

The Hague Child Abduction Convention Application Checklist



GUIDANCE FOR CASES OF INTERNATIONAL CHILD
ABDUCTION

Application Checklist for the Hague Convention on the Civil Aspects of International Child Abduction

| HAGUE CHILD ABDUCTION CONVENTION |



Ministry of Justice
Republic of Korea



Guidance

This checklist provides information on how to deal with international parental abduction of children under the age of 16 under the Hague Convention on the Civil Aspects of International Child Abduction ('Hague Child Abduction Convention' or 'Convention') between the Republic of Korea and its treaty partner countries*

* A 'treaty partner country' refers to a Contracting State of the Hague Child Abduction Convention that has accepted Korea's accession to the Convention. For more details, please turn to Section 4.

- In cases where the Hague Child Abduction Convention does not apply, please contact ①Consular Service Division (Tel: +82-2-2100-8161) at the Ministry of Foreign Affairs for diplomatic assistance or ②a lawyer for legal counsel and legal representation in court proceedings.
- In cases where the Hague Child Abduction Convention applies, request for assistance in securing the return of the child and/or the exercise of access rights can be made through an application filed directly with Foreign Central Authority or via the Korean Central Authority (Ministry of Justice, Republic of Korea).
- In addition to an application to the Central Authority, you can request the return of the child and/or the exercise of access rights to a competent court pursuant to the Convention.

Disclaimer

None of this information should be construed as legal advice, nor is it intended to replace the advice of a lawyer or other authorities.



- The Hague Child Abduction Convention is a multilateral treaty to ensure the prompt return of a child and to secure a parent's access rights. Under the Convention, a left-behind parent in an international child abduction situation can file an application for assistance in the return of the child and/or the exercise of access rights.
- The Hague Child Abduction Convention does not determine the outcome of court decisions on the existence of custody or access rights. The object and purpose of the Convention is to provide international protection for children from the harmful effects of international child abduction and to establish procedures to ensure their prompt return to the country of their habitual residence, as well as to secure protection for rights of access.
- The Republic of Korea joined the Convention on December 13th, 2012 and its Act on the Implementation of the Hague Child Abduction Convention entered into force on March 1st, 2013.

An "international child abduction" occurs when one parent or other close family member removes the child from Korea, or retains that child outside of Korea in violation of the parental or legal representative's rights of custody and/or access (Outgoing case). It may also occur when a child is removed to Korea or retained in Korea, away from the child's country of habitual residence in violation of the parental or legal representative's rights of custody and/or access (Incoming case).

In both cases, international child abduction takes a huge emotional toll on both parents and child.



FILING AN APPLICATION

- SUBMIT AN APPLICATION TO THE INTERNATIONAL LEGAL AFFAIRS DIVISION, MINISTRY OF JUSTICE
 - Address: International Legal Affairs Division, Ministry of Justice, Building #1, Government Complex-Gwanmoonro 47, Gwacheon-City, Gyeonggi-Do, 13809, Republic of Korea
 - E-mail: ildhd@moj.go.kr

APPLICATION FORM

- REQUEST FOR ASSISTANCE IN SECURING THE RETURN OF THE CHILD (Appendix No.1, Enforcement Rule)
- REQUEST FOR ASSISTANCE IN THE EXERCISE OF RIGHTS OF ACCESS (Appendix No.2, Enforcement Rule)

The application forms can be downloaded from the official website of the Ministry of Justice by searching the term 'Hague child abduction'.

NECESSARY DOCUMENTS (including translated copies in Korean*)

* All documents must include a translated version in an official or any other language recognized by the relevant Contracting State's Central Authority.

- COPY OF APPLICANTS' OFFICIAL IDENTIFICATION
 - Applicant's passport, Certificate of resident registration, etc.
- COPY OF THE CHILD'S OFFICIAL IDENTIFICATION, E.G. COPY OF THE CHILD'S PASSPORT
- DOCUMENTS WHICH CERTIFY FAMILIAL OR CUSTODIAL RELATIONSHIP BETWEEN THE APPLICANT AND THE CHILD
 - Applicant's Family Certificate('가족관계증명서') and Child's Birth Certificate('출생증명서')
 - Court documents (e.g. court judgments), if any, verifying the existence of the applicant's custody rights and/or access rights
- ANY DOCUMENT WHICH CAN VERIFY THAT THE CHILD'S HABITUAL RESIDENCE (A PLACE WHERE A PERSON PRACTICALLY RESIDES REGARDLESS OF ONE'S NATIONALITY) IS IN THE REPUBLIC OF KOREA AND THAT THE CHILD CURRENTLY RESIDES IN ANOTHER CONTRACTING STATE
 - School records, medical records, travel documents, correspondence with the Taking Parent, etc.
- COPIES OF DOCUMENTS WHICH VERIFY PENDING COURT PROCEEDINGS OVER DIVORCE OR CUSTODY/ACCESS RIGHTS BETWEEN AN APPLICANT AND THE PERSON DEEMED TO HAVE WRONGFULLY REMOVED OR RETAINED THE CHILD
 - If any, Court Judgment and/or Certificate of Pending Litigation('소송계속증명서')* of court proceedings on divorce or custody/access rights, etc.
 - * A 'Certificate of Pending Litigation' can be issued by a court clerk at the request of a party to the case or of a third party with legal interest.
- ANY OTHER RELEVANT MATERIAL WHICH WOULD ASSIST IN IDENTIFYING AND LOCATING THE TAKING PARENT OR ANY PERSON DEEMED TO HAVE WRONGFULLY REMOVED OR RETAINED THE CHILD
- ANY OTHER RELEVANT MATERIAL ON THE RETURN OF THE CHILD AND/OR EXERCISE OF ACCESS RIGHTS (IF ANY)

4 | Child Abduction TO the Republic of Korea (INCOMING CASE)

FILING AN APPLICATION

- SUBMIT AN APPLICATION TO THE INTERNATIONAL LEGAL AFFAIRS DIVISION, MINISTRY OF JUSTICE
 - Address: International Legal Affairs Division, Ministry of Justice, Building #1, Government Complex-Gwanmoonro 47, Gwacheon-City, Gyeonggi-Do, 13809, Republic of Korea
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The application forms can be downloaded from the official website of the Ministry of Justice by searching the term 'Hague child abduction'.

NECESSARY DOCUMENTS (including translated copies in Korean*)

* If a certain document cannot be translated into Korean due to special circumstances, a translated copy in English may be attached instead.

- COPY OF THE APPLICANTS' OFFICIAL IDENTIFICATION
 - Applicant's passport, Certificate of resident registration, etc.
- COPY OF THE CHILD'S OFFICIAL IDENTIFICATION, E.G. COPY OF THE CHILD'S PASSPORT
- DOCUMENTS WHICH CERTIFY FAMILIAL OR CUSTODIAL RELATIONSHIP BETWEEN THE APPLICANT AND THE CHILD
 - Applicant's Family Certificate('가족관계증명서') and Child's Birth Certificate('출생증명서')
 - Court documents (e.g. court judgments), if any, verifying the existence of the applicant's custody rights and/or access rights
- ANY DOCUMENT WHICH CAN VERIFY THAT THE CHILD'S HABITUAL RESIDENCE (A PLACE WHERE A PERSON PRACTICALLY RESIDES REGARDLESS OF ONE'S NATIONALITY) IS IN ANOTHER CONTRACTING STATE AND THAT THE CHILD CURRENTLY RESIDES IN THE REPUBLIC OF KOREA
 - School records, medical records, travel documents, correspondence with the Taking Parent, etc.
- COPIES OF DOCUMENTS WHICH VERIFY PENDING COURT PROCEEDINGS OVER DIVORCE OR CUSTODY/ACCESS RIGHTS BETWEEN AN APPLICANT AND THE PERSON DEEMED TO HAVE WRONGFULLY REMOVED OR RETAINED THE CHILD
 - If any, Court Judgment and/or Certificate of Pending Litigation('소송계속증명서')* of court proceedings on divorce or custody/access rights, etc.
 - * A 'Certificate of Pending Litigation' can be issued by a court clerk at the request of a party to the case or of a third party with legal interest.
- ANY OTHER RELEVANT MATERIAL WHICH WOULD ASSIST IN IDENTIFYING AND LOCATING THE TAKING PARENT OR ANY PERSON DEEMED TO HAVE WRONGFULLY REMOVED OR RETAINED THE CHILD
- ANY OTHER RELEVANT MATERIAL ON THE RETURN OF THE CHILD AND/OR EXERCISE OF ACCESS RIGHTS (IF ANY)

5 | Requirements for Filing a Hague Child Abduction Convention Application

■ THE ABDUCTED CHILD MUST BE UNDER THE AGE OF 16

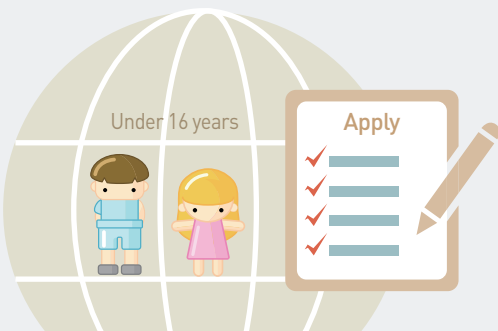
- The Convention provides protection to children under the age of 16. It is deemed that the child at the age of 16 can judge and make his/her decision by him/herself. (Perez-Vera Explanatory Report)
- When a child reaches the age of 16, assistance under the convention will be suspended even if wrongful removal or violation of custody right has taken place before the age of 16, or an application has been already filed.

■ THE CHILD'S HABITUAL RESIDENCE AT THE TIME OF ABDUCTION SHALL BE IN THE REPUBLIC OF KOREA OR ITS TREATY PARTNER COUNTRY

- Regardless of the child's nationality, an application will be accepted if the child's habitual residence (a place where a person practically resides regardless of one's nationality) at the time of abduction is in the Republic of Korea or its treaty partner country.

■ THERE MUST BE VIOLATION OF THE APPLICANT'S RIGHT OF CUSTODY OR ACCESS DUE TO A WRONGFUL REMOVAL OF A CHILD

- The Central Authority will accept an application and provide the applicant with appropriate assistance when the case is considered to be violating the applicant's right of custody and/or access, based on the application form and documents.
- Please note, however, that the merits of the child's custody or access will be determined by the competent courts. The Central Authority's acceptance of an application does not affect the existence of custody or access rights.



■ **THE HAGUE CHILD ABDUCTION CONVENTION MUST HAVE ENTERED INTO FORCE BETWEEN THE REPUBLIC OF KOREA AND THE COUNTRY TO WHICH THE CHILD WAS WRONGFULLY REMOVED OR RETAINED**

- If the child has been abducted to one of Korea's treaty partner countries, you may seek assistance under the Convention either through the Korean Central Authority or directly to the Foreign Central Authority.

〈 Republic of Korea's treaty partner countries (Contracting States that have accepted Republic of Korea's accession to the Hague Child Abduction Convention, as of July 2017) 〉

Serbia, Armenia, Uruguay, Seychelles, Ireland, the Czech Republic, Andorra, El Salvador, Nicaragua, Uzbekistan, New Zealand, Argentina, Montenegro, Russia, the United States, Mexico, Lithuania, Ecuador, China (Hong Kong and Macao only), Dominica, Bosnia and Herzegovina, Gabon, Paraguay, Japan, Belarus, Venezuela, Peru, Switzerland, Australia, Ukraine, South Africa, Moldova, Greece, Netherlands, Cyprus, the United Kingdom, Finland, Croatia, Slovakia, Spain, Germany, Luxemburg, Italy, Romania, Chile, Portugal, Hungary and Sweden (48 countries in total)

- To contact Foreign Central Authorities in the Republic of Korea's treaty partner countries, please visit the websites of the Korean Central Authority (Ministry of Justice) (http://www.moj.go.kr/HP/COM/bbs_03/ListShowData.do) or the Hague Conference on Private International Law (http://www.hcch.net/index_en.php?act=conventions.authorities&cid=24).
- For more information in English, please visit the English website of the Korean Central Authority (Ministry of Justice) (<http://www.moj.go.kr/HP/ENG/hitech/ica.jsp>).

In cases where the Hague Child Abduction Convention does not apply, please contact ①Consular Service Division (tel: +82-2-2100-8161) at the Ministry of Foreign Affairs for diplomatic assistance or ②a lawyer for legal counsel and legal representation in court proceedings.



6 | The Central Authority's Assistance under the Convention

■ Child Abduction FROM the Republic of Korea (Outgoing Case)

- Once the application is accepted, we provide support and assistance established under the Convention, including forwarding the application to the Foreign Central Authority, etc.
- The Central Authority can also help you ①gather information on court procedures and relevant legislation of the country the child is located, and ②monitor developments concerning location of your child.

■ Child Abduction TO the Republic of Korea (Incoming Case)

- The Central Authority provides support and assistance established under the Convention, such as ①locating the child's whereabouts, ②providing general information on laws and regulations implementing the Convention and ③helping arrange the voluntary return of the child when the child is found.



■ WHEN YOU HAVE KNOWLEDGE OF THE CHILD'S ABDUCTION BUT DO NOT KNOW HIS/HER WHEREABOUTS:

- If you are not sure whether the child has been taken abroad, file a missing child's report with the Police Agency for Missing Children (Tel: +82-182) and submit the child's photograph to the local police immediately.
- If the child has been taken overseas but you do not know to which country, the Korean Central Authority can request an INTERPOL Missing Child (Yellow) Notice on your behalf.

■ CONTACT THE CHILD'S SCHOOL AND HOSPITAL AND ASK THEM TO ALERT YOU IMMEDIATELY IF THEY ARE CONTACTED BY THE TAKING PARENT, WHO MAY SUBSEQUENTLY ASK FOR THE CHILD'S SCHOOL RECORDS, ETC.

■ INFORM YOUR FAMILY AND FRIENDS OF THE CHILD'S ABDUCTION AND ASK THEM TO ALERT YOU IMMEDIATELY IF THE TAKING PARENT OR THE CHILD CONTACTS THEM

■ MAKE ATTEMPTS TO PERSUADE THE PARENT WHO HAS PRESUMABLY ABDUCTED THE CHILD TO VOLUNTARILY RETURN THE CHILD OR TO GUARANTEE YOUR RIGHTS OF ACCESS

- Please be aware that any remark or behavior made during the communication with the other parent that can be construed as consent or implicit acknowledgement of the child's wrongful removal or retention, could serve as grounds for dismissal of a Hague application before the competent court.

WE STRONGLY ADVISE AGAINST ATTEMPTS TO RE-ABDUCT THE CHILD, CONSIDERING THE SAFETY OF THE CHILD AND POSSIBLE CRIMINAL CHARGES IN ANOTHER COUNTRY.

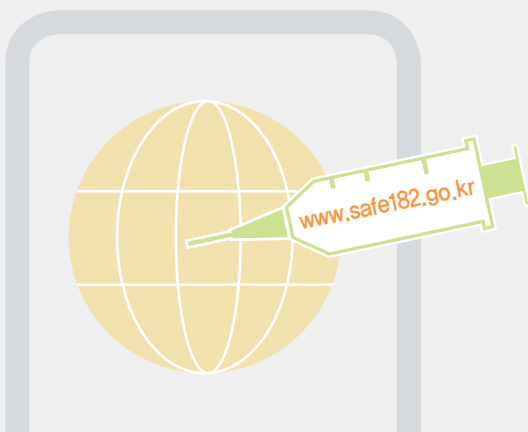


■ WARNING SIGNS - BE ON THE LOOKOUT IF THE OTHER PARENT:

- Has abducted the child before
- Has citizenship in or strong cultural or psychological ties to another country and has expressed a wish to leave the Republic of Korea
- Has a history of domestic violence or controlling behavior
- Is not engaged in any economic activities or has quit a job or other economic activities in the Republic of Korea

■ PREVENTIVE MEASURES (PRE-REGISTRATION OF FINGERPRINTS, ETC.)

- Apply for the pre-registration service of the Police Agency for Children, Women and Disabled at the Korean National Police Agency (www.safe182.go.kr).
- If the child's fingerprint is entered into the database, the law enforcement authorities can immediately identify the child without a custodian.
- Law enforcement authorities can help reunite a child found in the Republic of Korea with his/her parents immediately.
- Call: Women & Juvenile Affairs Division, Korean National Police Agency (+82-2-3150-2249)



- **Korea Legal Aid Center for Family Relations** (<http://www.lawhome.or.kr>)
 - 31 branches across the country and 6 branches in the U.S.
 - Legal aid such as legal counseling, settlement or mediation and litigation aid
- **English counseling available for foreigners; on-site counseling service at the Seoul Family Court**
 - Anti-domestic violence programs
 - Call: +82-1644-7077
- **Healthy Family Support Center** (<http://www.familynet.or.kr>)
 - Under the supervision of the Korean Institute for Healthy Family, a foundation established by the Ministry of Gender Equality and Family
 - 151 local centers and 17 certified divorce counseling centers across the country
 - Family counseling (face-to-face, telephone, online, group counseling services, etc.)
 - Call: +82-1577-9337 (You will be consulted and connected to the nearest local center)
- **The Korean National Police Agency's Center for Missing Persons Safety Dream** (<http://www.safe182.go.kr>)
 - To report a missing child, call +82-182
- **This service is available only for those involving kidnapping (violence, threat or unlawful de facto use of physical force) among international child abduction cases. (Article 2 subparagraph 2 of the 「Act on the Protection and Support of Missing Children, Etc.」)**
 - Pre-registration service for children aged under 18: the child's fingerprints and photographs, and personal information of his/her custodian
- **INCADAT** (<http://www.incadat.com/>)
 - The case law database on the Hague Child Abduction Convention (in English)
 - INCADAT provides useful reference material especially when you retain a lawyer and pursue court proceedings, at home or abroad, regarding the return of a child or the exercise of rights of access.

www.lawhome.or.kr
www.familynet.or.kr
www.safe182.go.kr
www.incadat.com



Ministry of Justice-Republic of Korea



Ministry of Justice Republic of Korea

Inquiries concerning Hague Child Abduction Convention Applications

Please contact us by phone (+82-2-2110-3661) or email (ildhd@moj.go.kr).

Central Authority's address

International Legal Affairs Division, Ministry of Justice, Building #1, Government Complex-Gwanmoonro 47, Gwacheon-City, Gyeonggi-Do, 13809, Republic of Korea