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Processing incoming return cases by Central Authorities

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European Judicial Network
(in civil and commercial matters)



Slovakia

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?

The central authority communicates in Slovak, Czech, English and German. The central authority accepts new requests in Slovak, accompanied by the request in the original language of the applicant country. The central authority also accepts requests in English, but only for the purpose of its own acts and not for the purpose of the judicial proceedings concerning the return order. The central authority does not submit applications to the court on the applicant's behalf.

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. The central authority accept requests served electronically. The original paper version of the request will be required where the applicant submits an application to the court. The central authority does not submit applications to the court on the applicant's behalf. Upon request, the paper version of the request is transmitted to a selected legal representative of the applicant.

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

Yes, the central authority would refuse an application under Article 27 of the 1980 Hague Convention that is manifestly unfounded for formal reasons which prevent the central authority from carrying out its obligations. (For instance, if the entitled person has no rights of custody, the child is over 16, etc.) However, this does not preclude applicants from getting in touch directly with the competent court.

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)?

The return of the child may be sought before the court directly by a person entitled according to the right of custody (i.e. the applicant) or through their private 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)?

As a rule, applicants are represented by a private legal representative. Representation is not mandatory. Applicants may choose a legal representative on the website of the Slovak Bar Association (Slovenská advokátska komora): <https://www.sak.sk/web/en/cms/lawyer/vyhľadanie>.

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

At the applicant's request, the central authority will immediately refer the case to the applicant's legal representative.

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?

Upon request, the central authority will refer the full application to the applicant's legal representative. The list of legal representatives can be found on the website of the Slovak Bar Association: <https://www.sak.sk/web/en/cms/lawyer/vyhľadanie>.

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)

Applicants habitually resident in an EU Member State, citizens of contracting parties to an international agreement and persons habitually resident in the territory of a contracting party have access to legal aid. Decisions concerning legal aid are taken by the Legal Aid Centre (Centrum právnej pomoci). Applicants need to complete a specific application form. Application forms are available on the website of the Legal Aid Centre (<https://www.centrumpravnejpomoci.sk/en>) or at any of the centre's offices. The preconditions for receiving legal aid are defined in the Act on legal aid. These must be documents that substantiate the information given in the application form and prove the applicant's material need (documents proving material need may not be more than three months old). Material need is examined (income and assets). The Legal Aid Centre decides whether to grant legal aid within 30 days of receiving the application (60 days in the case of cross-border applications).

Legal aid means the provision of legal services to persons entitled under this Act in respect of the exercise of their rights, including, in particular, legal advice, assistance with out-of-court proceedings, including the facilitation of dispute resolution through mediation, the drawing up of submissions for courts, representation in court proceedings and the performance of acts in connection therewith, as well as defrayment in full or in part of the associated costs.

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?

The central authority and the court may provide assistance in ascertaining the whereabouts of the child. The

absence of such information does not preclude the submission of an application to 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?

The central authority encourages voluntary return, in particular before the case is referred to a lawyer or a court, but also at later stages.

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?

If possible, the central authority always examines the possibility of voluntary return by contacting the person who removed the child.

The central authority has no instruments of its own to prevent further removal of the child.

There is a preventive measure consisting in a prohibition on travelling with the child outside Slovak territory, which is immediately imposed by the court in the application proceedings on the return of the child.

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?

As a rule, new requests are processed immediately by the central authority. The central authority usually responds to requests for updates within 5 working days. However, the speed with which requests are handled depends on the cooperation of third parties (courts, bodies for social and legal protection of children etc.).

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?

The central authority does not arrange for official translations of documents. However, if necessary it provides access to a paraphrased partial translation of a document for preliminary orientation.

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

The central authority does not arrange interpretation at court hearings. Interpreters at court hearings are provided 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?

The central authority allows conciliation by means of a facilitated discussion between the parties, which, however, does not constitute mediation within the meaning of Act No 420/2004 on mediation and amending certain acts.

Mediation is an out-of-court procedure in which the parties concerned use the assistance of a mediator to resolve a dispute involving a contractual or other legal relationship between them. According to the Act on mediation, any natural person entered in the register of mediators and accepted by the persons involved in mediation and who has concluded an agreement to start mediation with the persons involved in mediation within the meaning of Section 14(1) of the Act on mediation may be a mediator. Mediators carry out their activities on the basis of a certificate issued by the Ministry of Justice of the Slovak Republic. A list of registered mediators is kept by the Ministry of

Justice: https://www.justice.gov.sk/registre/mediatori/?stav_string=label.zapis_stav.aktivny&pageNum=1∓size=10&sortProperty=meno_sort&sortDirection=ASC.

Legal aid may include the facilitation of dispute resolution through mediation.

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

The central authority does not take part in mediation within the meaning of the Act on mediation. The central authority allows conciliation by means of a facilitated discussion between the parties.

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

The central authority also aims at alternative dispute resolution and prior to the initiation of judicial proceedings offers the parties the possibility to take part in conciliation (facilitated discussion), which may take place online, so that both parents are able to take part even if they are far apart. Conciliation takes place primarily by means of psychological counselling and meetings with the child's parents arranged by the central authority, provided that the parents are interested in this form of dispute resolution. The central authority allows parents to meet with the involvement of the central authority staff (lawyers or psychologists) and supports their interaction with a view to reaching an agreement without court proceedings. Depending on the circumstances of the case, the central authority may also cooperate with mediators entered in the register of mediators kept by the Ministry of Justice of the Slovak Republic (Ministerstvo spravodlivosti Slovenskej republiky).

4 Enforcement proceedings

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

The central authority is not involved in the enforcement stage of return procedures.

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?

The central authority does not prepare the child and the abducting parent for the enforcement of the return decision. Such advice may be offered by bodies for social and legal protection of children and social curatorship or by the guardian ad litem.

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)?

An application for the enforcement of a return decision is to be issued by the applicant or their legal representative.

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

At court hearings the applicant is represented by their legal representative.

5 Case closure

5.1 Who provides confirmation of the child's return?

The return of the child is verified by the court. The court may use the central authority for this purpose.

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?

The central authority consider that the case is closed when court proceedings cease or when the applicant withdraws the application.

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?

If requested by the court, the central authority transmits the decision to the central authority of another Member State.

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)

Enforcement of privileged decisions is governed by standard rules applicable to the enforcement of other decisions in cases relating to minors within the meaning of Act 161/2015 – the Non-Contentious Civil Procedure Code (Civilný mimosporový poriadok) and the relevant implementing provisions and in accordance with the Brussels IIa and Brussels IIb Regulations. The court also examines the requirements defined in the Brussels IIa and Brussels IIb Regulations.

7 Training

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

According to demand, the Ministry of Justice organises specialist lectures and training from judges and senior judicial office-holders in cooperation with the Judicial Academy (Justičná akadémia).

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