



International Child Abduction

This fact sheet informs you on how the Dutch Central Authority on International Children's Issues can help you in the event of an international child abduction case.

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1. What is international child abduction?

It is international child abduction if a child is transferred or kept behind in a different country by one of the parents (or by other relatives in exceptional cases). This is a criminal offence (section 279 of the Criminal Code).

There are incoming and outgoing international child abduction cases. If it is an incoming case, it concerns the abduction of a child by one of the parents from another country to the Netherlands. If it is an outgoing case, it concerns the abduction of a child by one of the parents from the Netherlands to another country.

There are about 60 incoming cases on average per year with the request to lead the child or the children back to another country. There are about 110 outgoing cases of children having been abducted to another country with the parent who stayed behind asking for the child to be led back to the Netherlands.

2. Which international agreements to fight the international child abduction also apply in the Netherlands?

There are two international agreements to fight international child abduction: a European Convention¹ and an international convention² (the so called 1980 Hague international child abduction convention). Both conventions became effective in the Netherlands on 1 September 1990. In addition the European Brussels IIbis Regulation has been effective since March 2005. The Brussels IIbis Regulation also contains provisions on international child abduction concurrent with the Hague Convention.

Both conventions aim to ensure that a child (until the age of 16) returns to the country where the child had its habitual place of residence when that child has been removed to another country by one of the parents (the parent removing the child) without permission of the other parent (the parent who is staying behind). Legal proceedings regarding custody of the child and its place of residence are to be conducted in the country of origin (the child's habitual country of residence). The Hague International Child Abduction Convention comprises clear and unambiguous international agreements on how to tackle international child abduction.

Nearly 100 countries have implemented the convention meantime and are working in accordance with the international agreements as laid down in the Hague International Child Abduction Convention (see for the Convention and the current state of affairs of member countries http://www.hcch.net/index_en.php?act=conventions.text&cid=24).

3. How is the Hague Child Abduction Convention enforced?

To enforce the Hague International Child Abduction Convention and the European Convention, every country signing these conventions needs to have a Central Authority, i.e. a body where parents or relatives can report a potential case of international child abduction. The parent who stayed behind can appeal to another member country of the Convention where the child is staying via the Central Authority by submitting a request for return. The Convention also helps with the set up or continuation of international visitation rights. Via the Central Authority in the country where the child is staying, a (legal) procedure is then started to return the child as quickly as possible, in accordance with the Hague Child Abduction Convention, to the

country where the child had its habitual place of residence, and/or the parents agree on visitation rights.

4. What is the role of the Dutch Central Authority?

The Dutch Central Authority is the responsibility of the Minister of Security and Justice. The Dutch Central Authority as part of the Ministry of Security and Justice is responsible for the tasks as described in the Hague International Child Abduction Convention being carried out. Parents who stayed behind (in the Netherlands or abroad) can submit a request for return (of the child to the country in which the child had its habitual place of residence) to the Dutch Central Authority. Parents who stayed behind abroad may be assisted by a foreign Central Authority or a (Dutch) attorney. Parents who stayed behind in the Netherlands can contact the Dutch Central Authority directly themselves in outgoing cases. If a request for return or visitation rights has been submitted to the Dutch Central Authority, the Dutch Central Authority oversees the enforcement of the agreements as per the Conventions.

5. What does the Dutch Central Authority do in incoming cases?

A parent, guardian or foreign Central Authority can request the return of a child to the country where the child had its habitual place of residence from the Dutch Central Authority. The Dutch Central Authority will then conduct an intake interview containing the following activities: Assess if the conditions of the Convention have been met and localize the parent who removed the child and the child itself in the Netherlands. Both parents are informed by the Dutch Central Authority on the results of the intake interview. If the international child abduction conditions as meant in the Hague Child Abduction Convention have been fulfilled and the parent who removed the child and the child itself have been localized in the Netherlands, the Dutch Central Authority will refer both parents to (specialized) attorneys at law. Both parents will also be informed of the possibility to ensure voluntary return of the child via mediation. If there is no voluntary return, the attorney of the parent who stayed behind can start a legal procedure at the district court in The Hague. The child is returned or it can stay in the Netherlands subject to the result of the legal procedure. If the Dutch Central Authority receives a request for return (or visitation rights) from a country that is not a member of the Hague International Child Abduction Convention, the Dutch Central Authority will deal with this request in the same way as if it were a member state. In other words, the Central Authority will make the same effort to localize the parent and the child as for a request from a member

¹ The European Convention on the recognition and enforcement of decisions concerning custody of children, Luxemburg, 20 May 1980.

² The Convention on the Civil Aspects of International Child Abduction, developed by the Hague Conference for International Private Law, The Hague, 15 October 1980.

state. Subsidized mediation is also available. The Guide to the International Child Abduction Procedure for incoming cases³ is available for a detailed description of the way of working for incoming cases.

Vice versa, for a request for return to the Netherlands from a country that is not a member state of the Hague International Child Abduction Convention, the completion depends on the internal law of the country concerned. See the following under outgoing cases.

6. What does the Dutch Central Authority do in outgoing cases?

If a child was removed from the Netherlands without the permission from the parent who has stayed behind, the parent concerned can contact the Dutch Central Authority to submit a request for return of the child or visitation rights. An intake interview will then be held by the Dutch Central Authority. An interview is held with the parent who has stayed behind and a number of specific documents is asked for. Based on the results, the Dutch Central Authority assesses if it concerns a case of international child abduction as meant in the Hague Child Abduction Convention. If this is the case, the Dutch Central Authority will draw up a request for return or visitation rights and submit it to the foreign Central Authority of the country where the child (and the removing parent) will be staying. The foreign Central Authority will assess the request of the Dutch Central Authority, after which the removing parent will be contacted by the foreign Central Authority with the request to return the child to the Netherlands. If the removing parent fails to do so, a (legal) procedure will be started to get the child back to the Netherlands as quickly as possible. The Dutch Central Authority provides the communication with the parent who has stayed behind and with the foreign Central Authority during the time the foreign Central Authority is dealing with the request for return. The Dutch Central Authority uses the same procedure as described above for children who have been abducted to countries which are not member states of the Hague Child Abduction Convention, except that the request for return is not submitted to a foreign Central Authority but to the Dutch Ministry of Foreign Affairs. Contact with the removing parent or with a government body in the country concerned is attempted through diplomatic channels in order to realize the return of the child. The Guide for International Cases of Child Abduction to Foreign Countries is available for a detailed description of the way of working for outgoing cases⁴.

7. What else does the Central Authority do?

Besides support in international child abduction cases, the Dutch Central Authority also offers support in cases regarding international child protection pursuant to the 1996 Hague Child Protection Convention⁵. This concerns International requests for a foster care placement, a foster care offer, Kafala (foster care) placements and (transfer of) child protection measures. The Dutch Central Authority also takes incoming and outgoing requests under the Hague Child Protection Convention. The Dutch Central Authority takes on about 170 cases under the Hague Child Protection Convention a year.

8. What should a parent who stayed behind do if his/her child was removed from the Netherlands?

International child abduction may be concerned if the parent who has stayed behind has not given the removing parent permission to remove the child for permanent residence in another country or if the parent who has stayed behind has not given permission to keep the child behind. If the child has been abducted, the parent who has stayed behind (or the guardians) can take the following action:

Report to the police.

If the parent who has stayed behind has the suspicion that the child is being removed to another country without the permission (report) or as soon as the abduction has taken place or the keeping behind has become clear (file a report), the parent who has stayed behind can inform the police. With a report the removing parent can be stopped by the police, for instance at Schiphol Airport. In case of a filed report, the police is informed of a criminal offence and prosecution can be started. A criminal procedure is then started under the responsibility of the public Prosecutor. A criminal procedure can have a large impact on the further relationship between the parents of the child.

Inform the Dutch Central Authority

The parent who has stayed behind has to contact the Dutch Central Authority to submit a request for return (or for visitation rights) to the foreign Central Authority. A request for return is then dealt with via a civil procedure in the country of the removing parent.

Information to be obtained from the International Child Abduction Centre

The Centre offers current information, advice and support to anyone who comes in contact with (imminent) international child abduction in their personal or professional environment.

³ <http://www.government.nl/documents-and-publications>

⁴ <http://www.government.nl/documents-and-publications>

⁵ Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children

Mediation

It is advisable in the interest of the child that parents find a way to solve their problems together. Mediation is therefore preferred over a legal procedure. The interest of the child and a permanently positive relationship with both parents and other relatives are key in mediation. The mediation Bureau (part of the International Child Abduction Centre) offers wide information on cross border mediation in the event of an (imminent) removal without permission of a child to another country. Cross border in this case means that the parents have or want to have their habitual place of residence in different countries. Mediation offers parents the opportunity to make arrangements on the place of residence of the child concurrent with the needs of the parents, taking into account the division of the parenting responsibilities.

Finding an attorney

If the parents cannot come to an agreement together (for instance through mediation) a legal procedure can be started. This concerns a civil legal procedure (via the Hague Child Abduction Convention) or a criminal procedure (via a report filed at the police). It is preferred for the best interest of the child that the parents take civil action first. Prior to a criminal procedure, the Public Prosecutor will point out the possibility of a civil procedure via the Hague Child Abduction Convention to the parent who has stayed behind. That means specifically that in most cases there is a civil procedure first and then a criminal procedure.

The parents are assisted in the civil procedure in the Netherlands or abroad by an attorney. Parents can appoint an attorney themselves. They can also get advice from the International Child Abduction Centre on specialized Dutch or foreign attorneys in international child abduction cases.

Legal Aid

Parents can apply for legal aid in child abduction cases. More information on legal aid is available on <http://rvr.org/binaries/about-rvr/legal-aid-in-the-netherlands-2011-05-23-ilag.pdf>. Information is also available via the Dutch Central Authority or the International Child Abduction Centre.

Return

If the court decides that the child has to return to his or her parent or guardian abroad, then the child has to be returned. Different parties are involved in this process. A cooperation protocol has been drawn up for this purpose: <http://rijksoverheid.nl/documenten-en-publicaties/brochures/2011/07/01/samenwerkingsprotocol-gedwongen-tenuitvoerlegging.html>

9. What is the difference between the Dutch Central Authority and the International Child Abduction Centre?

The Dutch Central Authority deals with parents' requests for return of the child to its habitual place of residence or for establishing visitation rights. In outgoing cases, the Dutch Central Authority assists requesting parents in completing his or her request, so that it can be sent to the Central Authority of the country where the child is staying. The Dutch Central Authority then keeps the parents informed of all developments in his or her case. In incoming cases, if the Central Authority receives a request form abroad, the Central Authority deals with the request and checks if the documentation for the request is complete. The Central Authority will then inform the parent who is in the Netherlands about the request of the other parent. The Central Authority will also try to persuade both parents to have an amicable settlement. If this is not possible, the requesting parent needs to submit a request for return or for the establishment of international visitation rights to the district court through an attorney.

The International Child Abduction Centre is an independent national centre that was founded in January 2006 by the Ombudsman Association together with the Dutch Defence for Children International, Stichting Lawine and Stichting Gestolen Kinderen. The Centre supports parents and other people involved who are confronted with an (imminent) international child abduction in terms of information and support.

In short:

The Dutch Central Authority is responsible for assessing, passing on and monitoring formal requests to return the child.

The International Child Abduction Centre is responsible for the information and support of the parents.

10. Where to turn to if you have questions?

All Ministries have one internet site, www.government.nl. You can submit your question in the contact form at this site. You will also find information and fact sheets or brochures about many other topics here. You can also call the Government Information. The information number is: 1400 (local rate) from Monday till Friday from 8.00 am to 8.00 pm.

11. Where to turn to for more information or help?

Dutch Central Authority

Ministry of Security and Justice | P.O.Box 20301 | 2500 eh The Hague
Telephone number +31 (0)70 370 62 52 | Available: Monday through Friday from 10.00 to 12.30.

International Child Abduction Centre

This Centre offers current information, advice and support to anyone who comes into contact with (imminent) international child abduction in his or her personal or professional environment.
Telephone number +31 (0)88 800 90 00
info@kinderontvoering.org | www.kinderontvoering.org.

Family Law Attorneys and Divorce Mediators

This is an association of attorneys who are specialized in private and family law. P.O.Box 65707 | 2506 ez The Hague | telephone number +31 (0)70 362 62 15 | www.vfas.nl.



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