



MINISTÉRIO DA JUSTIÇA
INSTITUTO DE REINserÇÃO SOCIAL

Serviços Centrais

*The Portuguese Central Authority
Answering to the Questionnaire concerning the practical operation of the
Hague Convention of 25 October 1980 on the Civil Aspects of International
Child Abduction (2006)*

The role and functions of Central Authorities

1. Yes, the Portuguese Central Authority has a few communication problems with the Czech Republic and some of the South America countries. In order to expedite communications and bearing in mind the urgency of the procedure and the requirements of confidentiality we use fax or mail.
2. Yes, the Portuguese Central Authority would like to call the attention of the Hague Conference to the translation of the documents which causes great delays.
3. No, we do not. Currently, the Portuguese Central Authority hasn't any institutional policy towards the dissemination of the Convention contents in spite of being conscious of the importance of the issue. However, the Portuguese Central Authority is preparing in its new website all the links recommended by the Conference Good Practice Guide.
4. In what concerns to the international child abduction there is no practice on mediation in Portugal neither directly by the Central Authority nor by other agencies. Regarding to the parental responsibility, an agency which depends from the Ministry of Justice assumes the mediation.

Court proceedings

5. No.
6. Yes, in Portugal this matter concerns to the Family and Minors Court, by law (Decree-Law n.º 246-A/2001, of September,14).
7. The Portuguese Central Authority tries with its depressed resources to deal promptly and expeditiously with the transfer of the applications to the competent Courts.
8. Portugal has its own legislation on legal aid and advice but it causes some delays on the conventional proceedings.
9. The Portuguese law allows the hearing of a child. It just depends on the Court's will. The judge shall evaluate the under 12 years old children's degree of maturity for that purpose. Usually the children above 12 years old are heard by the Portuguese Courts. Most of the time, the children's opinion is relevant for the decision; the value of the minor's point of view is, however, always dependent from the judge's discretion.
10. No, it never has been invoked.



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Legal issues and interpretation of key concepts

11. The Portuguese Constitutional Law has no procedures or principles which make difficult to implement the Hague Convention.
12. Yes, there are.
13. Yes. The Portuguese authorities have introduced the flowed terms for the paragraph(es):
 - h)** and **i)** The *Promotion and Protection Law for the Children and Young in Risk* (Lei de Promoção e Protecção das Crianças e Jovens em Perigo) entered into force in January 1, 2001, and in its article 3 turned into clear the notion “danger/risk” under the Portuguese internal law.
 - k)** The same law established that 12 years is the reasonable age for a child to be heard by the Court.

Direct international judicial communication

14. Only a few direct communications are made through the European Judicial Network in Civil and Commercial Matters.

Immigration / asylum / refugee matters

15. No.
16. No.
17. No.
18. No.

Criminal proceedings

19. When Portugal is a Requested State, the Central Authority establishes the competent contacts with the others agents like the Courts, INTERPOL, SIRENE, etc.

Mediation

20. No, but the Portuguese Central Authority is now studding the possibility of increasing his team with psychologists, in order to start doing mediation. The Portuguese Central Authority wishes to start this kind of measures at the beginning of the proceedings.
21. -----
22. On our point of view, this kind of measures should be reinforced considering its great advantages for both parties - for the national authorities in general involved on a conventional case and namely for the children.



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Training and education

23. The conclusions and recommendations of these kinds of seminars and conferences are very important because they are the support information which allows that the Central Authorities can apply better the Convention.
24. The Portuguese Central Authority has participated only in two training sessions, at the Centro de Estudos Judiciários (Formation School for Prosecutors and Judges), one in 2003 and another in June, 2006.

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

25. In general no, but occasionally it happens.
26. For the moment, these procedures are not being practised.
27. The Courts do not implement this kind of *undertakings*.
28. No.
29. The Portuguese Central Authority does not know if these kinds of requests have been made by the Courts.
30. No.
31. No.
32. No.

Standard questionnaire for newly acceding States

33. Portugal is not an acceding State.
34. The Portuguese Central Authority does not promote directly the answer to this kind of questionnaire.
However, when questioned in relation to a new accession, the Portuguese Central Authority reports its statement through the Ministry of Foreign Affairs or the Office for the International, European and of Cooperation Affairs (GRIEC-Gabinete Para as Relações Internacionais, Europeias e de Cooperação).
35. When demanded, the Portuguese Central Authority makes a statement about the acceding State in question.

The Guide to Good Practice

36. The first and second parts of the Good Practice Guide are duly accomplished. However, our Central Authority is not implementing the third part of that Guide yet.
37. The Portuguese Central Authority is now improving its activity, being restructured and has been taking the Good Practice Guide as reference in the process.



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38. The Portuguese Central Authority is now implementing its website, in which will be a link to the *Hague Conference on Private International Law* allowing the access to that Guide.
39. Yes, the Portuguese Central Authority would like to tell that the information campaigns could be done using *posters* distributed to the police authorities and NGO's.
40. There were not developments on this matter until now.
41. Yes, the Portuguese Central Authority would like to suggest that the Hague Conference introduces the child access right to relatives, namely to the grandparents of a child.
42. Yes, the Portuguese Central Authority would like to propose the grandparent's access right. This kind of right was introduced in the Portuguese Civil Code (section 1887-A), by the modifying Law n° 84/95, of August, 31.
43. No, the Portuguese Central Authority has not.
44. No.

Standardised consent form

45. The Portuguese Central Authority considers that there are all the advantages to have a standard form to be used when a child travels abroad. In Portugal, the Portuguese Service for Foreigners and Borders (*Serviço de Estrangeiros e Fronteiras*) offers through its website two standard forms (one for Portuguese children and other for foreigner children – *vd. www.sef.pt*) to be fulfilled by the child guardian when a child travel abroad.

Statistics and case management

46. Yes, the Portuguese Central Authority when requested presents its statistics to the Hague Convention.
47. The Portuguese Central Authority has no software now to manage the cases. However, new software is being studied by our Informatics Service. We are interested to know how the iChild program works.

Publicity / debate concerning the Convention

48. Unfortunately no.
49. We think so. The Portuguese Central Authority is concerned about the practical application of the Convention on the different kinds of decisions that have been pronounced.
50. None.
51. Yes, the Portugal Central Authority would like to bring up to date that there is a privileged NGO that is related to the Convention of 1980, which is the Institute of Child Support [*Instituto de Apoio à Criança (IAC)*], a partner to the project (Promoting Integrated European policies on missing and sexual



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exploited children) developed through the Childscope. Its contact details are the following: address: Largo da Memória, n.º 14 1349-045 LISBOA Phone: 00 351 213 617 880, Website: www.iacrianca.pt, Email: iacsede@netcabo.pt. There is another institution that specifically works on parental abduction matter which is the Portuguese Association for Victim Support (APAV - Associação Portuguesa de Apoio à Vítima) and its contacts are: Rua do Comércio n.º 56 – 5.º (headquarters + 12 local points), 1100-150 Lisboa, Portugal, Phone: +351 21 888 47 32, Email: apav.sede@apav.pt, Website: <http://www.apav.pt>.

Services provided by the Permanent Bureau

52. The Portuguese Central Authority considers of a great utility the Hague's Conference support on the different aspects of The Hague Convention 1980 implementation.
53. No, we have not.

Compliance with the Convention

54. Yes. The Portuguese Central Authority has some difficulties with efficient and expedite communications with some countries namely with the Czech Republic and some States from South America.
55. No, we have not.

Non-Convention cases and non-Convention States

56. Yes, the Portuguese Central Authority is aware of some troubles cases with the East and Arabian Countries.
57. Yes, we would like to count under the Hague Conference the African Countries which integrates the *Palop's Community*. (countries which official language is Portuguese).
58. No, Portugal has none agreements with Non-Contracting States.
59. No, the Portuguese Central Authority has not.

Relationship with other instruments

60. As the Council Regulation is complementary to the Convention, and the procedures sometimes are not very clear on the cases which have been presented to our Central Authority, from time to time it is difficult to accomplish the delay stipulated in the Convention.
61. Yes, the Portuguese Central Authority would like to inform when the *1980 Hague Convention* is applied the main principles of the *1989 United Nations Convention on the Rights of the Child* are commonly observed.

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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. Yes, the Portuguese Central Authority would like to inform that the *1996 Hague Convention* was signed by Portugal in April 1, 2003, but it has not been ratified yet. However, it is important to bear in mind that Portugal made a declaration to this Convention, in the following terms:

Articles 23, 26 and 52 of the Convention allow Contracting Parties a degree of flexibility in order to apply a simple and rapid regime for the recognition and enforcement of judgments. The Community rules provide for a system of recognition and enforcement which is at least as favourable as the rules laid down in the Convention. Accordingly, a judgment given in a Court of a Member State of the European Union, in respect of a matter relating to the Convention, shall be recognised and enforced in Portugal by application of the relevant internal rules of Community law.

63. No, the *1996 Hague Convention* has not entered into force in our country.

64. No.

65. Yes, for the countries which have signed, ratified and apply the *1996 Hague Convention*.

66. In the first phase, Portugal has considered to ratify this instrument of private international law, but later reviewed its position after the entry into force of the Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 2201/2003 of the European Union.

Any other matters and recommendations

67. The Portuguese Central Authority would like to accept the invitation made by *The Hague Conference*, suggesting the implementation of the following items on your web page:

- information about the judicial holidays that are practiced in all Contracting States Courts;
- an automatic program for reliable (namely juridical) and expedite translations.

68. The Portuguese Central Authority has no proposals to do concerning the recommendations made by the Special Commission.



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ATTCHMENT

Adresse	Portugal – Autorité Centrale/Central Authority
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Conventions	Convention du 25 octobre 1980 sur les aspects civils de l'enlèvement



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	<p>international d'enfants [28] Convention du 5 octobre 1961 concernant la compétence des autorités et la loi applicable en matière de protection des mineurs [10]</p>
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