

What is a Central Authority?

The 1980 Hague Convention requires that each signatory nation designate a Central Authority to assist in carrying out duties concerning the operation of the Convention.¹ In the United States, the Central Authority is the U.S. State Department, Office of Children's Issues.²

Duties. The 1980 Hague Abduction Convention provides for two methods of return of a child: (1) administrative return, negotiated through the Central Authority, and (2) court proceedings initiated to compel the child's return. The Central Authority has duties and responsibilities in connection with both functions. In general, the Central Authority's responsibilities are set forth in Article 7 of the Convention:

- Discover the location of a child allegedly abducted.
- Take provisional measures to prevent further harm to the child or interested parties.
- Arrange for the voluntary return of the child or an amicable resolution of the issues.
- Exchange information regarding the social background of the child where desirable.
- Provide general information about the law of the country in connection with the Convention.
- Initiate or facilitate judicial or administrative proceedings for the return of the child or for the exercise of rights of access.
- Provide administrative arrangements for the safe return of the child as may be necessary.
- Keep other Central Authorities informed regarding the operation of the Convention and to eliminate obstacles to its operation.

Administrative Proceedings. Proceedings which are pursued administratively through the Central Authorities may result in voluntary returns. Typically this occurs when a parent in a foreign country contacts the Central Authority in that country with a request to seek the return of a child that has been abducted to the United States. The request will be forwarded to the Office of Children's Issues (OCI). OCI will attempt to locate the child and parent, usually through state and federal law enforcement agencies and, upon doing so, will contact the parent, inform the parent of the existence of the 1980 Hague Convention, and attempt to secure the voluntary return of the child. If a parent refuses to return a child voluntarily, the State Department has no authority to compel the return of the child. In such a case, the left-behind parent must commence a proceeding in the appropriate U.S. court to secure the return of the child.

1. Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 97 (entered into force on Dec. 1, 1983) ("A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.").

2. Exec. Order No. 12648, 53 Fed. Reg. 30,637 (Sept. 14, 1988).

Litigated Cases. Of more concern to courts and judges is the role that the State Department plays in connection with litigated cases. OCI is staffed to handle Hague issues. Part of OCI's responsibilities are to notify courts that a litigated case is pending in their court, and to provide information to the court regarding the essential nature of the 1980 Convention. Pursuant to these duties, the State Department will, when it is known that a petition has been filed, invariably send a letter to the court setting forth OCI's responsibilities, notifying the court that inquiries concerning the status of the case may occur should the case take longer than six weeks to resolve, and other relevant information.

When judges in the United States began receiving these letters after the treaty came into force, there was a great deal of speculation and concern over why an agency of the executive branch of government would be contacting a court concerning a case. Some judges were concerned that the letter amounted to an *ex parte* communication. The fact is, however, that the State Department was informing courts of its role in connection with Hague abduction cases, and giving courts information that would facilitate contacting the OCI should the need arise.³

3. See Hague Conference on Private International Law, Guide To Good Practice, Part I, § 4.8 (2003) (available at http://www.hcch.net/upload/abdguide_e.pdf).