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Processing incoming return cases by Central Authorities



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European Judicial Network
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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?

In addition to Hungarian, the Central Authority communicates in English, German and French, but applications and annexes thereto must be sent in Hungarian.

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 Central Authority also accepts requests electronically, in addition to by post. Original documents need only be sent if this is expressly requested by the court during the proceedings.

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

The Central Authority only rejects manifestly unfounded applications, primarily when the person concerned by the application is aged 16 or over. In addition, the practice of the Hungarian Central Authority has included cases where it has rejected applications that were clearly unfounded, when the previous respondent requested that an allegedly abducted child be brought back following the coercive enforcement of a decision ordering the return of the child.

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 Central Authority appoints a private lawyer to legally represent the applicant; alternatively, the applicant themselves or a legal representative authorised by them may also act before the court.

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)?

Yes, the lawyer appointed by the Central Authority represents the applicant.

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

Where it is not possible to bring about an amicable resolution in accordance with Article 7(c) of the Convention, the Central Authority will immediately (within five working days) send the application to the applicant's legal representative. In exceptional cases, at the reasoned request of the applicant, the Central Authority will refrain from facilitating an amicable solution.

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?

The Central Authority appoints the lawyer contracted to it to represent the applicant, and from that point the lawyer and the applicant are in direct contact.

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)

According to Hungary's notification of the Convention, legal representation is provided to applicants free of charge for applications submitted through the Central Authority and the procedure does not entail any costs for them. The court proceedings are free of charge, given the subject matter of the proceedings.

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 proceeds to establish the child's whereabouts by contacting the address register and, if necessary, the local guardianship authority or the police.

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 contacts the respondent directly, informs them of the receipt of the application and of the possibility of voluntary return, and asks them for a statement, which is forwarded to the applicant. The Central Authority usually also informs the respondent about the possibility of mediation, unless the applicant has expressly ruled this out.

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?

The Central Authority cannot take any preventative steps.

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?

Child abduction cases are dealt with as a matter of priority by the Central Authority, which replies to requests for information within five working days.

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?

In the case of applications from Hungary to other countries, the Central Authority provides applicants with a translation of the application and associated enclosures. In the case of incoming applications from foreign applicants, however, it does not undertake to translate court decisions but provides a summary of their content in English, German or French.

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

The court provides interpretation in court proceedings.

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 Hungarian Central Authority informs the parties of the possibility of mediation, except where this seems to be inappropriate in a particular case, or where at least one of the parties does not wish to pursue it. Mediation may take place before an intermediary chosen by the parties; the Central Authority does not carry out mediation. The intermediary's remuneration is the subject of an agreement between the parties and the intermediary; legal aid for child abduction proceedings does not cover mediation.

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

Apart from disclosing contact details in the register of mediators to the parties (<https://inyr.im.gov.hu/mediators/name-search>), the Hungarian Central Authority is not involved in arranging mediation.

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 court hearing the case can also order judicial mediation during the proceedings. In this event, the mediation is carried out by court staff trained in judicial mediation.

4 Enforcement proceedings

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

The appointment of a lawyer to conduct a child removal case for the applicant also covers the initiation of enforcement proceedings. The Central Authority liaises with the lawyer and ensures communication between the requesting Central Authority or the applicant and the lawyer.

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 have these, but in the event of the handover of a child involving coercive enforcement, child protection experts are present and may intervene in the child's interest if necessary.

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 decision is usually requested by the lawyer appointed to represent the applicant, but it is also possible for the applicant themselves to do so.

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

The lawyer appointed to represent the applicant also represents them in enforcement proceedings.

5 Case closure

5.1 Who provides confirmation of the child's return?

This varies depending on the case: the Central Authority learns of a voluntary return or handover of a child through the applicant (their lawyer), and of coercive enforcement through an official record.

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?

As a general rule, once a court decision has been issued, the Hungarian Central Authority considers the case closed if the terms of the court decision have been complied with; the applicant is not notified of this separately, but the Central Authority of the other State must be notified of the closure of the case. Closing the case is a technical step; it can be reopened at any time upon request.

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 Hungarian Central Authority for child abduction has essentially no role to play in the overriding mechanism. If the court asks the Hungarian Central Authority to forward the documents, the Hungarian Central Authority will forward them to the partner authority.

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)

In the case referred to in the question, a writ of execution is issued immediately, without further examination, on the basis of a certified decision entailing the return of the child. On the basis of the writ of execution, the acting bailiff takes action in accordance with the general child handover rules. The Hungarian Central Authority plays no role in enforcement proceedings, so the party seeking enforcement is not provided with a lawyer.

7 Training

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

No training is organised within the framework of the Central Authority, but the Hungarian Central Authority regularly gives presentations on child abduction to courts and lawyers upon request.

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