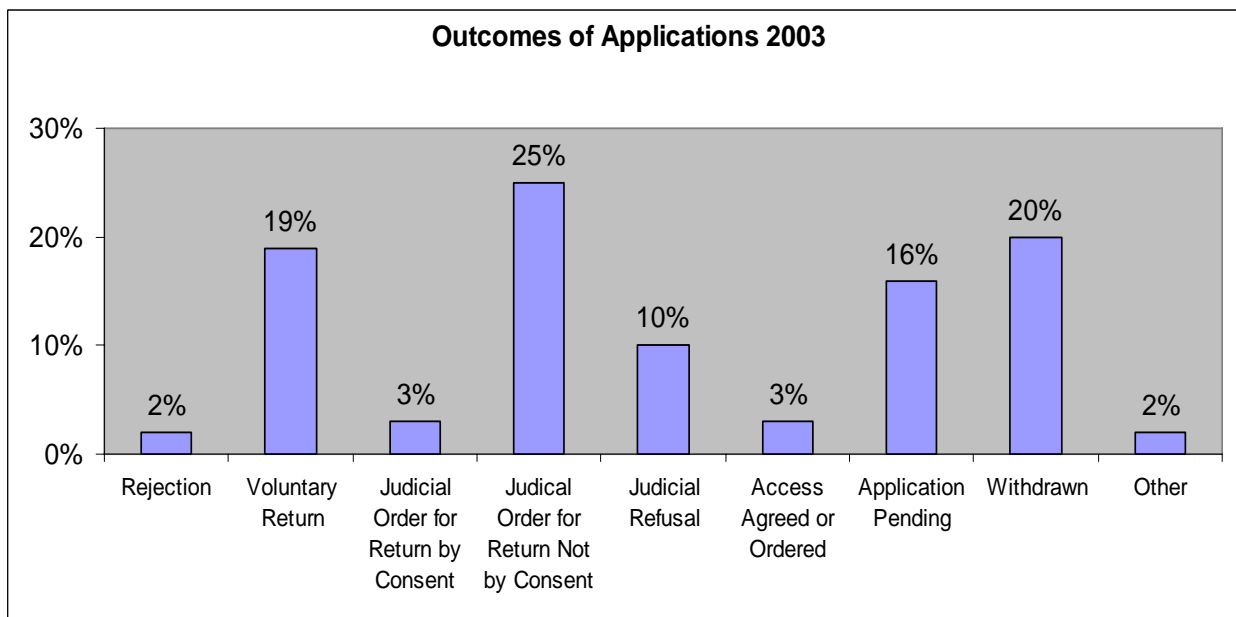
The outcomes

11. Overall outcomes

(a) Incoming return applications¹¹

Outcome of Application

	Number	Percent
Rejection	6	2%
Voluntary Return No Court Orders	53	19%
Judicial Order for Return by Consent	8	3%
Judicial Order for Return Not by Consent	70	25%
Judicial Refusal	29	10%
Access Agreed or Ordered	8	3%
Application Pending	45	16%
Withdrawn	57	20%
Other	8	2%
Total	284	100%



The above table and chart show the outcome of all applications in 2003.

Unlike the 1999 study, the 2003 survey shows the breakdown of judicial return orders with and without consent. In the USA, in 2003, 8 (3%) judicial return orders were made with consent and 70 (25%) without consent.

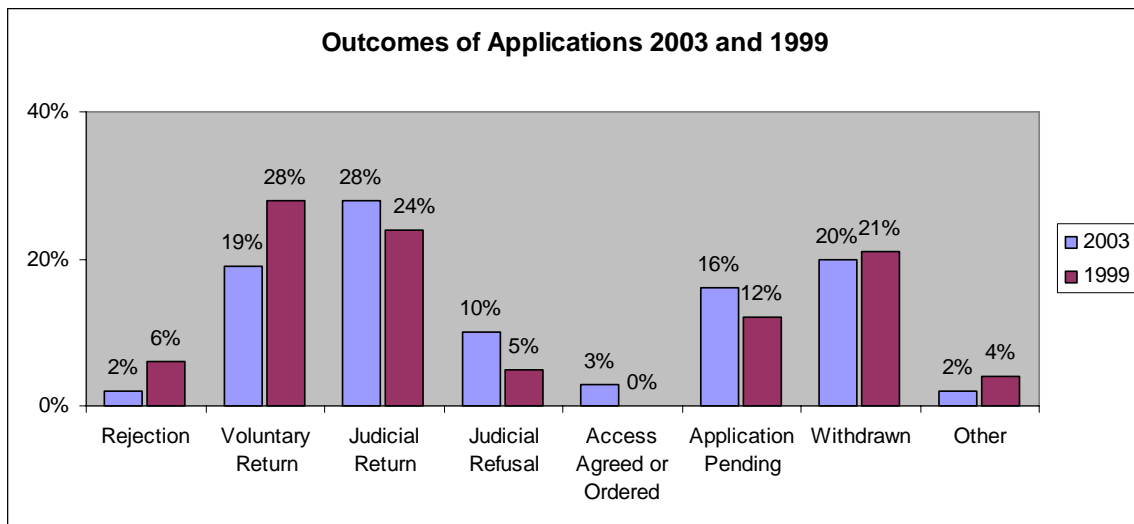
Overall, 47% of applications made to the USA ended in the child being returned either by a court order or voluntarily, which is just below the global rate of 51%. Nevertheless, at 19% and 28%, the proportion of voluntary returns and judicial returns broadly follows the global averages of 22% and 29% respectively.

¹¹ In 2 applications this information was not available.

115 applications (40%) went to court. Of these cases, 68% ended in a judicial return and a further 7% ended in access being ordered. Globally in 2003, 66% of applications going to court resulted in return being ordered and 5% in access being granted. The remaining 25% were judicially refused as compared with 29% globally.

At 20%, the withdrawal rate is above the global average of 15%. As of 30th June 2005, 45 (16%) applications were still pending, as opposed to the global average of 9%.

In one application involving 2 children there were different outcomes for the children concerned.¹² One of the children was judicially returned and in relation to the other child, aged 11, a return was judicially refused. The refusal was based on the child's objections.



The above chart categorises the outcomes in a way that is comparable with the 1999 figures. 'Judicial Returns' therefore include orders made with and without consent.

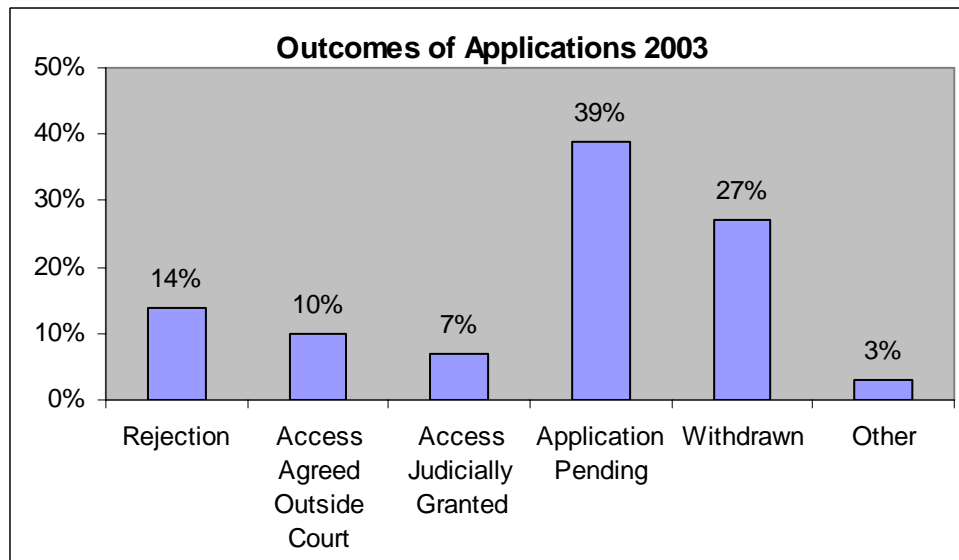
Unlike in 1999, at 28%, judicial return was the most common outcome for an application. As can be seen, the proportion of judicial returns increased from 24% in 1999 to 28% in 2003. On the other hand, the proportion of voluntary returns dropped from 28% in 1999 to 19% in 2003. Consequently, the overall return rate has decreased, from 52% in 1999 to 47% in 2003.

A considerably higher proportion of cases than in 1999 ended in judicial refusal, 10% compared with 5% and this finding is mirrored in the finding that whereas in 1999, 83% of cases going to court ended in a judicial return, in 2003 only 68% ended in return (though with a further 7% ending in access being ordered). It is worth noting that as in 1999, a high proportion of applications ended in withdrawal, 20% compared with 21% in 1999. 16% of applications were still pending as of cut-off period for the survey, as opposed to 12% in 1999.

¹² Recorded as 'other'.

(b) Incoming access applications**Outcomes of Applications**

	Number	Percent
Rejection	8	14%
Access Agreed Outside Court Proceedings	6	10%
Access Judicially Granted	4	7%
Application Pending	23	39%
Withdrawn	16	27%
Other	2	3%
Total	59	100%



16 of the 59 applications, 27%, were withdrawn, as opposed to 22% globally and 29% in 1999. 6 (10%) applications were settled voluntarily, compared with the global average of 13% and the 1999 proportion of 38%. Similarly, there were only a few court orders granted, 4 (7%) as against the global average of 156 and the 1999 proportion of 10%. All the applications in which access was granted were resolved under domestic law. As in 1999, there were no judicial refusals. It is, however, to be noted that a high proportion of applications (23, 39%) were still pending as of 30th June 2005. This is just above the 2003 global average of 22% and a marked increase on the 1999 proportion of 14%.

12. The reasons for rejection**(a) Incoming return applications****Reason for Rejection by the Central Authority**

	Number	Percent
Child over 16	1	17%
Child Located in Another Country	3	50%
Applicant Had No Rights of Custody	2	33%
Total	6	100%

The USA rejected relatively few cases, 6 (2%) applications as against a global average of 6%. In 1999, 13 (6%) of applications were rejected. As in 1999, the most common reason for rejection was that the child was located in another country (3, 50%). Globally in 2003, 24% of cases were rejected for this reason. Two applications, 33%, were rejected because the applicant had no rights of custody and one because the child concerned attained the age of 16.

(b) Incoming access applications

Reason for Rejection by the Central Authority

	Number	Percent
Child over 16	1	13%
Child Located in Another Country	2	25%
Applicant Had No Rights of Custody	5	63%
Total	8	~100%

5 out of 8 (63%) rejections in access cases were because the applicant had no rights of custody. Globally in 2003, 33% of access applications were rejected on this ground. In 2 (25%) applications the child was located in another country and in the final application the child in question attained the age of 16. Globally in 2003, 20% of rejections in access cases were based on the former and 10% on the latter reason. In 1999, only 4 access applications were rejected. One rejection was based on the fact that the applicant had no rights of custody, whereas the other 3 reasons for rejection differed from those relied upon in 2003.

13. The reasons for judicial refusal

(a) Incoming return applications

Overall Reason for Judicial Refusal per Application

	Number	Percent
Child Not Habitually Resident in Requesting State	7	23%
Art 12	10	33%
Article 13 a Consent	1	3%
Art 13b	4	13%
Child's Objections	4	13%
Other	4	13%
Total	30	~100%

Of the 115 applications which went to court, 29 (25%) were refused, which is an increase on the 10 out of 60 (17%) applications refused in 1999 but below the 2003 global average of 29%. Moreover, at 10%, the overall proportion of judicial refusals remains below the 2003 global average of 13%. The most commonly recorded reason for refusing applications was Art. 12. The other two most commonly relied upon exceptions were that the child was not habitually resident (7, 24%), child's objections and Art.13b (4, 14% each). Interestingly, in 1999 no applications were refused on the basis of Art. 12 or on the basis of child's objections.

In 2 applications there were multiple reasons for refusal.¹³ One application in relation to 4 children involved Article 13 *a*) consent and Article 13 *b*). The other application involved Article 12 and Article 13 *a*) consent being relied upon in relation to a single child. One application was refused because the judge honoured Minnesota's District Court decision of affirming Canadian jurisdiction and dismissing the motion for custody and the remaining refusal was based on the fact that the USA had no jurisdiction.¹⁴

When multiple grounds for are taken into account, the most popular reason for refusal was Article 12 which was relied upon in whole or in part in 11 cases.

14. The reasons for judicial refusals and the relationship of the taking person

(a) Incoming return applications

The Relationship of the Taking Person and the Reason for Refusal

	Relationship of Taking Person to Child		Total
	Mother	Father	
Child Not Habitually Resident in Requesting State	5	2	7
Art 12	7	3	10
Article 13 a Consent	0	1	1
Art 13b	4	0	4
Child's Objections	1	3	4
More than one reason	2	0	2
Other	2	0	2
Total	21	9	30

Overall, in 9 of the 30 refusals, 30%, the taking person was father. Globally in 2003, 21% of refusals involved fathers whereas fathers accounted for 29% of taking persons overall.

Conversely, in the 21 out of 30 refusals, 70%, the taking person was mother. Globally in 2003, 77% of refusals involved mothers.

Given that 64% of taking persons were mothers and 32% fathers, there is no evidence of any gender bias in the refusals.

In contrast, in 1999 in 6 out of 9 applications to the USA which resulted in judicial refusal the taking person was recorded as male.

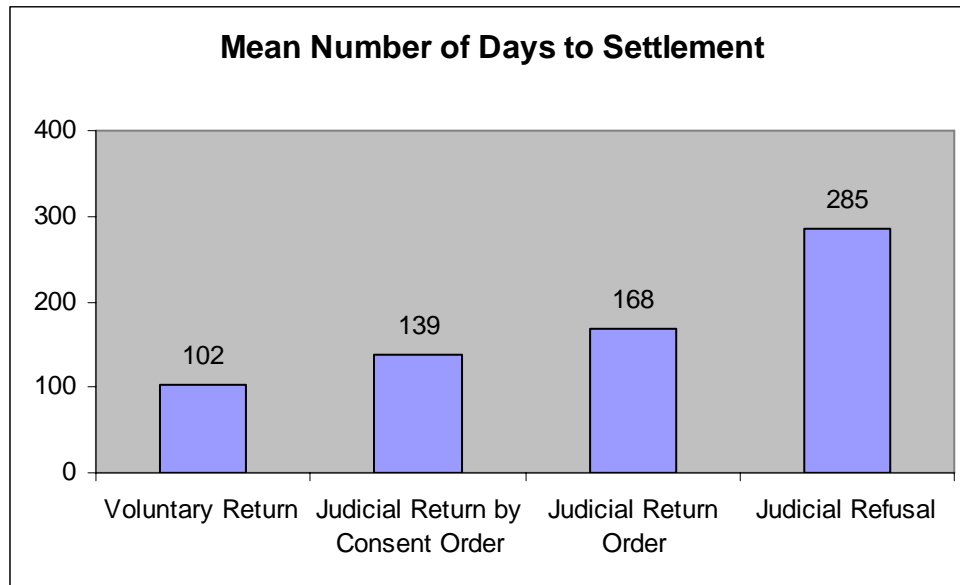
¹³ Recorded as 'other'.

¹⁴ Both recorder as 'other'.

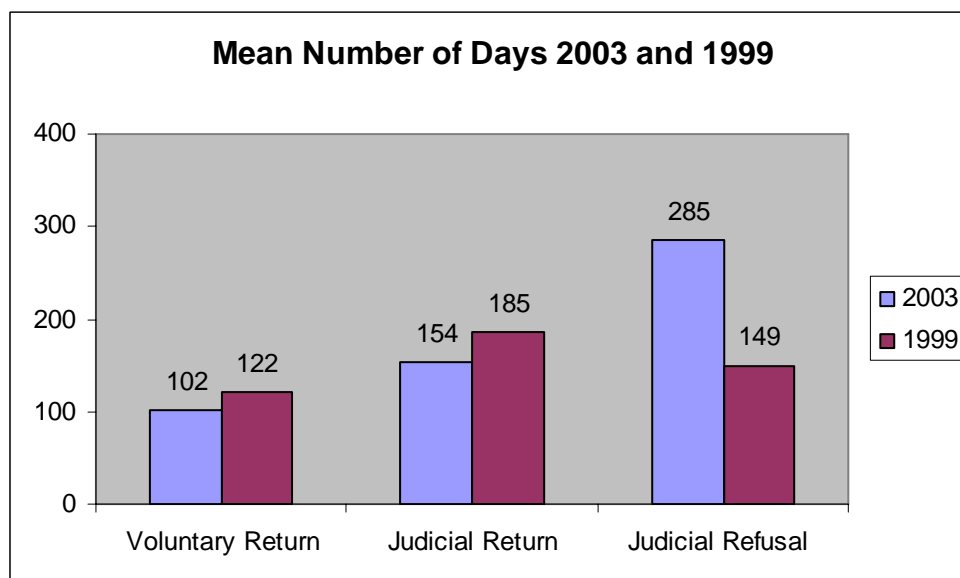
Speed

15. The time between application and outcome

(a) Incoming return applications¹⁵



Predictably, return orders by consent were resolved quicker than return orders without consent, in 139 days compared with 168 days. This can be compared with the global averages of 85 days and 143 days respectively. Voluntary returns took on average 102 days to reach final outcome, which is longer than the global average of 98 days. Similarly, the speed of judicial refusals, averaging 285 days, was slower than the global mean of 233 days. It must be noted that the high number of applications which are still pending are excluded from this figure and, once they are resolved, then the mean period for an application to be resolved will increase significantly.



The chart above shows that judicial returns were resolved in a combined average of 154 days compared with 185 days in 1999. Judicial refusals took a mean average of 285 days as against 149 days in 1999, and with regard to voluntary returns, the USA was among

¹⁵ In relation to 2 voluntary returns, 2 judicial returns by consent and one judicial return without consent this information was not stated.

the slowest of the Contracting States analysed, taking on average 102 days in 2003 and 122 days in 1999. Globally, in 2003 voluntary returns took a mean of 98 days.

**Number of Days Taken to Reach Final Outcome: 2003
(including appealed cases)**

	Voluntary Return No Court Orders	Judicial Return by Consent Order	Judicial Return Order	Judicial Refusal
Mean	102	139	168	285
Median	91	157	136	266
Minimum	1	15	13	62
Maximum	401	244	565	531
Number of cases	51	6	69	30

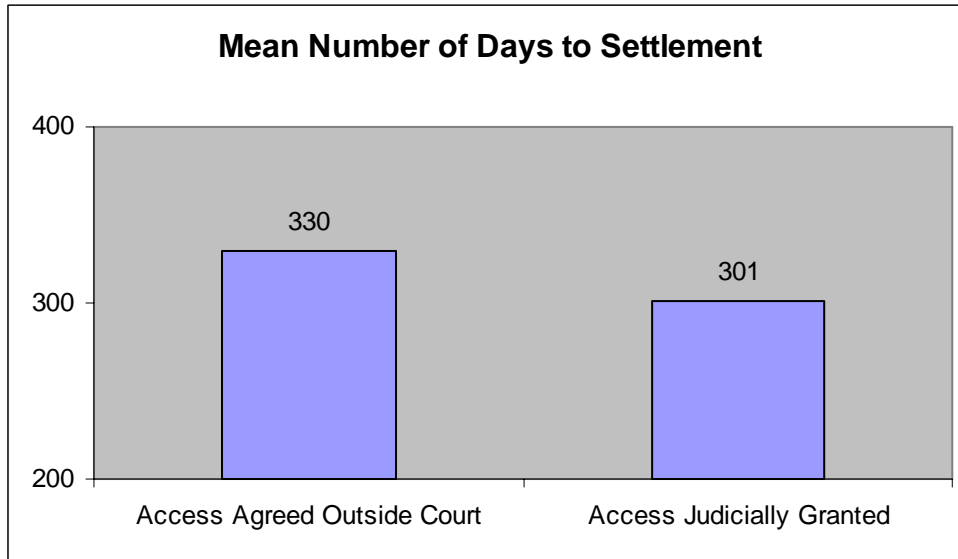
The above table demonstrates the variation in the time taken for an outcome and gives a more informative picture of the system in the USA. The fastest judicial decision, a judicial return without consent, was made in 13 days, the slowest, again a judicial return, was made in 565 days. Interestingly, there was one voluntary return case which took only one day to reach an outcome. The slowest voluntary return was resolved in 401 days.

**Number of Days Taken to Reach Final Outcome: 2003
(excluding appealed cases)**

	Judicial Return Order	Judicial Refusal
Mean	166	277
Median	136	258
Minimum	13	62
Maximum	565	531
Number of cases	67	29

As can be seen, neither in relation to judicial returns nor in relation to judicial refusals does the exclusion of appealed cases significantly affect the overall mean averages taken to reach final outcomes.

16 Incoming access applications¹⁶



The above chart shows that voluntary settlements of access took on average 330 days as opposed to 245 days globally. The applications where access was judicially granted took a mean average of 301 days to reach the final outcome which compares with the 2003 global average of 266 days.

Number of Days Taken to Reach Final Outcome: 2003

	Access Agreed Outside Court	Access Judicially Granted
Mean	330	301
Median	357	303
Minimum	93	219
Maximum	485	378
Number of cases	5	4

As can be seen, the fastest voluntary agreement was reached in 93 days and the slowest in 485 days. The fastest judicial decision was taken in 219 days whereas the slowest in 378 days.

It must, however, be noted that a large number of cases are still pending which again highlights the slowness of the American system.

17. Appeals

(a) Incoming return applications

As in 1999, there were remarkably few appeals 3 out of 115 decisions which is a proportion of 3% compared with the global average of 22%. One decision resulted in a judicial refusal and 2 in judicial returns. Information regarding speed was available only in relation to the one judicial refusal and to one of the judicial returns. These took 502 and 23 days respectively to reach a final outcome.

(b) Incoming access applications

None of the judicial decisions was appealed.

¹⁶ This information was not available in relation to one case where access was judicially granted.