

The role and functions of Central Authorities

1. Generally, the Central Authority of the Republic of Croatia has no difficulties in communicating with other Central Authorities, aside from the Central Authority of Serbia with which the communication has been somewhat difficult since it does not provide information on the submitted request or the procedural outcome.
2. No.
3. The Ministry of Health and Social Welfare has its own website, www.mzss.hr, but the data relating to the information about the role of the Ministry, as the Central Authority, can not be found on that website. However, all social welfare centres have been fully familiarised with the provisions of the Convention and have forms for the submission of a request for the return of a child.
4. The Central Authority simultaneously delivers the request for the return of a child to an authorized court and the social welfare centre. It requests the social welfare centre to mediate between the parents where possible, and in order to accomplish a voluntary return of a child. The Central Authority requests the social welfare centre to inform the court about undertaken actions in order for the court to be able to carry out the proceedings and render a decision.
5. The Central Authority of the Republic of Croatia has shared its experiences with the Central Authority of the Federal Republic of Germany (year 2005) which we have found very useful for the improvement of practice.

Court proceedings

6. In the Republic of Croatia, the courts whose scope of work and jurisdiction are prescribed by the provision of Article 5 of the Courts Act are authorized for rendering decisions on requests pertaining to the return of a child (and issues of child access). Within the legal system of the Republic of Croatia no provisions exist (nor have there been any agreements concluded) on the determination of only certain courts for proceeding in the aforementioned cases. It would be difficult to render an evaluation of increases in efficiency of proceedings by determining the jurisdiction of only some courts without a more detailed analysis. Some practical experiences of specialization of courts for a certain kind of cases speak in favour of court specialization. It is however necessary to ensure a permanent education of authorities authorized for acting in specific cases.
7.
 - a) Procedural urgency is an obligation prescribed by the Convention itself. Aside from that, the Family Act of the Republic of Croatia (in

Article 113 Paragraph 1) prescribes that all actions in family matters are to be undertaken urgently.

- b) In the Republic of Croatia, no special measures have been prescribed for proceeding in matters from the application area of the Convention, and neither those for the implementation of evidence, that is the control or the limitation of the number of evidence that are being implemented in the specific procedure. Now, the practice of the court has been arranged by the Code of Civil Procedure. Which facts are to be taken as proven is decided by the court in accordance with its opinion, and on the basis of conscientious and careful evaluation of every piece of evidence separately and all the evidence together, as well as on the basis of the result of the entire procedure (Article 8 of the CCP).
8. Pursuant to the Legal Profession Act (Article 21) and the Code of Civil Procedure (Article 174), foreign citizens may assert their right to legal aid without compensation under the same conditions as citizens of the Republic of Croatia. In order to be able to assert the right to free legal aid, it is necessary for the applicant to be unemployed or have very low income. The foreign applicant may assert his right to free counselling with the authorized social welfare centre.
9. At the request of the court, the social welfare centres provide their evaluation of the child's welfare, and, if the court finds it necessary, an opinion of a permanent court expert of medical profession may also be requested. Hearing of the child, for the purposes of legal proceedings, is not often performed in practice. The existing laws in the Republic of Croatia specify the provision of support and assistance to the child giving its statement before the court, as well as engagement of a professional (of a pedagogic or social profile) for that purpose. The standpoint of the child will be taken into consideration if it is in fact an older child and if the standpoint of the child is corroborated by an opinion of a professional (psychologist, etc.).
10. An increased application of Article 20 of the Convention has not been noticed, that is, we believe that such cases have not occurred, even after 1999.

Legal issues and interpretation of key concepts

11. Article 140 of the Constitution of the Republic of Croatia prescribes that international agreements concluded and ratified in accordance with the Constitution, and published, as well as being in force, constitute an integral part of the internal legal order of the Republic of Croatia, and are, by their legal power, above the law.
12. Currently, competent ministries in Croatia are entertaining an idea that a special regulation should be passed for the purpose of being able to apply the Convention in a manner that is of higher quality.
13. Since 2001, the courts have improved their procedural practice as professional seminars have been held in the meanwhile (cooperation of the Central Authority and

the Judicial Academy of the Ministry of Justice, with the financial support of the German Foundation for International Legal Cooperation) at which judges of municipal courts were educated on acting in accordance with the Convention. The application of the Convention by the courts has been of a higher quality with better understanding of provisions, but still some courts demonstrate procedural sluggishness that leads to the exceedance of terms intended for rendering decisions.

Direct international judicial communication

14. The Central Authority suggested that the judge of the County Court in Split, Mrs. Sovjetka Režić, be in charge of the direct international judicial communication. According to the information she submitted to us, she has hereto not been contacted on any issue.

Immigration/ asylum / refugee matters

15. We have no such experience.
16. We have no such experience.
17. No.
18. No.

Criminal proceedings

19. In one case, which has been conducted in accordance with the Convention against a parent that illegally detained a child, sanctions have been undertaken for the purpose of precluding the enforcement of a decision on the return of a child.

Mediation

20. No specific programs of mediation for parents or other persons included in the matter being conducted according to the Convention exist. Expert employees of the social welfare centre (psychologist and the social worker) have experience in mediation between parents since mediation is one of the procedures being regularly conducted at the centre (the obligatory element of the divorce proceedings when a marriage involves under-aged children).
21. Since mediation, within the meaning of question under number 20, is not being conducted, the efforts of expert employees of the social welfare centre consist of them attempting to convince the parent that has illegally taken or detained a child in the Republic of Croatia to return the child. Since the parent usually refuses to do so, the social welfare centre immediately informs the court thereof.
22. No, taking into account the previous answer.

Training and education

23. Seminars that have so far been organized on a national level (description under number 13) have significantly improved the procedural practice according to the Convention, as with regard to the content of judicial rulings, as well as with regard to the promptitude of settlement of disputes. Considering the fact that seminars included judges of municipal courts and employees of social welfare centres, the Central Authority of the Republic of Croatia believes that it would be useful to hold an educational program for judges of county courts in the Republic of Croatia as well.
24. Seminars on the application of the Convention were held in June 2004 (Split) and December 2005 (Zagreb) with the financial and logistic support of the German Foundation for International Legal Cooperation, and with the collaboration of the Ministry of Health and Social Welfare and the Judicial Academy of the Ministry of Justice.

Ensuring the safe return of children where issues such as domestic violence and abuse are raised

25. Issues of domestic violence or abuse do not often appear in proceedings according to the Convention. In evidentiary proceedings in these cases, the courts earnestly determine the groundedness of allegations concerning violence/abuse.
26. The child and the parent can be placed with the social welfare institution until the return.
27. The courts turn to social welfare centres in order for them to ensure protective measures with regards to the child and the parent.
28. In the Republic of Croatia there is a general intensification of awareness of the need of better protection of victims of domestic violence/abuse, so therefore the Government of the Republic of Croatia has passed a National Strategy of Protection Against Domestic Violence for the period from 2005 until 2007, and, as an operational document, the Rules of Procedure in Cases of Domestic Violence. The Rules of Procedure describe obligations of authorized authorities: police, social welfare, courts, schools and health care facilities in the event of violence, as well as the manner and content of their mutual cooperation.
29. The same answer as under 26. and 27.

30. No.

31. No.

32. No.

Standard questionnaire for newly acceding States

33. /

34. /

35. /

The Guide to Good Practice

36. The Guidebook to Good Practice is being used to a certain extent, but still insufficiently, primarily due to a deficient number of persons that work at the Ministry of Health and Social Welfare on matters related to the role of the Central Authority (currently, only one person and only a part of its working time).

37. Initiatives are ongoing for the passing of an implementation law on the application of the Convention, as well as initiatives for the determination of a smaller number of courts that would be authorized to render decisions on requests according to the Convention.

38. The Guidebook to Good Practice has been distributed as a part of educational materials at seminars held in the Republic of Croatia.

39. No.

40. Only recently, and for the first time in the Republic of Croatia, has the Central Swiss Authority submitted a request for deciding on a request for contact, about which request a decision has been rendered by an authorized municipal court. The discontented party has filed an appeal against the decision by which the request has been accepted and the same appeal has been rejected by the court of higher instance (county court).

41. No.

42. No.

43. No.

44. No.

Standardised consent form

45. Consent of another parent should be explicit and, if the parent withholds the consent due to unjustifiable reasons, it should be provided by an authorized court.

Statistics and case management

46. Unfortunately not, for reasons stated under number 36.

47. not useful, we believe that new software would be of great use to us.

Publicity/ debate concerning the Convention

48. The Convention has been commented in one case that has been presented to the media by a father, as well as, several times, by parents expressing their discontent with a decision and turning to the public authorities seeking assistance. In this way a certain circle of the public became familiar with the content of the Convention.
49. No.
50. All social welfare centres in the Republic of Croatia (80 territorially distributed centres) have been familiarised with the manner of proceeding in the event of a child being illegally taken away from the country. Since it is customary for citizens in the Republic of Croatia to first turn, with their family matters, to social welfare centres, the same citizens, when contacting the centres with regards to a child being taken away, receive instructions on the possibility of filing a request and the request form.
51. We are not familiar with associations in the Republic of Croatia that deal with issues related to the 1980, that is the 1996 Convention.

Services provided by the Permanent Bureau

52. We are unable to comment on them competently since the services offered have not been systematically monitored heretofore by the Central Authority of the Republic of Croatia.
53. No.

Compliance with the Convention

54. Answer is the same as under number 1. Considering all that was stated, the Ministry of Foreign Affairs suggested to the Central Authority (the Ministry of Health and Social Welfare) to propose a meeting of Central Authorities of the Republic of Croatia and Serbia for the purpose of eliminating communication difficulties. The meeting has not yet been realized.
55. Previous conduct of courts in the Republic of Croatia, we believe that there is no evasion of application of the Convention now.

Non - Convention cases and non - Convention States

56. We have had two cases when children were taken from the Republic of Croatia to countries that are not the signatories of the Convention (Taiwan and Iraq).
57. We have no suggestions.

58. No.

59. No.

Relationship with other instruments

60. None.

61. We believe that the UN Convention on the Rights of the Child from 1989 contributes to harmonization of standards on the substance of parental care in states that are the parties to the Convention on the Civil Aspects of International Child Abduction.

The Hague Convention of 1996 on Jurisdiction, Applicable law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children

62. This Convention has still not been adopted by the Republic of Croatia.

63. The Republic of Croatia is considering the adoption of this Convention.

64. No.

65. Yes.

66. The same answer as under 63.

Any other matters and recommendations

67. /

68. /