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Parental child abduction

Are you an international couple with children and are now separating? You may wish to return to your home country and take your child with you. However, if you do so without the consent of the other parent or the court, you may be breaking the law. Find out what is legal and what to do when your child has been abducted by the other parent.

Where a child has been wrongfully removed to, or is being wrongfully retained in, a Member State other than the Member State where the child was habitually resident before the abduction, the [1980 Hague Convention](#) applies, as complemented by Chapters III and IV of the [Brussels IIb Regulation](#).

How do EU rules help to prevent child abduction?

The court in the country where the child had his/her habitual residence before abduction will remain responsible for questions related to parental responsibility, such as custody and access rights, until the abduction case has been settled. This is to avoid parents abducting their child in the hope of getting a more favourable judgement before the court in their own country.

How can a parent get an abducted child back?

[Central Authorities](#) exist in all EU countries to assist parents who are victims of cross-border child abduction. It is possible to launch a procedure to return the child. In this case, the court needs to rule on the matter within six weeks from when the case reaches the court. The court should provide a child capable of forming his or her own views the opportunity to be heard during the proceedings.

Can a court in the country where the child was abducted to refuse the return of the child?

The court in the country where the child was abducted to can only object to the return of the child:

if there was no wrongful removal or retention (Article 3 of the [1980 Hague Convention](#));

if the left-behind parent was not actually exercising his/her rights of custody at the time of the abduction (Article 13(1)(a) of the [1980 Hague Convention](#));

if there is a serious risk that the return would expose the child to physical or psychological harm (Article 13(1)(b) of the [1980 Hague Convention](#)). However, the return cannot be prevented if adequate arrangements have been made to protect the child. If a court finds that the child should not be returned, it must contact the court in the country where the child was abducted from (Article 27(3) of the [Brussels IIb Regulation](#)).

if the child objects to the return (Article 13(2) of the [1980 Hague Convention](#));

if the return would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms (Article 20 of the [1980 Hague Convention](#)).

The court in the country where the child was abducted from will then decide on the final outcome taking the evidence and reasoning of the other court into account. The judge must also hear the child and both parties.

Will the decision of the court be automatically enforceable?

The final ruling by the court in the country of origin is automatically recognised and enforceable in the other EU country without the need for a declaration of enforceability ("abolition of *exequatur*"), provided that the judge has issued a corresponding certificate provided for in the [Brussels IIb Regulation](#).

The Practice Guide for the application of the Brussels IIb Regulation can be found on this page: [EJN's publications](#)

Related links:

[Find the Central Authority in your EU country](#)

[Best practice guide](#)  (243 Kb)  - contains information on national administrative and judicial procedures concerning the return of a child procedure.

[Read the leaflet](#)

Last update: 14/06/2023

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