

## I. LEGAL BASES FOR THE ENFORCEMENT OF HAGUE RETURN ORDERS

1. Please give details of any *specific* legislative provisions which exist in your State concerning the enforcement of return orders under the 1980 Hague Convention. Please specify the title of the instrument, its legal nature (law, decree, administrative regulation or rules of court etc.) and short description of content.

*There are no specific legislative provisions in the Slovak legal system concerning the enforcement of return orders under the 1980 Hague Convention.*

2. Please give details of any *general* legislative provisions which exist in your State concerning the enforcement of court orders in the area of family law and govern the enforcement of return orders under the 1980 Hague Convention (either in the absence of specific provisions under question I.1 or in addition to any such specific provisions). Please specify the title of the instrument, its legal nature (law, decree, administrative regulation or rules of court etc.) and the content of the relevant provisions.

*General legislative provisions which exist in the Slovak legal system concerning the enforcement of court orders in the area of family law and govern the enforcement of return orders under the 1980 Hague Convention are provided by the Code of Civil Procedure. (See the enclosure-Articles 272-273c).*

3. Please give details of any judicial decisions, practice directives or guides concerning the enforcement of court orders in the area of family law that govern the enforcement of return orders under the 1980 Hague Convention (either in the absence of specific provisions under question I.1 or in addition to any such specific provisions).

*There are no such judicial decisions, practice directives nor guides available in our system.*

4. Do you have any other comments relating to the law governing enforcement of Hague return orders, including any comments on the effectiveness of these rules?

*No, we do not.*

## II. ENFORCEABILITY AND LEGAL REMEDIES

1. a) Is a Hague return order subject to appeal or other forms of challenge? Please give details (number and character of legal remedies, possible time-limit for them, possible time-limit for appellate court or court of appeals to decide etc.).

In the Slovak legal system a Hague return order is subject to appeal or other forms of challenge.

- **Appeal** – ordinary remedy , time-limit for making an appeal is 15 days since the resolution was served and 30 days since the judgement was served. An appeal can be filed in respect of not final decision. There is no time limit

*provided by the Slovak legal system for the court to decide. The court has 24 hours or 7 days time-limit only in case of making the decision about the provisional measure. ( see answer III.C.8 ).*

- **Retrial** – extraordinary remedy - the party can only file a petition for retrial against final decision. Retrial is not admissible against judgments in marital matters (divorce...) and against judgements of which the abolishment or change can be made in another way. The party must file a petition for retrial within 3 months since he/she has heard about the reasonable ground for such a filing. The first instance court decides about the retrial.
- **Review** – extraordinary remedy – the party can file a petition for review against final decision of the court of second instance within 1 month since such decision becomes final.
- **Special review** – extraordinary remedy – can be filed against final decision by the general attorney within 1 year since since the decision of the 1st instance court becomes final.

- b) Please specify whether any such challenge may only be made once, and which court or body has jurisdiction to hear the appeal.

*An appeal and other three kinds of legal remedies may only be made once. Court of the second instance has jurisdiction to hear the appeal, the first instance court hears the retrial and the review and the special review is heard by the Supreme Court.*

2. a) Please give details of any authorisation or other decision required for the actual enforcement of the Hague return order (e.g. registration for enforcement, declaration of enforceability, order of a specific enforcement measure or other).

*Hague return order can be enforced under the Slovak legal system only when the conditions of finality and enforceability are met. Judgement must be final and enforceable (voluntary compliance). If the enforceable decision was not complied with in the time-limit for its voluntary compliance, the application for the enforcement of such decision can be filed.*

- b) Which is the competent organ for these decisions?

*A district court, if the law doesn't say anything else.*

3. Does the Hague return order have to be final and no longer subject to ordinary appeal before any authorisation for enforcement or other measure specified under II.2 may be ordered?

*Yes, in general, the Hague return order has to be final and no longer subject to ordinary appeal before any authorisation for enforcement or other measure specified under II.2 may be ordered.*

4. a) Are any of the decisions specified under II.2.a) (authorisation to enforce or other decision) subject to appeal independent of any appeal against the merits of the return order? Please give details (number and character of legal remedies, possible time-limit to lodge them, possible time-limit for appellate court or court of appeals to decide etc.).

*They are not subject to any appeal independent of any appeal against the merits of the return order.*

- b) Please specify whether any such challenge may only be made once, whether it suspends the enforceability / enforcement of the order and which is the court or body to decide the appeal.
5. If in your State both types of legal remedy as specified under II.1 and II.4 (*i.e.* against the order on the merits and against any decision taken at or required for the enforcement stage) exist, can they be lodged simultaneously? Is it the same court that deals with them if they are lodged (a) simultaneously, and (b) at different times?
6. Do you have any other comments relating to legal remedies and the enforcement of Hague return orders?

*No.*

### **III. ENFORCEMENT PROCEDURE**

#### **A. The order to be enforced and the aims of enforcement**

1. If an application for return of a child under the 1980 Hague Convention is successful, what is normally ordered:
- a) the surrender of the child to the applicant (if necessary, “for the purposes of returning the child to his / her State of habitual residence”)
  - b) *the return of the child to State X***
  - c) other?
2. If such order has to be enforced, please specify which of the following is / are normally the aim of enforcing a return order:
- a) to remove the child from the abductor or any other person
  - b) to hand the child over to the applicant or a person designated by him or her in the State where enforcement takes place
  - c) *to ensure the child's return to his or her State of habitual residence***
  - d) other.

3. Whose responsibility is it to organise the repatriation of the child?

*In accordance with Article 7 letter h) of the Hague Convention Central Authorities co-operate with each other to ensure the prompt return of the child in cooperation with the applicant.*

*( All responses can be applied also to the enforcement of contact orders.)*

## **B. Actors involved in enforcement**

1. Once a return order is made, is a specific request for enforcement necessary?

*When the abductor does not voluntarily comply with a return order in a period of time mentioned in a return order, the petition for enforcement is filed with the competent court.*

2. Please specify who initiates enforcement of the court's return order:

- a) the applicant (in person or through his or her lawyer)*
- b) the Central Authority*
- c) the court*
- d) the enforcement organ itself*
- e) other.*

*In accordance with Article 8 and 29 of the Hague Convention the person/authority who has filed a petition for a return of the child with a court is also eligible to initiate enforcement of the court's return order.*

Where the law leaves choices or discretion, please give details concerning actual practice.

3. a) Please give details of the persons, organs and institutions (*e.g.* enforcement organs, court, parties, psychologists, social workers, Central Authorities, other) involved in the enforcement of return orders under the 1980 Hague Convention
- i) according to the law: claimant, defendant, a judge, competent local authority, welfare authority*
  - ii) in practice: Central Authority, social workers, psychologists...*

Please describe their respective roles and functions in enforcement, and whether their participation is mandatory. If this is not the case for some or all of the actors mentioned, please specify who decides about their respective participation and to what extent they are normally involved in Hague return cases (regularly or exceptionally and, in the latter case, depending on which conditions).

- b) In particular, are any social or psychological services available in order to prepare the child and / or the defendant for the return in order to de-escalate or even avoid enforcement by coercive measures?

*Local social services and psychological centers are available. The assistance of the mentioned institutions is based on a voluntary basis of the abductor and other involved persons.*

- c) Please specify also whether presence of the applicant (or a person designated by him or her) is required and, if this is the case, at which stage of the enforcement proceedings and for what purpose.

*No.*

*( All responses can be applied also to the enforcement of contact orders.)*

4. a) Is there any supervision / control of the enforcement procedure by a court, the Central Authority or any other State authority? If a court is supervising / controlling the enforcement procedure, which court is it? The court that made the order or other (e.g. a specific enforcement court)?

*Yes, there is supervision / control of the enforcement procedure by the 1st instance court, i.e. the court that made the order.*

- b) What if the court of first instance refused return, and the appellate court or court of appeals ordered return? Would the court of first instance, the appellate court or court of appeals which ordered return, or any other court be the court supervising / controlling enforcement in such a case?

*In case the first instance court refused return and and the appellate court ordered return, the court of first instance would be the court supervising / controlling enforcement.*

### **C. The enforcement procedure proper**

1. Is there a timeline for enforcement?

*No, there is no timeline for enforcement.*

2. Is it normal to allow a period of time for voluntary compliance with a return order or to allow appropriate practical arrangements for the return of the child to be made?

*General period of time provided by the Code of Civil Procedure for voluntary compliance with a return order is 3 days unless the judge orders special time period in such order. (Also see Article 272 Para 3 of the enclosure).*

3. Are any measures available in order to prevent the abductor from taking the child into hiding after the return order is made and before it can be enforced? In the affirmative, please give details.

*No, there are no measures available in order to prevent the abductor from taking the child into hiding after the return order is made and before it can be enforced. (child abduction is a criminal offence under our Criminal Code).*

4. What happens if the child is taken into hiding after the order was made and before it can be enforced? Which actors would be involved (e.g. Central Authority, police, public prosecutor, other) and which measures can they take to locate the child? What is the effect of the hiding on a possible timeline for enforcement?

*The abductor can be prosecuted. Police, investigator, eventually prosecutor (also see Article 272 Para 2 and Article 273 Para 1,2 of the enclosure) would be involved.*

5. When enforcement is initiated, what are the required steps (e.g. measures by the applicant, the court or any other supervisory authority, and the enforcement organs)?

*See the enclosure.*

6. Which coercive measures are available and under what conditions (e.g. pecuniary fines, physical force [against whom? the child? the defendant? others?], detention)? Which of these are normally used in practice?

*See the Article 273 Para 1,2 of the enclosure.*

7. a) Do they have to be ordered specifically (i.e. either “fine”, “physical force”, “detention”)? If so, when and by whom?

*Yes, by the court, if all conditions prescribed by law are met.*

- b) If problems occur during enforcement, may the enforcement organs unilaterally “upgrade” the intensity of coercive measures, or do they have to obtain authorisation from any particular higher authority (e.g. an enforcement court or other)? Please specify.

*They must have a permission by the court, which orders enforcement.*

8. Please give details of any court orders which can be obtained in emergency situations. Can these orders be obtained after hours and *ex parte*?

*The court may issue so called „provisional/preliminary measures“. In cases of care for minor children such measures can be taken *ex officio*. They are taken *ex-parte*, but cannot be obtained out-of-hours. The court is obliged to issue such measure*

*relating to a child within 24 hours (the shortest time limit), in other cases court has 7 days to render a decision.*

#### **D. Costs**

1. Are costs incurred for the enforcement? If so, are they part of the costs of the court proceedings as a whole? How are they calculated? For which services are they charged?

*Yes, costs are incurred for the enforcement and they are not part of the costs of the court proceeding as a whole. They are paid for filing an application for enforcement in the amount of 500 Slovak crowns.*

2. Who has to pay the costs for enforcement? To whom? Is a reduction or exemption possible, e.g. under a Legal Aid Scheme? Under which conditions? In particular, is advance payment required in order for the enforcement organs to act? If legal aid was granted for the proceedings leading to the return order, would it cover the enforcement stage or would the application for legal aid have to be renewed?

*The costs are always paid by an applicant to the court. The exemption is only possible according to the law ( which in this case it's not applicable ). To order an enforcement, there must be an advanced payment. If a person asks for a free legal aid, he or she has to ask for it also in the enforcement proceedings.*

3. Are the costs of the actual repatriation of the child (e.g. airfare for child and possible accompanying person) considered as part of the enforcement costs? Who has to pay for the repatriation? Is advance payment a condition for enforcement?

*The costs of the actual repatriation of the child are not considered as a part of the enforcement costs. Costs for the repatriation of the child usually has to be payed by the applicant. In cases of voluntary return of the child these costs are paid by the applicant and the abductor after their agreement. The advance payment is not a condition for enforcement.*

4. Please specify how foreign applicants are provided with information about enforcement costs to be borne by them.

*The Central Authorities informs the Central Authority abroad about enforcement costs born by the applicant and the latter informs the applicant.*

*( All responses can be applied also to the enforcement of contact orders.)*

5. Please provide details regarding the enforcement organs' specific duties as they relate to the enforcement of Hague return orders concerning children.
6. Do you have any other comments relating to the enforcement procedure?

*No, we do not.*

#### **IV. STATISTICAL INFORMATION**

1. How many Hague return orders that you are aware of were made per year in your country in 2001, 2002 and 2003? How many of them had to be enforced in each of these years because the abductor did not comply voluntarily with the order? Please give the figures for each year separately.

*There were no Hague return orders made in our country in 2001, 2002. In 2003 there was one Hague return order made in our country. This return order made in 2003 was not enforced.*

2. How many Hague return proceedings were pending in your country that you are aware of for 2001, 2002 and 2003? Please give figures per year. In how many of these cases was a legal challenge made in order to avoid enforcement (by challenging either the order on the merits, the declaration of enforceability, a particular enforcement measure or other)? If possible, please specify the type of challenge (on the merits or against an enforcement measure).

*There were no Hague return proceedings pending in our country in 2001. In 2002 we had two Hague return proceedings and in 2003 we had six Hague return proceedings pending in our country. There were three cases in 2003 in which a legal challenge was made, in all of these cases the order on the merits was challenged.*

3. How many of the legal challenges at the enforcement level (*i.e.* not on the merits) were ultimately successful (*i.e.* the order was not enforced)?

*There were no legal challenges at the enforcement level in our country.*

4. What is the average length of enforcement proceedings from the moment the order is made until the moment the child is (a) removed from the abductor and (b) repatriated?

*In accordance with the point 3 we do not have such information at our disposal.*

#### **V. CO-OPERATION**

1. Please give details of any co-operative agreements existing between different agencies within your State, either formally or informally, with regard to the enforcement of Hague return orders. How did this co-operation develop?

*The Centre as a Central Authority has not concluded any formal or informal cooperative agreements concerning the enforcement of Hague return orders. The cooperation between the state bodies is specified by the Act on Social Assistance and by other domestic acts.*

2. Please give details of any co-operative agreements with other States, either formal or informal between different Central Authorities or agencies, or at the judicial level, with regard to the enforcement of Hague return orders. How did this co-operation develop?

*The Centre has not concluded any formal or informal agreements with other Central Authorities abroad.*

3. Please provide details (including contact details, websites etc.) of all agencies in your State which have a role to play in the enforcement of Hague return orders.

*All information can be found on our web site ([www.cipc.sk](http://www.cipc.sk)). We do not have any knowledge about other agencies in our country playing role in the enforcement of Hague return orders.*

4. Do you have any other comments relating to co-operation, including any comments on the effectiveness of co-operative agreements?

*It would be useful to exchange the information between the Central Authorities of the contracting states to the Hague Convention by way of informal meetings of deputies of the Central Authorities.*

*( All responses can be applied also to the enforcement of contact orders.)*

## **VI. TRAINING AND EDUCATION FOR PROFESSIONALS**

1. Please give details of any training or education that is available in your State for professionals (including, judges, Central Authority personnel, lawyers, mediators, enforcement organs [e.g. bailiffs], police officers, and social workers) as a means of preparing them to enforce Hague return orders or decisions in family law matters in general.

*Possibilities of training and education available in our country: attendance on seminars for judges, working session in presence of the officers of the Ministry of Labour, Social Affairs and Family of the Slovak Republic, officers of the Centre, police officers and social workers. Attendance on the working meetings of the consular department of the Ministry of Foreign Affairs of the Slovak Republic.*

2. Who provides this training and education?

*This training and education of the social workers is provided by the Ministry of Labour, Social Affairs and Family of the Slovak Republic in cooperation with the Centre as the Central Authority in the Slovak Republic. The training and education of judges is provided for by the Judicial Academy.*

3. What form does this training take and how regularly does it occur? Does joint training of different professional groups which have to co-operate in the enforcement of Hague return orders (e.g. judges, bailiffs, police officers, social workers) also occur?

*The training takes place as a working meeting and consultation of individual working groups, it is provided for by the individual central state administration bodies. The Centre does not have any information on the preparation of experts. The only information we have about the forms of education are those where the representative of the Centre attends or attended.*

4. Do you have any other comments relating to training and education of professionals, including any comments on the effectiveness of this training and education as a means of facilitating the enforcement of Hague return orders?

*Concerning the activity of the central state administration body it would be appropriate to create a working group containing the European state of play in order to exchange the knowledge and information concerning international child abduction and seminars for the representatives of the Central Authorities.*

*( All responses can be applied also to the enforcement of contact orders.)*

## **VII. OTHER INFORMATION**

1. Please give details of any web pages, and provide copies of any brochures, or information packs or similar materials which contain information or advice on the enforcement of Hague return orders in your State and which are available to parents, including applicants from abroad.

*[www.cpic.sk](http://www.cpic.sk), brochure on the activities of the Centre. Information and advices can be provided by the local social offices in cooperation with the Centre and the Ministry of Labour, Social Affairs and Family of the Slovak Republic.*

2. Who provides this information? When was it compiled? When was it last updated? How is the information made available and in which language(s)?

*The information was compiled at the end of year 2002, the last update was on March 1, 2003 and it is still continuously updated. The information are purveyed by the internet, our brochure is available at the local social offices. Information are available in Slovak and English languages.*

3. Do you have any other comments relating to information for parents, including any comments on whether such information is effective in assisting the left-behind parent in having his or her return order enforced?

*It is necessary to increase the knowledge of individuals on child abduction cases by way of all accessible mass mediums.*

4. Please provide any other information which may be relevant to the issue of the enforcement of Hague return orders.

*Please see other responses.*

5. Please provide details of any other bodies or authorities in your State who may have information useful to the research covered by this questionnaire.

*Ministry of Justice of the Slovak republic, courts in the Slovak Republic, local social offices.*

6. Have you any general comments to make regarding the enforcement of Hague return orders?

*We do not have any.*

7. Are there any changes envisaged in your legislation and / or practice? If this is the case, please give details in the answer to the respective question and indicate as of when such changes will take effect.

*( All responses can be applied also to the enforcement of contact orders.)*

## **VIII. ORDERS GRANTING RIGHTS OF CONTACT / ACCESS /VISITATION**

For each reply, please indicate whether the same applies to the enforcement of contact orders. If this is not the case, please give details concerning the latter.

Where the contact order refers to a specific period of time (*e.g.* where the child is to spend “the first part of the 2004 summer holidays from 1 to 20 July 2004” with the applicant) and is not complied with, please explain also whether coercive measures can be applied only as long as the period mentioned in the order contact has not yet expired (*i.e.* in order to implement the order), or also afterwards (*i.e.* as a sort of punishment although contact during this particular period can no longer be implemented). Please indicate also whether the same rules apply to the enforcement of domestic and foreign contact orders. If this is not the case, please specify the differences.

*Concerning statistical information there was only one case in 2003 pending in our country in matter of right of access.*