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Processing incoming return cases by courts



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European Judicial Network
(in civil and commercial matters)

1 Concentration of jurisdiction

1.1 Which authority is competent to hear requests for return under the 1980 Hague Convention/Article 22 of the Brussels IIb Regulation ("requests for return")?

As a general rule, competence to hear proceedings for the reinstatement of a minor wrongfully removed or retained in Spain lies with the Family, Children and Legal Capacity Section of the Court of First Instance of the provincial capital where the minor is located (Article 778(c)(2) of Law 1/2000 of 7 January 2000 on Civil Procedure (LEC)).

If there are criminal proceedings for gender-based violence, competence to hear proceedings for the reinstatement of a minor wrongfully removed or retained in Spain lies with the Violence against Women Section of the competent Court of First Instance (Article 89 of Organic Law 6/1985, of 1 July 1985 on the Judiciary [LOPJ]).

The reform introduced by Organic Law 1/2025 has led to a reduction in the concentration previously provided for in the LEC.

1.2 Is the jurisdiction to hear requests for return confined to specialist courts? - If yes, to what courts is it restricted? How many judges within the specialist court exercise the jurisdiction? - If no, are the judges hearing return requests specialised?

No. Judges may receive specialist training, and they are also given priority for posts in the Family, Children and Legal Capacity Sections because of their accreditation.

1.3 By which method are the requests for return allocated to a judge?

Once competence for the proceedings has been determined, cases are allocated among the judges of that Court of First Instance, in accordance with the allocation rules governing the distribution of civil cases between the Judges serving the Family, Children and Legal Capacity Section (or the Civil Section, if there is no Family, Children and Legal Capacity Section) of the Courts of First Instance of the provincial capital. If competence lies with a Violence against Women Section of the Court of First Instance, the judge hearing the criminal proceedings always hears the case.

1.4 What specialist training is provided for the specialist judges? In particular do they have the opportunity to attend multi-national conferences specialising on International Family Law? Is there a regular conference within your jurisdiction to which all judges dealing with requests for return are invited?

Subsequent to [Organic Law 1/2025 of 2 January 2025 on measures regarding the efficiency of the Public Justice](#)

[Service](#) (LO 1/2025), provisions have been made for specialist training at the Spanish Judicial School (*Escuela Judicial*). The first instance of this specialist training on family, children and legal capacity has already been provided and it will continue to be provided periodically. This training includes private International Family Law and international child abduction, among other matters.

In addition, the General Council of the Judiciary (*Consejo General del Poder Judicial*) runs courses, symposiums and seminars every year, covering matters that fall within the scope of Family, Children and Legal Capacity. Attendance at such courses, symposiums and seminars is voluntary. Regional training programmes are also in place in each Autonomous Community. In addition to the courses on international child abduction that can be run each year, a course dedicated specifically to Private International Family Law is also offered on a yearly basis.

There is no regular conference to which judges dealing with requests for reinstatement are invited.

2 Practice and procedure for requests for return in first instance court

2.1 Are there special rules of practice and procedure for requests for return? If yes, please provide a brief summary of the procedure and if relevant, provide a link

Yes. The procedure is set out in Articles 778(c) to (e) of the [LEC](#) and can be summarised as follows:

Submission and admission of the request: reinstatement or return of the minor is requested, with information being provided on their identity, location and the reasons for the request. The Court Clerk (*Letrado de la Administración de Justicia*) reviews the request within 24 hours, either admitting it or informing the judge that it has not been admitted. The respondent is summoned to appear with the minor within a maximum of three days and state whether they agree to, or oppose, the reinstatement. If the minor is not found, the proceedings are provisionally closed. Alternatively, they can be transferred to another court if the minor is found in another province.

Appearance: if the respondent agrees to the reinstatement, the judge issues an order on the same day to close the proceedings. If the respondent fails to appear, they are declared to be in contempt of court, and the applicant and the Public Prosecutor will be summoned to a hearing within five days.

Hearing: at the hearing, evidence, statements and circumstances are analysed to determine the lawfulness or otherwise of the removal or retention and the facts underpinning the exceptions to return invoked in each case.

Hearing the minor: the minor is heard, unless this is considered inappropriate given their age or level of maturity.

Judgment: within three days of the hearing, the judge must decide whether the removal was wrongful and whether the minor should be reinstated, setting out the conditions for enforcement. If reinstatement is ordered, the party responsible for the abduction must bear the costs of the proceedings and of the removal.

An appeal with suspensive effect and a priority resolution can be lodged against the judgment within a maximum period of 30 days.

2.2 What steps are taken to meet the 6 weeks target described in Article 24(2) of the Brussels IIb Regulation?

The LEC expressly establishes that the procedure is urgent and that it should be prioritised (Article 778(c)(5) of the LEC), with a duration, in both instances – where they arise – of six weeks, except in exceptional circumstances that make this impossible. If the Brussels IIb Regulation applies, the time scale is that laid down in Article 24: six weeks for proceedings at first instance and six weeks for appeals ‘after all the required procedural steps have been taken and the court is in a position to examine the appeal, whether by hearing or otherwise’ (Article 24(3)). This regulation provides for the urgent enforcement of decisions within a maximum of six weeks (Article 28).

Time scales have been shortened compared to all other national procedures. Furthermore, there is provision to prevent civil proceedings from being suspended on the grounds that ongoing criminal proceedings relating child

abduction must be decided first.

The LEC expressly provides for direct judicial communications with the support of central authorities, existing international judicial cooperation networks, members of the International Hague Network of Judges, and liaison judges.

2.3 If mediation is used, what steps are taken to ensure that the referral to mediation does not risk a breach of the 6 weeks target? How does the court examine whether contact should be ensured, in accordance with Article 27(2) of the Brussels IIb Regulation? Does the court examine whether contact should be ensured only on the basis of a request from one of the parties or can do so on its own motion?

Article 778(d)(8) of the LEC states that before taking any decision on whether or not it is appropriate to return the minor or reinstate them to their country of origin, the judge hears the minor separately. Hearing the minor takes place at any time during the proceedings and before the Public Prosecutor, unless it is deemed inappropriate given their age or level of maturity. In this latter case, a reasoned decision is issued.

When hearing the minor, it must be ensured that they can be heard in conditions facilitating the protection of their interests, without interference from any other persons. In exceptional circumstances, specialist assistance is requested where necessary. This can be done through videoconferencing or other similar system.

The minor is heard by the judge personally, before the Public Prosecutor, as the children's ombudsman, and the judge may be assisted by specialists if they deem it necessary. They are heard during the proceedings, separately from the hearing, and in compliance with both national and international legislation on the right of the minor to be heard.

The Practical Guide on International Child Abduction (*La Guía práctica en materia de sustracción internacional de menores*), developed by the Spanish Judicial Network for International Judicial Cooperation (*Red Judicial Española de Cooperación Judicial Internacional* – REJUE) recommends that if the hearing is not conducted directly by the judicial authority, 'the manner in which it has been conducted should be stated, pursuant to applicable legislation (e.g. through the Judicial Technical Team). If there is no hearing, the reasons why it did not take place must be stated in the decision'.

2.4 How is the child given an opportunity to express his or her views in return proceedings? Please describe who hears the child's views and at which stage of the proceedings are their views heard

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2.5 Is the number of court hearings for requests for return subject to judicial discretion, or does your legal system establish a minimum/maximum number? If so, please indicate

The LEC provides for an initial appearance by the defendant so that they can express their agreement or opposition to the reinstatement. If they do not object, there are no further appearances.

If the defendant objects or does not appear, all parties are summoned to another appearance or hearing, where, as a general rule, all evidence is taken, except for the hearing of the minor, which is held separately.

If any evidence cannot be taken at the hearing, it must be taken within a period of six days; in such an event, if it were necessary to hold a public hearing because it involved oral evidence, this would be duly indicated.

2.6 Is oral evidence admitted at the hearing? If it is, are oral submissions admitted to supplement written argument?

Yes. Oral evidence is admitted and, after all evidence has been taken, the parties and the Public Prosecutor make oral closing arguments at the conclusion stage.

2.7 Is the applicant required to attend the hearing? Are there any procedural consequences if the applicant does not attend the hearing?

The hearing is not suspended if the applicant is absent (Article 778(d)(7) of the LEC). The parent seeking reinstatement of the child must be summoned when they have applied through the Central Authority. The summons is sufficient, giving them the opportunity to be heard, but their attendance is not obligatory. However, since only those who appear at that hearing are heard, the consequence is that if they do not appear they will not be able to be heard.

2.8 Are the courts equipped with videoconferencing facilities to allow for remote participation through videoconferencing? What is the legal framework for using videoconferencing at the hearing? Is there a specific legal framework for hearings in return proceedings?

Yes. The courts are equipped with videoconferencing facilities.

Use is regulated by the LEC, as recently amended by [Royal Decree-Law 6/2023 of 19 December](#) and by Organic Law 1/2025.

More specifically, in reinstatement proceedings, Article 778(d)(8) of the LEC provides for the use of videoconferencing or other similar systems to hear the minor.

2.9 What type of measures, including provisional or protective measures (safeguards), can be taken to ensure the safe return of the child?

There is no set number of measures. However, the judge may order such measures as they deem appropriate as part of the decision ordering the reinstatement. The decision must lay down the manner in which the reinstatement is carried out. This includes possible measures to ensure a safe return.

During the procedure, both Articles 778(c)(8) and 778(d)(5) of the LEC provide for the possible adoption of necessary precautionary measures, without establishing a *numerus clausus*. As for safe return measures, there are no explicit rules in national law, and the courts directly apply international instruments, particularly Regulation (EU) 2019/1111 and the 1996 Hague Convention.

3 Appeals

3.1 Is there an appeal from the first instance court?

Yes. The judgment delivered by the Court of First Instance is subject to appeal before the Provincial Court.

3.2 If there is a right of appeal, is it absolute or is permission to appeal required? Or is it on points of law alone?

No permission is required and there are no objective limitations. The Court of Appeal has full competence to review every action of the Court of First Instance, both with regard to the facts and to the legal issues duly identified by the parties, in order to verify whether or not the contested decision complies with the procedural and substantive rules applicable to the case, subject to two limitations: the prohibition of *reformatio in peius*, and the impossibility of addressing any matters agreed on account of not having been contested.

3.3 In the event of an appeal is the return order automatically suspended or may it nevertheless be enforced?

Article 778(d)(11) of the LEC prevents enforcement until a judgment has been handed down at second instance. In the case of intra-Community abductions, given the primacy of the Brussels IIb Regulation (Article 27(6)), there is provision for the exceptional possibility of provisional enforcement where the interests of the minor so require.

3.4 Is there a second appeal? If yes, is permission required?

There is no second appeal. No appeal may be brought before the Supreme Court against judgments delivered by the Court of Appeal.

3.5 What specialist experience and expertise is there in the appellate courts?

No general rule can be established. In some provinces, Courts of Appeal have one or more sections with exclusive and/or special jurisdiction in Family, Children and Legal Capacity matters. In such sections, there is a higher degree of specialist knowledge and experience in resolving these proceedings.

3.6 What is the time scale for the determination of an appeal and, if applicable, a second appeal? If expedited, is priority given by statute, rules of court or practice?

An appeal with suspensive effect must be resolved within 30 days (Article 778(d)(11) of the LEC). Appeals are considered urgent and are prioritised by law. If the Brussels IIb Regulation applies, given its primacy, the time scale for determining the appeal is six weeks, under the terms laid down in Article 24.

3.7 In accordance with Article 24(3) of the Brussels IIb Regulation, what are the procedural steps that need to have been taken for the 6-week target to start running for the higher instance court to be able to examine the appeal?

The appeal is lodged and processed at the Provincial Court. Within the time scale of six weeks for the second instance, as determined by the Regulation, the LEC lays down the procedure for lodging an appeal, objection and, where appropriate, a challenge, as well as, potentially, a hearing. To that end, short and expeditious time scales have been established.

4 Enforcement of the return order delivered by the court

4.1 Which authority is competent for the enforcement of return orders?

Enforcement is the responsibility of the Section of the Court of First Instance that delivered the judgment at first instance, once it has become final.

4.2 Are return orders provisionally enforceable? If so, is it decided automatically by the court or does the applicant have to request it? When a return order is challenged, how is the provisional enforceability affected?

National law does not provide for the provisional enforcement of reinstatement orders. The appeal has a suspensive effect.

Although not provided for in our LEC, within the framework of the Brussels IIb Regulation, Article 27(6) provides for the possibility of declaring the decision ordering reinstatement provisionally enforceable, always with the requirement of serving the minor's best interests in mind. Therefore, in this area, the need for provisional enforcement could be assessed, for which each specific case involved needs to be examined. In such cases, a request from the interested party is required.

4.3 What is the procedure of the enforcement of return orders? Are there any legal measures (for example, some penalties) that may help to ensure the enforcement of the return order?

Under national law (Article 778(d)(9) of the LEC), the decision ordering the reinstatement of the minor must set out in detail the form and time limit for enforcement. The decision can provide for the adoption of measures necessary to prevent a new unlawful removal or retention of the minor after notification of the judgment.

If restitution or return of the minor is ordered, the decision establishes that the person who removed or retained the minor must bear the costs of the proceedings, including those incurred by the applicant, travel costs and costs incurred through the reinstatement or return of the minor to the State of their habitual residence prior to the abduction.

The restitution procedure is a special procedure governing compliance and enforcement in its own right. Enforcement must be effected directly under the terms set out in the judgment as quickly as possible, once it has become enforceable. It is not possible to initiate an enforcement procedure with a procedure for objection. It would hinder the speed required in this type of procedure, in which the reasons for objection have already been assessed through the exceptions.

When enforcing the judgment ordering reinstatement of the minor or their return to the State of origin, the Central Authority provides the necessary support to the Court to ensure that the process is effected safely, taking the required administrative measures in each case.

The LEC also states that if the parent who has been ordered to effect reinstatement or return of the minor opposes, prevents or impedes enforcement of this ruling, the judge must take the necessary measures to enforce the judgment immediately, and may also call for assistance from social services and law enforcement authorities.

4.4 Please describe the procedure for requesting suspension and refusal of enforcement of return orders?

There is no legal provision for this possibility. In any case, it must be dealt with in accordance with the adversarial principle and the right to defence.

5 Enforcement of the privileged decision delivered by a foreign court

5.1 Which authority would be responsible for the enforcement of a foreign so-called overriding decision i.e. return order mentioned in Article 11(8) of the Brussels IIa Regulation or a foreign privileged decision pursuant to Article 29(6) of the Brussels IIb Regulation entailing the return of a child following a refusal in the requested state under Article 13(1)(b) or 13(2) of the 1980 Hague Convention

It is the responsibility of the Section of the Court of First Instance that heard the abduction proceedings.

6 Judicial Liaison

6.1 Has your jurisdiction officially/unofficially nominated a specialist judge to the European Judicial Network in civil and commercial matters (EJN-civil) / International Hague Network of Judges (IHJ)?

The Spanish Judicial Network (REJUE), whose members are also part of the Spanish Judicial Network Civil Division (RJE-civil), has set up an informal group of judges specialising in international child abduction.

Two members of the International Network of Hague Judges are officially appointed.

6.2 If yes, is the judge nominated a sitting judge? Was the nomination official or unofficial?

In both cases, only a sitting judge can be appointed. Only the appointment of the RIJH judge is official. The appointment process is regulated by [Royal Decree 242/2019 of 5 April 2019 regulating the legal status of staff of the Ministry of Justice carrying out external action in matters of justice](#). The Ministry of Justice nominates one of the candidates on the list proposed by the General Council of the Judiciary, for a renewable term of three years.

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