

SPAIN

The applications

1. The number of applications

According to the Central Authority for Spain, they received 36 incoming return and 6 incoming access applications in 1999, making a total of 42 incoming applications. Additionally, they made 27 outgoing return and 9 outgoing access applications in that year. Altogether, therefore, the Central Authority for Spain handled 78 new applications in 1999.

2. The Contracting States which made the application

(a) *Incoming return applications*

Requesting States

	Number of Applications	Percent
UK - England and Wales	9	25
Italy	5	14
Switzerland	5	14
Germany	3	8
France	2	6
Norway	2	6
USA	2	6
Ecuador	2	6
Argentina	1	3
Netherlands	1	3
Portugal	1	3
Sweden	1	3
Colombia	1	3
Panama	1	3
Total	36	100

Spain received applications for return from 14 Contracting States, with England and Wales, making one quarter of all applications. The USA made proportionally few applications to Spain. Compared with other European States, Spain perhaps predictably because of their common language, received more applications from Latin American States, 5 out of 36 applications.

(b) *Incoming access applications*

Requesting States

	Number of Applications	Percent
Germany	3	50
UK- England and Wales	2	33
Switzerland	1	17
Total	6	100

Spain received the same number of access applications and return applications from Germany. All 3 Contracting States which made access applications to Spain, also made at least 3 return applications to Spain in 1999.

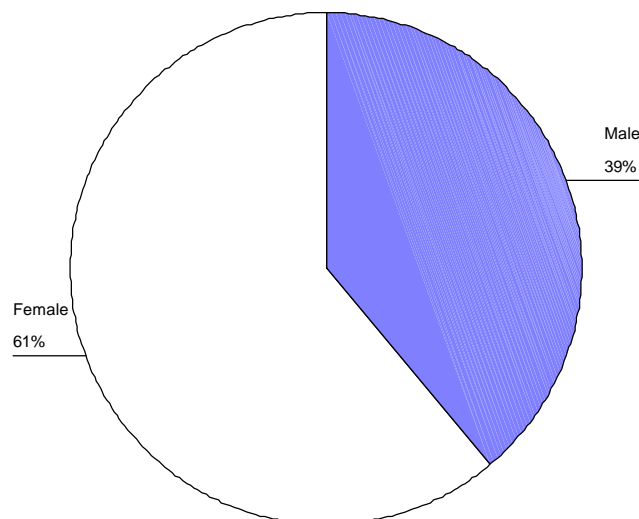
The taking person / respondent

3. The gender of the taking person / respondent

(a) Incoming return applications

Gender of the Taking Person

	Number	Percent
Male	14	39
Female	22	61
Total	36	100

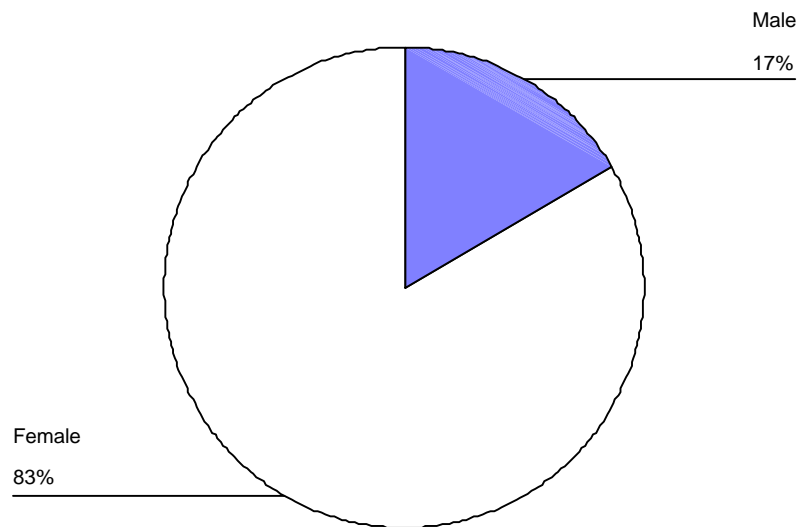


As can be seen by the table and chart above, 61% of the taking persons were female which is below the global norm of 69%. Interestingly, some other Western European States also had a proportion of female taking persons below the global norm, such as France at 61%, Switzerland at 55% and neighbouring Portugal at 55%.

(b) Incoming access applications

Gender of the Respondent

	Number	Percent
Male	1	17
Female	5	83
Total	6	100



Although the numbers are low, in the access applications there was a greater proportion of female respondents than in the return applications. The proportion was similar to the global norm where 86% of respondents were female.

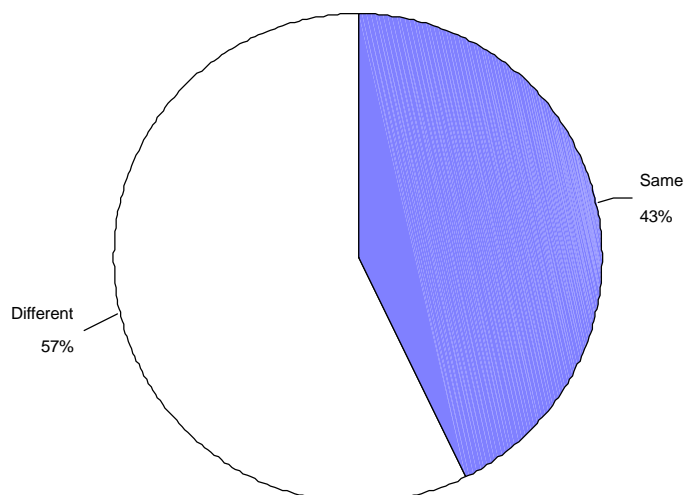
4. The nationality of the taking person / respondent

(a) *Incoming return applications*¹

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	15	43
Different Nationality	20	57
Total	35	100

¹ Additionally, in 1 application the nationality of the taking person was not stated.



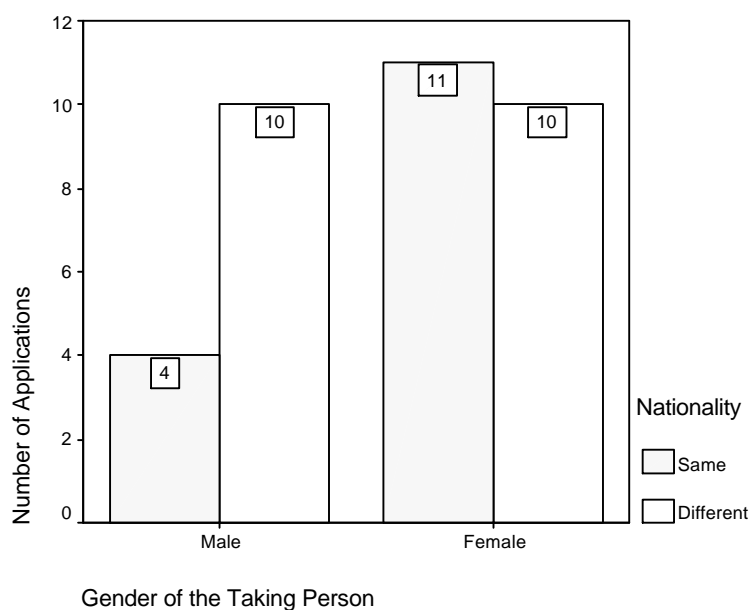
Compared with the global average, a lower proportion of taking persons had the nationality of the requested state, 43% compared with 52%. It was strikingly different to the proportion in neighbouring Portugal where 73% of taking persons were Portuguese nationals.

(b) Incoming access applications

All the respondents in the access applications were of a different nationality from the requested State.

5. The gender and nationality of the taking person combined

(a) Incoming return applications



When looking at the gender of the taking person, there is a significant difference as to the proportion of taking persons who were Spanish nationals. 29% of male taking persons were Spanish nationals compared with 52% of female taking

persons. Whilst the proportion of female taking persons having the nationality of the requested State is the same as the global norm of 52%, the proportion of male taking persons having the nationality of the requested State differs greatly from the global norm of 53%.

The children

6. The total number of children

There were 47 children involved in the 36 return applications and 8 children involved in the 6 access applications. Altogether, therefore, 55 children were involved in new incoming applications received by Spain in 1999.

7. Single children or sibling groups

(a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	26	72
Sibling Group	10	28
Total	36	100

Number of Children

	Number	Percent
1 Child	26	72
2 Children	9	25
3 Children	1	3
Total	36	100

Proportionally, more single children were taken to Spain (72%) than the global norm of 63%. Only one application involved more than 2 children.

(b) Incoming access applications

Single Child or Sibling Group

	Number	Percent
Single Child	4	67
Sibling Group	2	33
Total	6	100

Number of Children

	Number	Percent
1 Child	4	67
2 Children	2	33
Total	6	100

In both applications, which concerned a sibling group, the sibling groups comprised 2 children. The proportion of single children follows the global norm of 69%.

Combining return and access applications, it is interesting that only 1 of the 42 applications involved more than 2 children.

8. The age of the children

(a) *Incoming return applications*

Age of the Children

	Number	Percent
0-4 years	15	32
5-9 years	24	51
10-16 years	8	17
Total	47	100

The children involved in return applications to Spain were more concentrated in the 5-9 years age category, (51%) compared with the global norm of 42%. There was a smaller proportion of children in both the youngest and oldest age groups compared with the global norms.

(b) *Incoming access applications*

Age of the Children

	Number	Percent
0-4 years	2	25
5-9 years	5	63
10-16 years	1	13
Total	8	100

Unlike the global norm where 29% of children were in the oldest age category, in the access applications made to Spain, only one child was aged between 10 and 16 years old.

9. The gender of the children

(a) *Incoming return applications*

Gender of the Children

	Number	Percent
Male	20	43
Female	27	57
Total	47	100

There were more female children (57%) involved in return applications than male children (43%). This contrasts with the global norm where 47% of children were female and 53% male.

(b) *Incoming access applications*

Gender of the Children

	Number	Percent
Male	7	88
Female	1	13
Total	8	100

Only one female child was the subject of an access application made to Spain. This differs significantly from the global norm where 50% of children involved in access applications were female.

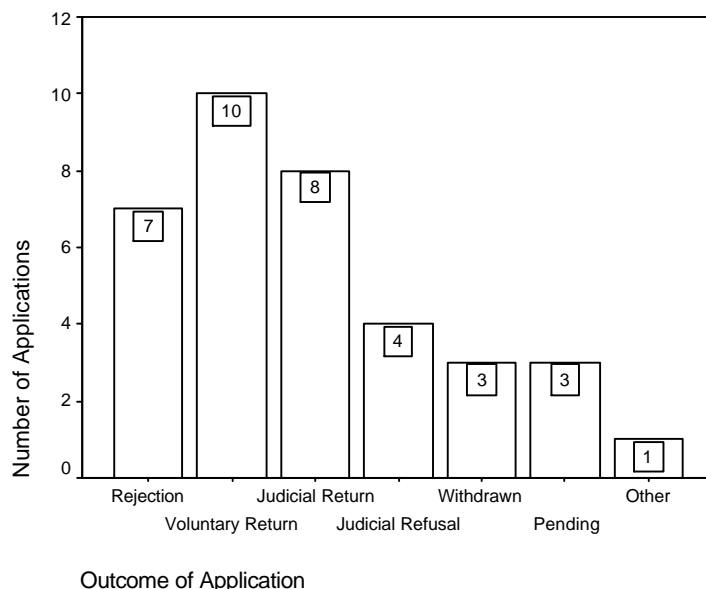
The outcomes

10. Overall outcomes

(a) *Incoming return applications*

Outcome of Application

	Number	Percent
Rejection	7	19
Voluntary Return	10	28
Judicial Return	8	22
Judicial Refusal	4	11
Withdrawn	3	8
Pending	3	8
Other	1	3
Total	36	100

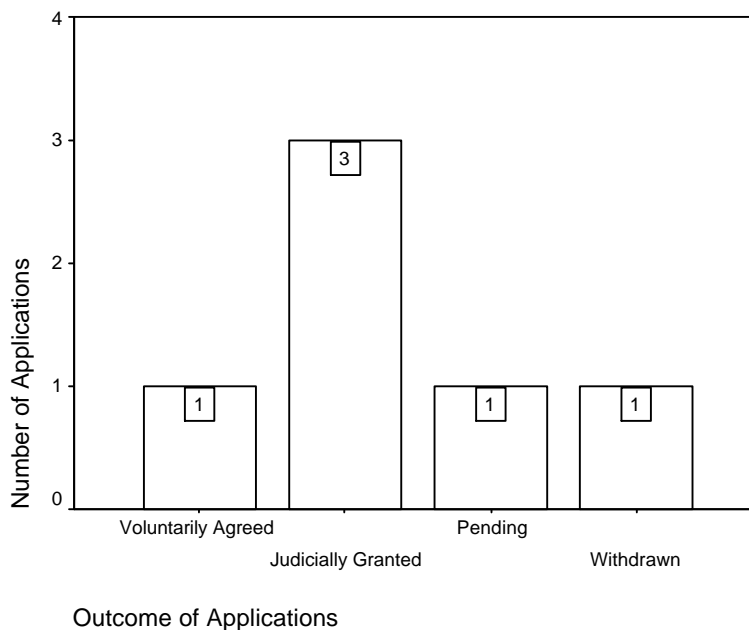


28% of applications resulted in the voluntary return of the child compared with the global mean of 18%, while 22% of applications resulted in a judicial return as opposed to 32% globally. Altogether, 50% of applications ended in the child's return, either voluntarily or by court order, which is identical to the global norm. Of the 12 cases which went to court, 67% ended with a judicial return being ordered, which is below the global norm of 74%. Nevertheless, the refusal rate at 11% was identical to the global norm. Proportionally, fewer applications were withdrawn, 8% as against the global norm of 14%. On the other hand, the rejection rate of 19% was markedly higher than the global norm of 11%. The proportion of pending cases was similar to the global norm of 9% and having 3 cases still pending at 30th June 2001 may give pause for thought.

(b) Incoming access applications

Outcome of the Application

	Number	Percent
Rejection by the Central Authority	0	0
Access Voluntarily Agreed	1	17
Access Judicially Granted	3	50
Access Judicially Refused	0	0
Other	0	0
Pending	1	17
Withdrawn	1	17
Total	6	100



In the case stated as pending access had been granted pending the court hearing. Where access was judicially granted, it was ordered under the Convention and not under domestic law. In 4 of the 6 applications, 67%, access was either granted or agreed which is above the global norm of 43%. Indeed in all applications that had reached a conclusion, access was granted or agreed.

11. The reasons for rejection

(a) Incoming return applications

Reason for Rejection by the Central Authority

	Number	Percent
Child Located in Another Country	1	14
Child Not Located	4	57
Other	2	29
Total	7	100

The Spanish Central Authority rejected a high proportion, 19%, as against the global norm of 11%, of applications. 4 of the 7 applications that were rejected, were because the child was not located. The 'other' reasons were not stated.

12. The reasons for judicial refusal

(a) Incoming return applications

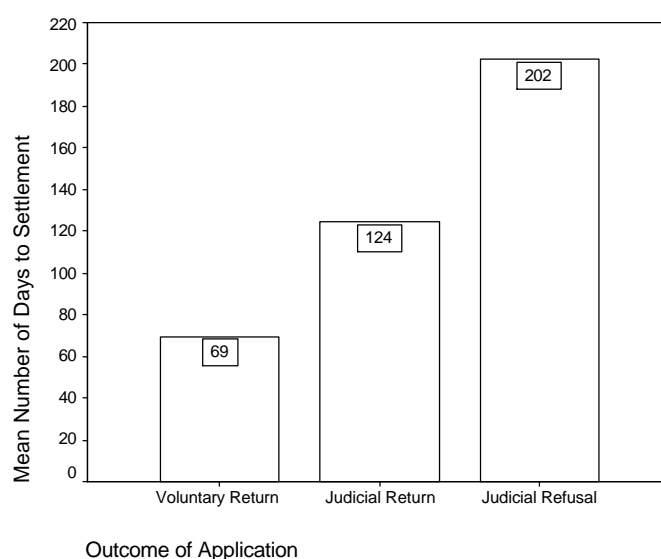
One application was refused because the applicant had no rights of custody, another refusal was based on the objections of a child aged between 13 and 16 years. In two applications, the refusal was based on more than one reason. In one of these cases, the application was refused because of Article 13 a (the

applicant was not exercising rights of custody) and the objections of a child aged between 11 and 12 years old. In the second application the refusal was based on the objections of a child aged between 8 and 10 years and a sibling aged less than 7 years. This was 1 of only 2 applications in all the States analysed, where a refusal was based on the objections of a child below the age of 7. In this latter case the taking person was male but in the other three cases, the taking person was female. Interestingly, the objections of the child were considered in 3 out of the 4 refusals.

Speed

13. The time between application and outcome

(a) Incoming return applications



Compared with the global norm, Spain was slower in reaching judicial conclusions, but quicker to reach a voluntary agreement. Voluntary returns took a mean average of 69 days compared with the global mean of 84 days. Judicial returns and judicial refusals took a mean average of 124 and 202 days compared with the global means of 107 days and 147 days respectively.

	Outcome of Application		
	Voluntary Return	Judicial Return	Judicial Refusal
Mean	69	124	202
Median	66	131	218
Minimum	4	44	41
Maximum	131	216	348
Number of Cases	7	8	3

The table above shows the mean and median number of days taken to reach a conclusion for each outcome and also the minimum and maximum number of days. It also shows the number of cases for which we had information regarding timing. It can be seen that one of the judicial refusals was decided relatively quickly, while another took almost a year.

(b) Incoming access applications

The voluntary agreement took over 6 months to reach a conclusion. One of the 3 court orders was decided in between 3 and 6 months and the other 2 took over 6 months to reach a conclusion.

15. Appeals

(a) Incoming return applications

We have information regarding two appeal court decisions, both ordered the return of the child, one application took 127 days, the other 216 days.² The global mean was 208 days.

² In addition there was one case which was believed to be refused at the appellate court, but this needs confirming. 2 applications (one in which a return order was made and the other where it was refused) are in the process of being appealed.