



## International Child Abduction

Nearly 80 Contracting States

The *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* seeks to combat parental child abduction by providing a system of co-operation between Central Authorities and a rapid procedure for the return of the child to the country of the child's habitual residence.

Central Authorities in each country provide assistance in locating the child and in achieving, if possible, a voluntary return of the child or an amicable resolution of the issues. They also co-operate to prevent further harm to the child by initiating or helping to initiate proceedings for the return of the child, and by making necessary administrative arrangements to secure the child's safe return.

The 1980 Hague Convention has contributed to resolving thousands of abduction cases and has served as a deterrent to many others through the clarity of its message (abduction is harmful to children, who have a right to contact with both parents) and through the simplicity of its central remedy (the return order).

It is likely that the number of States Parties will continue to expand, maintaining an important role for the 1980 Hague Convention into the Twenty-First Century.

→ *The 1980 Convention helps to give effect to the fundamental rights of the child and has been found in court decisions in different parts of the world to be consistent with national Constitutions, as well as regional and international human rights instruments.*

→ *The Child Abduction Homepage of the Hague Conference contains the latest information about the status of the 1980 Convention, and the contact details of Central Authorities. For this, and much more information about the 1980 Convention, see < [www.hcch.net](http://www.hcch.net) >.*

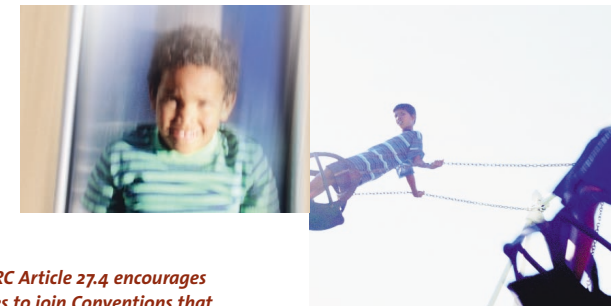
→ *"A child whose parents reside in different States shall have the right to maintain, on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents ..."*  
CRC Article 10.2

## Draft Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance

Negotiations began in The Hague in 2003 on the drafting of a new global Convention on the *International Recovery of Child Support and other Forms of Family Maintenance*.

The new Convention, designed to offer children and other dependants a simpler, swifter, more cost-effective international system for the recovery of maintenance, has the potential to benefit tens of thousands of children and other dependants worldwide. It is hoped that Convention negotiations will be completed by early 2007.

The new Convention will build on the strength of pre-existing instruments such as the UN Convention of 1956 (the "New York Convention") on the *Recovery Abroad of Maintenance*, and the Hague Conventions of 1973 on the *Recognition and Enforcement of Decisions Relating to Maintenance Obligations* and on the *Law Applicable to Maintenance Obligations*.



→ *CRC Article 27.4 encourages States to join Conventions that facilitate the international collection of child support.*

INTERNATIONAL CHILD ABDUCTION | DRAFT HAGUE CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT

## International Child Protection

Soon to be 30 Contracting States

The *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* builds a structure for effective international co-operation in child protection matters and provides a unique opportunity for the building of bridges between legal systems having diverse cultural or religious backgrounds.

The 1996 Hague Convention addresses a wide range of international child protection issues from parental disputes over custody or contact to the protection of runaway teenagers; from jurisdiction in respect of refugee or internationally displaced children to the placement of children abroad in foster or institutional care; from the law applicable in determining who has parental responsibility in respect of a child to the recognition of specific powers of representation.

- The uniform rules set out in the 1996 Hague Convention:
- > allow any country where a child is present to take necessary emergency or provisional measures of protection;
  - > determine which country's laws are to be applied and which authorities are competent to take the necessary measures of protection;
  - > give primary responsibility to the authorities of the country where the child has his or her habitual residence;
  - > avoid the possibility of conflicting decisions and provide for the recognition and enforcement of measures taken in one Contracting State in all other Contracting States.

→ *The 1996 Convention reflects the "best interests of the child" principle set out in CRC Article 3; it also offers States a practical means of fulfilling, at least in part, the obligations of co-operation which arise under various Articles of the CRC, such as Articles 21(e), 22, 34 and 35.*

→ *The co-operation provisions provide the framework for a global child protection network at State level, which benefits many categories of at-risk children.*

## Intercountry Adoption

Nearly 70 Contracting States

The *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption*, establishes safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect to the child's fundamental rights.

The 1993 Hague Convention recognises that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin. It requires that possibilities for the placement of the child within the country of origin be considered first.

The 1993 Hague Convention establishes a system of co-operation between authorities in countries of origin and receiving countries, designed to ensure that intercountry adoption takes place under conditions which help to guarantee the best adoption practices and the elimination of abuses. The Convention safeguards aim to prevent the abduction, the sale of, or traffic in children.

The Convention guarantees the recognition in all Contracting States of adoptions made in accordance with the Convention.



→ *Contracting States may adopt additional safeguards where needed to protect the child.*

→ *The 1993 Hague Convention, inspired by CRC Article 21, is supported by the UN Committee on the Rights of the Child.*

→ *The 1993 Hague Convention has been embraced equally by States of origin and receiving States.*

→ *By setting out clear procedures and prohibiting improper financial gain, the Convention provides greater predictability and transparency for prospective adopters.*



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The Hague Children's Conventions

INTERNATIONAL CHILD PROTECTION | INTERCOUNTRY ADOPTION



**A Worldwide Network**  
Contracting States to  
one or more Hague  
Children's Conventions  
(July 2005)

Albania  
Andorra  
Argentina  
Australia  
Austria  
Azerbaijan  
Bahamas  
Belarus  
Belgium  
Belize  
Bolivia  
Bosnia and Herzegovina  
Brazil  
Bulgaria  
Burkina Faso  
Burundi  
Canada  
Chile  
China (People's Republic of)  
Colombia  
Costa Rica  
Croatia  
Cyprus  
Czech Republic  
Denmark  
Dominican Republic  
Ecuador  
El Salvador  
Estonia  
Fiji  
Finland  
France  
Georgia  
Germany  
Greece  
Guatemala  
Guinea  
Honduras  
Hungary  
Iceland  
India  
Ireland  
Israel  
Italy  
Latvia  
Lithuania  
Luxembourg  
Madagascar  
Malta  
Mauritius  
Mexico  
Moldova, Republic of  
Monaco  
Mongolia  
Morocco  
Netherlands  
New Zealand  
Nicaragua  
Norway  
Panama  
Paraguay  
Peru  
Philippines  
Poland  
Portugal  
Romania  
Russian Federation  
Saint Kitts and Nevis  
San Marino  
Serbia and Montenegro  
Slovak Republic  
Slovenia  
South Africa  
Spain  
Sri Lanka  
Sweden  
Switzerland  
Thailand  
The Former Yugoslav  
Republic of Macedonia  
Trinidad and Tobago  
Turkey  
Turkmenistan  
United Kingdom of Great Britain  
and Northern Ireland  
United States of America  
Uruguay  
Uzbekistan  
Venezuela  
Zimbabwe

**Protecting children across international frontiers**

For more than a century, the Hague Conference on Private International Law (HCCH) has been a pioneer in developing systems of international co-operation, at the administrative and judicial levels, to protect children in cross-frontier situations.

The opening up of national borders, ease of travel, worker mobility and the breaking down of cultural barriers have, along with their many benefits, brought new risks for children. The cross-border trafficking and exploitation of children and their international displacement as a result of war, civil disturbance or natural disaster have become major world problems.

Children also find themselves caught up in the turmoil of broken relationships within transnational families, which can lead to disputes over custody and relocation, the hazards of international parental abduction, problems of maintaining contact between the child and parents living in different countries, the struggle of securing cross-frontier child support, and the pressures and profiteering which can sometimes accompany the cross-border placement of children through intercountry adoption or shorter term arrangements.

As the *United Nations Convention on the Rights of the Child* (1989) underlines, effective protection of children's rights across frontiers cannot be achieved without inter-State co-operation. The three modern Hague Children's Conventions have been developed over the last twenty-five years, and provide the practical machinery to enable States to work together where they have a shared responsibility to protect children.

*The Hague Children's Conventions provide workable systems and practical procedures for implementing some of the more broadly expressed principles set out in the 1989 UN Convention on the Rights of the Child (CRC).*

**More about**

**The Hague Conference on Private International Law**  
<[www.hcch.net](http://www.hcch.net)>

For more than 110 years, HCCH, an international intergovernmental organisation with nearly 70 Member States from all continents, has provided legal security and protection for persons and businesses whose movements and activities cross national frontiers.

HCCH's mandate is to harmonise private international law rules at the global level through the preparation, negotiation and adoption of Hague Conventions (multilateral treaties to which more than 120 States around the world are currently Parties).

Hague Conventions (36 adopted since WWII and 1 under preparation) deal with topics as diverse as international child abduction, intercountry adoption, legalisation of documents, obtaining evidence abroad, trusts, securities held with an intermediary, parental responsibility and measures for the protection of children, international recovery of child support and other forms of family maintenance, among others.

**Infrastructures Supporting Hague Children's Conventions**

**CENTRAL AUTHORITIES**

*Inter-State co-operation through Central Authorities.*  
*A growing international network of approximately 300 Central Authorities in more than 90 countries working to improve the protection of children.*

One of the distinctive features of the three Hague Children's Conventions is the role which they give to Central Authorities in each Contracting State as the focus for administrative co-operation in achieving child protection.

In the case of all three Children's Conventions, the Central Authorities have general functions of co-operation with respect to international child protection. The following are among the functions given to Central Authorities within specific Conventions:

- > a role in locating missing children;
- > exchanging information about children at risk;
- > promoting agreed solutions, where these are appropriate;
- > exchanging information with other Central Authorities about the child protection laws and services operating in their countries;
- > providing assistance or advice to foreigners who are seeking to obtain or enforce child protection orders; and
- > removing obstacles to the proper functioning of the various Conventions.

Central Authorities established under the Hague Conventions constitute the core of a global network of inter-State co-operation for the protection of children. Among the advantages for States in being part of this international network is the opportunity it gives for sharing knowledge, experience and expertise about child protection.

**INTERNATIONAL JUDICIAL NETWORK**

*Direct judicial communications*  
*Liaison judges*  
*Judges' Newsletter*  
*Judicial conferencing and co-operation*

Another important development has been the growth around the Hague Conventions of an international network of judges concerned with international child protection matters. For the Hague Conventions to work successfully, a degree of judicial co-operation, including, in some cases, direct contacts between judges in different Contracting States, is necessary. Collaboration between judges at the international level also assists in promoting consistent interpretation of the Conventions.

The recent increase in international judicial conferences and seminars, has, in turn, led to the establishment of a network of contact or "liaison" judges in Contracting States, *i.e.* judges who act as liaison persons in facilitating direct judicial communications where these may be needed in Hague cases. This development has also been assisted by the now bi-annual publication of a *Judges' Newsletter on International Child Protection*.



**Supporting and Monitoring The Hague Children's Conventions**

*Nearly 90 Contracting States have joined one or more Hague Children's Conventions*

The Secretariat of HCCH (the Permanent Bureau) is charged with monitoring and supporting the functioning of the Hague Conventions in co-operation with HCCH Member States, States Parties to the Conventions and other international organisations, including non-governmental organisations.

HCCH has developed a unique system of post-Convention services to monitor the operation of the Hague Children's Conventions, to assist Contracting States with their effective implementation and to promote consistency and the adoption of good practices in the daily operation of the Conventions.

Contracting States are both beneficiaries and partners in this developing system.

→ **The International Child Abduction Database-INCADAT**  
< [www.incadat.com](http://www.incadat.com) >  
*INCADAT has been established by the Permanent Bureau with the objective of making freely accessible many of the leading decisions rendered by national courts in respect of the Hague Convention of 1980. It contains nearly 1000 summaries of decisions in English and French (and very soon in Spanish). INCADAT is used by Judges, Practitioners, Central Authorities, researchers and others around the world.*

→ **Guides to Good Practice**  
*Three parts of the official Guide to Good Practice under the 1980 Convention have now been completed and are available in English, French and Spanish.*  
> **Part I Central Authority Practice**  
> **Part II Implementing Measures**  
> **Part III Preventive Measures.**

→ **A non-Hague Convention child abduction homepage** within INCADAT provides information on legal developments (including case law and bilateral agreements) in respect of abduction involving States which are not Parties to the 1980 Convention.

Methods and techniques developed by HCCH include:

- > maintaining an international network of Central Authorities and other bodies charged with implementing the Conventions;
- > supporting an international network of judges concerned with cross-border child protection cases;
- > convening periodic Special Commission meetings at which States Parties and others review the practical operation of the Conventions;
- > providing technical assistance to States on matters of implementation;
- > assisting in legislative drafting and policy reform;
- > developing good practice guides;
- > creating an international database of judicial decisions (INCADAT-International Child Abduction Database);
- > publishing the bi-annual *Judges' Newsletter on International Child Protection*;
- > organising and supporting training / familiarisation seminars, colloquia for those – judges, Central Authority personnel, and other professionals – concerned in the operation of the Children's Conventions;
- > maintaining statistics concerning the operation of the Conventions (INCASTAT-International Child Abduction Statistical Database; ICASAT-Intercountry Adoption Statistical Database), including the development of electronic case management systems.

