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Processing incoming return cases by Central Authorities



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European Judicial Network
(in civil and commercial matters)

1 Receiving the request

1.1 Please provide information on foreign languages spoken by the Central Authority (contact details can be found in the European Judicial Atlas in civil matters), if any. In which language(s) does the Central Authority accept new incoming requests?

Spanish and English

1.2 What is the Central Authority's preferred method of communication - email, fax or postal service? Does the Central Authority accept requests received electronically? If so, is the original request on paper still needed (either to start the proceedings or at a specific stage of the process) or are electronically transmitted requests accepted at all stages of the proceedings?

The preferred method of communication is email.

Electronic applications are accepted at all stages of the procedure.

1.3 Would your Central Authority refuse an incoming application under Article 27 of the 1980 Hague Convention? If so, under what conditions?

Yes, provided that the conditions of the Convention are not met.

2 Management of the case

2.1 Who can apply for the return of the child before your court (multiple answers possible)? Is it (i) the Central Authority, (ii) a Government lawyer, e.g., public prosecutor, Attorney General etc., (iii) a private lawyer, or (iv) someone else (if so, please elaborate, e.g. the applicant him- or herself)?

If the case is referred to central authority, the state legal counsel (*Abogado del Estado*) will, at the request of the Spanish central authority, submit the application for the return of the child to the relevant court.

If the application is not processed through the Spanish central authority, the applicant must act directly before the competent court, assisted by a lawyer and a legal representative.

2.2 Is the applicant represented by the above-mentioned person or body at the court hearing? If

the answer is negative, who is the legal representative of the applicant in the proceedings? Is it (i) the Central Authority, (ii) a Government lawyer, e.g., public prosecutor, Attorney General etc., (iii) a private lawyer, or (iv) someone else (if so, please elaborate)?

Legal representation is managed by the central authority through the state legal service (*Abogacía del Estado*). The applicant is represented by the Spanish central authority, which addresses the court through the state legal service.

2.3 How quickly will the case be referred to the legal representative of the applicant by the Central Authority?

The Spanish central authority forwards the case to the state legal service within a period of approximately one month.

2.4 If a private lawyer is used, does the Central Authority make the necessary arrangements on behalf of the applicant? If the case is not referred to a private lawyer by the Central Authority, does the Central Authority provide a list of possible lawyers for the applicant to choose from?

No, if the applicant has appointed a private lawyer in Spain, the Spanish central authority does not intervene in the proceedings.

The Spanish central authority does not have a list of possible lawyers to give to the applicant.

2.5 Is legal aid available to applicants? Who decides whether to grant the legal aid to the applicant? Is there a specific application form that the applicant has to complete? Are there preconditions to receive legal aid? Is there a means and/or merits test? What documentary evidence is the applicant required to provide? How long does it take to get the legal aid decision? What expenses does legal aid cover? (e.g., legal consultations, mediation, travel costs)

If the case is referred to the central authority, since Spain has not entered a reservation under Article 26 of the Convention, legal aid is covered.

If the applicant goes to court with a private lawyer, they may apply for free legal aid to the relevant bar association (*Colegio de Abogados*), provided that the requirements laid down in Law 1/1996 of 10 January 1996 on free legal aid have been met.

2.6 Does (i) the Central Authority, (ii) a government lawyer, e.g., public prosecutor, Attorney General etc., (iii) a private lawyer, (iv) a court itself or (v) someone else (if so, please elaborate) provide assistance in locating the child's exact whereabouts? Does the absence of information regarding the child's exact whereabouts somehow preclude the possibility of applying to the court for the return of the child?

Yes, the Spanish central authority provides assistance to locate the exact whereabouts of the child through INTERPOL.

Yes, the lack of information on the whereabouts of the child prevents the application for return from being lodged with the court.

2.7 Will the Central Authority pursue a voluntary return? If so, will this happen before the case is referred to a lawyer and/or the court?

Yes, the Spanish central authority sends a voluntary return letter to the abductor before referring the case to the court.

2.8 Does the Central Authority take any steps to prevent a further removal of the child while a

voluntary return is explored? What preventative steps are available in your legal system?

No, the Spanish central authority does not have any such measures at its disposal.

2.9 How quickly will the Central Authority give updates on an active case? How quickly will the Central Authority respond to requests for updates on an active case?

The Spanish central authority replies to requests for updates within about one week.

2.10 Does the Central Authority arrange for translations of any relevant forms (e.g., legal aid) or court documentation from the hearings? If yes, how long does it take?

No, the central authority does not translate documents. Translation is the responsibility of the applicant.

2.11 Does the Central Authority arrange interpretation at any Court hearings that the applicant is required to attend?

No. Interpreting services at hearings are arranged by the court.

3 Mediation or alternative dispute resolution

3.1 Is mediation available? Please provide details of mediation procedure including names of mediation organisations, cost of mediation and whether funding is available for mediation. Can the cost of mediation be covered by legal aid?

There is no mediation through the central authority.

3.2 If and how is the Central Authority involved in arranging the mediation?

Not applicable

3.3 Is another type of alternative dispute resolution available? If so, please elaborate on the procedure, organisations involved, including the Central Authority, and cost management

Not applicable

4 Enforcement proceedings

4.1 If and how is the Central Authority involved in enforcement / implementation of return orders?

In proceedings brought through the central authority after the return order has been issued, if the abducting parent does not comply with the order, the state legal service, at the request of the central authority, applies for enforcement.

4.2 Does the Central Authority have specialists (e.g., social worker, psychologist, guardian ad litem) available to prepare the child and the abducting parent for the enforcement of the return decision?

No, the Spanish central authority does not have any specialists.

4.3 Who applies for the enforcement of a return order? Is it (i) the Central Authority, (ii) a Government lawyer, e.g., public prosecutor, Attorney General etc., (iii) a private lawyer, or (iv) someone else (if so, please elaborate)?

The enforcement of a return order is applied for by the state legal service at the request of the Spanish central authority.

4.4 In case of a court hearing during enforcement proceedings, is the applicant represented by the above-mentioned person or body?

The state legal service represents the Spanish central authority, not the applicant.

5 Case closure

5.1 Who provides confirmation of the child's return?

The respective central authorities.

5.2 When does the Central Authority consider that the case is closed? Will the applicant receive written confirmation that the case has been closed?

If a return order is issued, the case is closed when the child returns.

If the return is refused, the case is closed when the decision is final.

6 Procedure under Article 29 of the Brussels IIb ((EU) 2019/1111) and Article 11(6)-(8) of the Brussels IIa ((EC) 2201/2003) Regulations (the so-called "overriding mechanism")

6.1 Does your Central Authority play any role in the overriding mechanism?

The only involvement of the central authority in this procedure is to send documentation and information.

6.2 Please describe the procedure for the enforcement of a foreign return order mentioned in Article 11(8) of the Brussels IIa Regulation or foreign privileged decision pursuant to Article 29(6) of the Brussels IIb Regulation entailing the return of a child if the 1980 Hague return proceedings in your State led to a refusal under Articles 13(1)(b) or 13(2) of the 1980 Hague Convention earlier (see sub-questions of 2.2 for the information requested)

The only involvement of the central authority in this procedure is to send documentation and information.

7 Training

7.1 Are specialised trainings regarding return cases organised for different professionals (such as lawyers, mediators, prosecutors, bailiffs etc)?

Yes, the central authority organises and participates in training days for state legal counsels, lawyers, prosecutors, court registrars and judges.

 Last update: 29/07/2026

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