



Australian Government

Attorney-General's Department

Questions about international parental child abduction

This page answers a number of frequently asked questions about the operation of the 1980 Hague *Convention on the civil aspects of international child abduction* (the Hague Convention) and the process of making an [application](#) under the Hague Convention for the return of a child.

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How do I know if I have rights of custody in relation to a child?

In Australia, the parents of a child as listed on the child's birth [certificate](#) automatically have rights of custody in relation to a child. This is unless a court order has removed these rights.

If you are not the parent of a child, or not listed on the child's [birth certificate](#), you may still have rights of custody if:

- a child is to live with you under a current parenting order of an Australian court

or

- you have parental responsibility for a child under a current parenting order of an Australian court.

Can I make one application relating to more than one child?

Yes. You may include more than one child in the same application if they have been removed from Australia or retained in another country by the same abducting person.

How long will it take to get my child back?

Each application must be reviewed on its own merits, and each foreign country has its own processes, procedures and timeframes. The length of time will depend on factors such as whether a voluntary return occurs, whether the application proceeds to court, and whether the decision is appealed.

What if my child is in a non-Hague Convention Country?

The Attorney-General's Department can only help you with a return or access application if your child is in a Hague Convention country or in Egypt or Lebanon.

If your child is in another country, you may want to seek private legal advice in that country about your options.

The Department of Foreign Affairs and Trade (DFAT) Consular Office may be able to provide you with a list of [family lawyers](#) overseas.

Phone: 1300 555 135 (24 hour consular service)

Please note, [financial assistance](#) may be available to help parents with the cost of engaging a lawyer overseas for family law matters. See 'Is financial assistance available?' for more information.

What do I do if my child is in Egypt or Lebanon?

Egypt and Lebanon are not signatories to the Hague Convention. However, Australia has separate bilateral agreements with both countries to assist with the resolution of international family disputes.

More information about these agreements and how to make an application under them is available under the heading 'Bilateral agreements with Egypt and Lebanon' on the [international child abduction and child access page](#).

What is the process once I make my application?

- Once we, as the Australian Central Authority, receive your application, we will assess it on its merits against the criteria under the Convention.
- We will let you know whether we accept your application, and provide reasons if we refuse it.
- If we accept your application, we will then forward it to the authority in the country where you believe the child to be.

The central authority in that country is responsible for managing your application under the Hague Convention. We will liaise with them and keep you updated on your case. We may ask you for more information if the other country asks for it.

The authority in the other country determines how they will progress your case. Commonly, they may contact the abducting person and seek the voluntary return of the child to Australia, and then file your application in the relevant court of that country for a decision if a voluntary return is not made.

We cannot interfere with the processes or court cases in the other country. It is their responsibility to initiate and facilitate any legal proceedings. Like in Australia, the courts in other countries are independent of government. Neither we nor the central authority of the other country can change a decision of a court.

We do not engage private investigators or other services to secure the return of your child.

Where can I get support?

The Australian Central Authority does not provide counselling support to Hague Convention applicants.

International [Social Service](#) Australia offers counselling specifically for families that are split across international borders, including for parents who are considering taking their child overseas, as well as left behind parents.

They may be able to assist you, through their partner organisations in other countries, to attempt to negotiate with the abducting parent with the aim of reaching an agreement about arrangements for the child. ISS Australia can be contacted on 1300 657 843 or at www.iss.org.au.

The Family Relationships Advice Line is a national telephone service established to support families affected by relationship or separation issues. You can contact the Family Relationship Advice Line by phoning 1800 050 321 between 8am and 8pm Monday to Friday, and 10am to 4pm Saturday.

Family Relationships Online also provides information about families and separation, and lists other services to help parents manage relationship issues, including agreeing on appropriate parenting arrangements for children. You can access Family Relationships Online at www.familyrelationships.gov.au.

Is financial assistance available?

Neither we nor International Social Service Australia charge for work we do with your application. However, depending on which country your application is going to, the costs of running your matter in that country may not be covered by the Central Authority of that country.

Where that happens, you may be able to apply for legal aid in the other country. If legal aid is not available, you may be able to apply for financial assistance under the Overseas Custody (Child Removal) Scheme.

This is a means and merits-tested scheme that covers the costs of engaging an overseas lawyer. Your travel costs may also be covered if you have to travel overseas to attend the hearing or to collect your child, or pay for the child to travel to Australia.

More information on the scheme, including how to apply, is available at the [financial assistance website](#) page or by calling 02 6141 4770 from within Australia.

The scheme does not cover your legal costs incurred in Australia (for example, preparing your application if you choose to seek private legal advice or assistance).

Should I try to have my child returned voluntarily?

Having your child returned to you voluntarily can save long and costly legal cases. We encourage parents to keep trying to reach an agreement with the person who has abducted their child, even if the parent has already made a formal application to us as the Australian Central Authority. We will continue to progress your application while you are having these discussions.

However, you should be aware of the time these discussions are taking. The longer a child lives in a new country, the more difficult it may be to get an order to have them returned. Your child may have gradually become settled in the other country. In this case, a court may decide that the child should not be returned even though they were abducted from Australia.

You should also be careful about any agreement that your child can remain with the other parent subject to certain conditions. Agreeing that your child can stay in the other country may mean that the child acquires that country as their country of habitual residence. Once you agree to your child living in their new country, you cannot apply for their return to Australia under the Hague Convention—even if the other parent does not comply with conditions you may have agreed to (such as access or contact arrangements).

When might the other country not return my child?

Whether or not to return a child is the decision of the court in the other country. We can ask the other country to return the child to Australia. However, a court in the other country may refuse to return the child if:

- they are not convinced that the key requirements of the Convention have been met (read Guide for applicants – Abduction document available on the [international parental](#)

[child abduction and access page](#) for the requirements)

- they determine that the applicant person had agreed to the child being taken or kept in that country, or subsequently acquiesced (see below) to the removal or retention
- the child has been in that country for more than 12 months and is settled there
- the child objects to being returned and is old enough and mature enough for their opinion to be considered
- returning the child would expose them to a grave risk of physical or psychological harm, or some other intolerable situation or
- returning the child would breach their fundamental freedoms and human rights.

What is 'acquiescence'?

If someone 'acquiesces' to something, they consent to it or allow it to happen.

One of the reasons a court may decide not to return a child to Australia is if the court believes the applicant person 'subsequently acquiesced' to the removal of the child from Australia, or their retention in the other country.

It is up to the court to decide what constitutes 'subsequent acquiescence' and whether or not the applicant did in fact acquiesce.

However, common actions that may raise a question of acquiescence include:

- engaging in court proceedings in the country where the child is located, apart from those in relation to the Hague Convention application (this may indicate that you give permission for the child to remain in that country, or that you have 'submitted to the jurisdiction')
- providing verbal or written agreement to the abducting person that you consent to the child being taken to, or remaining in, a country (either before, during or after the removal or retention)
- helping the abducting person make decisions about the child's living arrangements in the other country, such as where the child should live or go to school
- any other action which may indicate that you give permission for the child to remain in the country they have been taken to or held in.

My application has been refused. Can I appeal the decision?

If the Australian Central Authority has refused to accept your application for the return of your child to Australia or for access to a child in another country, there are steps you can take to have the decision reviewed.

Statement of reasons

Under subsection 13(1) of the *Administrative Decisions (Judicial Review) Act 1977*, you are entitled to ask for a statement of the reasons why your application was refused. You will need to make your request in writing to the Australian Central Authority. We will send you a statement of reasons within 28 days of receiving your written request.

Court review

Under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act), you are also entitled to apply to the Federal Court of Australia or to the Federal Magistrate's Court for a review of the decision to refuse your application. The grounds on which you can apply for a review are listed in [sections 5 and 6 of the ADJR Act](#).

Direct application to the other country

Article 29 of the Hague Convention allows parents to send applications directly to the Central Authority in the country where the child is located, or directly to the courts in that country, without going through the Australian Central Authority.

You can find contact details for the central authorities on the [Hague Convention](#) website.

If you apply directly to the court in the other country, you may want to get some legal advice in that country about court processes. The Department of Foreign Affairs and Trade (DFAT) Consular Office may be able to provide you with a list of family lawyers overseas.

DFAT Consular Office phone: 1300 555 135 (24 hour consular service)

What if my child has been abducted to Australia?

If you live in another country and your child has been abducted to Australia, you may be able to apply for the return of your child to the central authority of the country you are in if that country is a Hague Convention signatory. If accepted, that authority will then pass your application to us for action.

To find out how to contact the central authority in your country, visit the [Hague Convention](#) website.

What can I do to prevent my child from being taken out of Australia?

If you are concerned that your child may be removed from Australia without your consent, there are steps you can take to prevent this from occurring. For more information on preventing child abduction, read our prevention brochure:

- [Preventing child abduction \[DOC 180KB\]](#)
- [Preventing child abduction \[PDF 423KB\]](#)

What if I think my child has been abducted out of Australia?

If you are unsure about whether your child has been abducted out of Australia, you may wish to take steps including:

1. reporting the child as missing to your local law enforcement agency, or
2. contacting the [Australian Federal Police](#) or [the Department of Immigration and Citizenship](#). They may be able to help you determine whether your child has travelled out of Australia.

I want to take my child to another country. How can I do so without risking a Hague Convention application against me?

If no parenting orders exist in relation to the child, the parents of a child as listed on the child's birth certificate have rights of custody of the child.

Rights of custody include determining in which country the child lives and whether or not the child should travel internationally. Therefore, decisions about these issues should be made in agreement with the other parent.

If both parents agree to the child travelling outside Australia, you should make an application for consent orders from the Family Court of Australia. This will formalise your agreement and prevent any problems from arising if the other parent later disputes the child being removed from Australia. You can find the application form for consent orders on the [Family Court of Australia](#) website.

If existing parenting orders give day-to-day care or parental responsibility to another person, you must also gain their agreement to take the child out of Australia. Again, if this is the case, you should seek consent orders between yourself and the other person allowing the child to travel outside Australia.

It is a criminal offence to remove, or try to remove, the child from Australia knowing that a current parenting order gives day-to-day care to another person.

If an existing court order prevents the removal of the child from Australia, you should apply to have this varied before travelling overseas with the child. You can find more information on varying existing parenting orders on the [Family Law Courts website](#). You may want to seek legal advice about your specific situation. You can visit the [Access to Justice](#) website for help to find a lawyer, legal aid commission, or community legal centre.

In all cases, if you wish to avoid criminal charges or a possible Hague Convention application, you should at the very least gain the written consent of anyone with parental responsibility or rights of custody to the child before removing the child from Australia, and comply with all existing court orders relating to the child.

Visit the [Family Law Courts](#) website for more advice on travelling and relocating with children.

If you have other questions, visit our [useful contacts page](#).

Related links

- [Family Law \(Child Abduction Convention\) Regulations 1986](#)
- [Financial Assistance Section](#)
- [Australian Passports Office](#)