

## Circular

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### **CIRCULAR ON INTERNATIONAL CHILD ABDUCTION**

#### FOREWORD

International child abduction includes cases where a child is unlawfully removed from a country in contravention of the parental responsibility of the remaining parent. A child may also be unlawfully retained following a lawful stay abroad, for example for a holiday or access stay. Cases where children are taken abroad by one or both parents when the child welfare service has the right to decide where the child shall reside also fall within the definition. The relocation of a child from one place to another within the country's national borders is not covered. Nor are cases where the child is kidnapped by strangers.

This circular is intended for lawyers and judges working on international child abduction cases, but also contains information and guidance of use to other public authorities that may become involved in this type of case. The circular also contains relevant information for parents whose children are abducted.

The white paper Prop. 143 L (2014–2015) on changes to the Child Abduction Act, Child Welfare Act, Penal Code 2005 and Legal Aid Act relating to international child abduction contains a number of proposed statutory amendments that were adopted by the Storting (the Norwegian parliament) on 11 December 2015 and that enter into force on 1 January 2016.

The circular enters into force on 1 January 2016 and replaces Ministry of Justice and Public Security circular G-136/91, which will be repealed as of the same date.

The Ministry of Justice and Public Security, 18 December 2015.

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## Contents

1	INTRODUCTION	5
2	KEY TERMS	5
3	APPLICABLE LAW	6
3.1	1980 Hague Convention	6
3.1.1	Unlawful international child abduction	6
3.1.1.1	Parental responsibility	7
3.1.1.2	Habitual residence	7
3.1.2	Exceptions to the rule on return	8
3.2	The 1980 Council of Europe Convention	8
3.3	The Child Abduction Act	8
3.4	Other international obligations	9
3.4.1	Human rights	9
3.4.2	The Nordic rules	9
3.4.3	The 1996 Hague Convention	9
3.5	Criminal international child abduction	10
3.5.1	Section 261 of the Penal Code	10
3.5.2	Regarding abduction from the child welfare service and section 261 of the Penal Code	10
4	ABDUCTION FROM NORWAY TO ANOTHER STATE THAT IS A SIGNATORY TO THE 1980 HAGUE CONVENTION	11
4.1	The role of the Ministry of Justice and Public Security	11
4.1.1	General	11
4.1.2	Application for the return of a child – requirements as to content and enclosures	11
4.1.3	Declaration of unlawfulness	13
4.1.4	Initial meeting	14
4.1.5	Notification to the Norwegian Labour and Welfare Administration (NAV) and Husbanken	14
4.1.6	Commission of a social report	14
4.1.7	The Ministry’s role once the application has been sent to the recipient country	16
4.1.8	Notification of the child welfare service upon return to Norway	16
4.1.9	Conclusion of the case	16
4.2	The role of the remaining parent	17
4.2.1	General	17
4.2.2	The role of the remaining parent during the proceedings in the recipient country	17
4.2.3	Legal assistance	17
4.2.4	Collection of information and documentation	18
4.2.5	Implementation of return of a child to Norway	18
4.2.6	Unlawful recovery of children from another country	18
4.3	Abduction from the child welfare service	18
4.4	The role of the police and prosecuting authority	20
4.5	Processing of applications for return in the recipient country	21

4.5.1	The role of the central authority of the recipient country	21
4.5.2	Legal processing of the return application	22
4.5.3	Request to suspend an ongoing parental dispute in the recipient country	22
5	ABDUCTION FROM NORWAY TO A STATE THAT IS NOT ENGAGED IN CONVENTION COOPERATION	22
6	ABDUCTION TO NORWAY FROM A STATE THAT IS A SIGNATORY TO THE 1980 HAGUE CONVENTION	23
6.1	The role of the Ministry of Justice and Public Security	23
6.1.1	General	23
6.1.2	Application for return of a child – requirements as to content and enclosures	23
6.1.3	Declaration of unlawfulness	24
6.1.4	Notification to the child welfare service of abduction to Norway	24
6.1.5	The role of the Ministry once an application for return has been sent to the court	24
6.2	The role of the remaining parent	25
6.2.1	Legal assistance	25
6.2.2	Implementation of return of a child to another country	26
6.3	The role of the police and prosecuting authority	26
6.4	Processing of child abduction cases by the courts	26
6.4.1	Processing time	26
6.4.2	Assistance in locating a child	26
6.4.3	The right of the child to comment	27
6.4.4	Care for the child pending a decision in the case	27
6.4.5	Decisions under the Children Act when a child abduction case is received	27
6.4.6	Legal costs and court fees	28
6.4.7	Service or notification of the court ruling	28
6.4.8	Appeal	29
6.4.9	Return of the child to the foreign country – timing of the enforcement	29
6.4.10	Deferred enforcement when an appeal is made	30
6.4.11	Liaison judges in child abduction cases	30
6.5	Enforcement with the assistance of an enforcement officer	30
7	ABDUCTION TO NORWAY FROM A STATE THAT IS NOT ENGAGED IN CONVENTION COOPERATION	31
8	APPLICATION FOR ACCESS – THE 1980 HAGUE CONVENTION	31
8.1	Application for access with a child in another convention state	31
8.2	Application for access with a child in Norway	32
9	RECOGNITION AND ENFORCEMENT OF DECISIONS – THE 1980 COUNCIL OF EUROPE CONVENTION	32
9.1	Recognition and enforcement of decisions in Norway	33
9.2	Recognition and enforcement of Norwegian decisions in other convention states	33
10	REIMBURSEMENT OF LEGAL ASSISTANCE EXPENSES IN CHILD ABDUCTION CASES, ETC.	34
10.1	General	34
10.2	In the case of abduction from Norway to another country	34
10.3	In the case of abduction from another country to Norway	35
10.4	Special comments on cases under the 1980 Council of Europe Convention	35
10.5	Special comments on access cases under the 1980 Hague Convention	35

11	CONTACT INFORMATION	37
12	SOURCES	38
13	ENCLOSURES	41

## 1 INTRODUCTION

Protecting the child and finding solutions in the best interests of the child are key in the handling of a child abduction case. The best interests of the child will often be that the parents agree on a voluntary solution and both the authorities and the courts should facilitate this. Rapid resolution of international child abduction cases is crucial, since this will help to reduce the burden on children subjected to abduction.

Child abduction incorporates aspects of both civil and criminal law. This circular deals with both aspects of child abduction cases; see for example chapters 4, 5 and 6.

Chapter 2 explains key terms used in the circular. Chapter 3 provides an overview of the applicable law, including the main rules in relevant conventions and a further description of the criminal law aspects of international child abduction. Chapters 4 and 5 contain information on the processing of cases involving child abduction from Norway to another country, while chapters 6 and 7 contain corresponding information on the handling of cases involving child abduction from foreign countries to Norway. Chapter 8 describes applications for access under the 1980 Hague Convention. Chapter 9 contains information on the handling of applications for recognition and enforcement of decisions under the 1980 Council of Europe Convention. Chapter 10 contains an overview of the rules on coverage of legal aid expenses for the different types of cases. Finally, chapter 11 lists useful sources of further information on this topic and chapter 12 contains links to relevant forms.

The Ministry maintains a special website on international child abduction that provides practical information and relevant updates on the topic. The address of the website is: [www.government.no/child-abduction](http://www.government.no/child-abduction).

## 2 KEY TERMS

This circular uses the term *child abduction* to describe international child abduction. International child abduction includes both cases where a child is removed from the country contrary to parental responsibility rights and cases where a child is unlawfully retained abroad, for example following a lawful holiday or access stay. The term *child abduction* is used as a common descriptor for both instances.

The term *abductor* is used for the person who unlawfully removes a child from the child's country of habitual residence or unlawfully retains the child abroad. The abductor will generally be one of the parents. Abductors may also be others, for example a grandparent. The *remaining guardian* is the one who is left in the country of habitual residence and whose parental responsibility rights are violated through the child abduction, and who applies for the return of the child. The remaining guardian is most often one of the child's parents, but may also be the child welfare service. The text employs *remaining parent* throughout. Where special circumstances apply in connection with the role of the child welfare service as the remaining guardian, these are specified in the text.

The *country of habitual residence* is the country in which the child was resident prior to the abduction. The *recipient country* is the country to which the child has been abducted and from which the child's return is requested.

*Central authority* refers to the authority which has been appointed under the 1980 Hague Convention and the 1980 Council of Europe Convention and which is mandated to meet the obligations imposed on it by the conventions. The central authority must generally harmonise and coordinate contact between national and foreign authorities and between authorities and private persons. The central authority also has overall responsibility for ensuring that its country meets its convention obligations. In Norway, the Ministry of Justice and Public Security is the central authority under the two conventions; see section 5(2) of the Child Abduction Act.

For further explanations of terms, see section 1.4 of the white paper [Prop. 143 L \(2014–2015\)](#) and the website