


[Home](#) > ... > [Family Matters & Inheritance](#) > [Moving/settling Abroad With Children](#) > [Slovenia](#)

Moving/settling abroad with children

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European Judicial Network
(in civil and commercial
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 Slovenia

1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?

A parent may legally relocate a child to another country without the consent of the other parent when that other parent has had their parental right or contractual capacity removed. When one parent has had their parental right or contractual capacity removed, the parental right is thereby held exclusively by the other parent (Article 115 of the Marriage and Family Relations Act/*Zakon o zakonski zvezi in družinskih razmerjih*).

2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?

The consent of the other parent to the relocation of a child to another country is always required, except in cases where the parental right is held exclusively by the other parent.

Under the Marriage and Family Relations Act, the parental right is held jointly by the father and mother (third paragraph of Article 4).

Parents exercise their parental right by common consent in accordance with the interests of the child (first paragraph of Article 113 of the Marriage and Family Relations Act). The exercise of the parental right includes a decision on which country a child resides in.

When parents do not live together and are not both in charge of the child's care and upbringing, they both decide by common consent, in accordance with the interests of the child (second paragraph of Article 113 of the Marriage and Family Relations Act), on issues which have a significant influence on the child's development; these issues include the relocation of a child to another country.

3 If the other parent does not consent to the child's removal to another state, though it is necessary, how can the child be removed lawfully to another state?

If the parents fail to reach agreement on the exercise of the parental right, a Social Work Centre assists them in reaching an agreement. A Social Work Centre also assists the parents in reaching an agreement when they are unable to reach agreement on issues which have a significant influence on the child's development, and when they do not live together and are not both in charge of the child's care and upbringing.

If, even with the assistance of a Social Work Centre, the parents fail to agree on issues which have a significant influence on the child's development, the court decide on the matter in a non-litigious procedure at the request of one or both parents. The proposal must be accompanied by proof from a competent Social Work Centre stating that the parents attempted to reach agreement on the exercise of the parental right with its assistance. Before the court gives its ruling, it is obliged to seek the opinion of a Social Work Centre on the child's interests.

The court also considers the child's opinion if it is expressed by the child him/herself, or by a person the child trusts and who has been chosen by the child him/herself, and provided the child is capable of understanding its significance and consequences.

The above is taken from Article 113 of the Marriage and Family Relations Act.

4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.

Where the issue of a significant influence on a child's development arises in relation to the temporary relocation of a child, the same rules apply to the temporary relocation as to relocation for a longer period.

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