

**HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF
INTERNATIONAL CHILD ABDUCTION**

**STANDARD QUESTIONNAIRE FOR NEWLY ACCEDING STATES
RESPONSE FROM THE REPUBLIC OF ARMENIA**

I. Implementing legislation

(a) In accordance with the legislation of the Republic of Armenia the entry into force of any international agreement (as well as this Convention) is regulating by the appropriate provisions of the Law of the Republic of Armenia “On International Agreements of the Republic of Armenia”.

According to the paragraph 4 of Article 36 of the mentioned Law for the acceding to an international agreement the National Assembly (Parliament) of the Republic of Armenia shall make a decision on ratification of that international agreement and the President of Armenia issue an order on approval of it. Article 22 of the same Law constitutes, that international agreement is subject to ratification or approval in order prescribed by the Constitution and the Law and only by this ground the agreement become an obligatory for the Republic of Armenia.

(b) Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (by the attached reservations) is ratified by the decision of the National Assembly N- 305-3 dated on 23 October 2006 and has entered into force fore the Republic of Armenia from 1 July 2007.

It is necessary also to note, that with the aim of effective implementation of the Convention the joint order of the Ministry of Justice, Ministry of Foreign Affairs and the Police of the Republic of Armenia has adopted on 28 February 2008 in regard with “Ensuring of implementation of obligations of the Republic of Armenia by the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction”, which was entered into force on 11 April 2008. By the mentioned order was approved the Regulation on partnership of executive state bodies of the Republic of Armenia.

(The legislation of the Republic of Armenia (as well as in English) is available in the website of National Assembly www.parliament.am and in website of the Ministry of Justice (unfortunately only in Armenian) www.arlis.am)

II. Locating Children

In accordance with joint order of the Ministry of Justice, Ministry of Foreign Affairs and Police of the Republic of Armenia with the aim of implementation of the Convention the Ministry of Justice, which is designated as a Central Authority regarding to issues connected to implementation of the Convention, shall cooperate with the Ministry of Foreign Affairs as a Transferring Authority and the Police under the Government of the Republic of Armenia.

After the reception of the request on a child wrongfully removed to or retained in the territory of the Republic of Armenia from the Central Authority of any other Contracting State (hereinafter Requesting Central Authority) in order stipulated by the Article 8 of the Convention, the Transmitting Authority address it to the Central Authority.

Within a period of three days following receipt of the request and making the decision on implementation of corresponding activities for the prompt return of a child, the Central Authority inform in written the Police about the child wrongfully removed to or retained in the territory of the Republic of Armenia and existing all the necessary information concerning the child. In case of necessity the Central Authority via Transmitting Authority may request additional information from the Requesting Central Authority.

According to the sub-paragraph 22 of the abovementioned order the activities on discovering the whereabouts of a child shall be immediately implemented by the Police of the Republic of Armenia after receiving of the request by the Central Authority. Police shall also conduct the criminal persecution if there were a sufficient base for it.

The Police shall periodically inform the Central Authority on results and in case of additional information concerning the case the Central Authority shall transfer it to Police, which may be received also from the Requesting Central Authority.

Police shall immediately inform the Central Authority in written about the discovering of the child. Before the organization of his/her return to the territory of the Requesting Contracting Party in order provided for by the Convention, the Police appoint a child in any competent organization acting in the territory of the Republic of Armenia responsible for accepting and care of him/her and inform about it the body of Custody and Guardianship in written.

III. Central Authority

(a) As it is mentioned in the II part of this questionnaire the Ministry of Justice of the Republic of Armenia is a Central Authority under the Convention and with the aim of its implementation.

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(b) The competent department of the Central Authority is Department for Control of the Ministry of Justice.

(c) As it is mentioned, the joint order of the Ministry of Justice, Ministry of Foreign Affairs and the Police of the Republic of Armenia on 28 February 2008 in regard with "Ensuring the implementation of obligations of the Republic of Armenia by the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction" has adopted the partnership order of State executive bodies (hereinafter Partnership order), which constitutes detailed conditions of organization and implementation of activities of the competent authorities of the Republic of Armenia.

All provisions of the abovementioned Partnership Order are directed to effective implementation of obligations of the Republic of Armenia under the Convention (particularly Article 7) and there were provided for all the necessary procedures for the implementation of authorizations of the Central Authority.

IV. Judicial procedures

In accordance with paragraph 25 of the Partnership Order after the having agreed conditions on return of a child with the Requesting Central Authority, the Central Authority (i.e. Ministry of Justice of the Republic of Armenia) organize the return of the child to his/her habitually resident Contracting State of the Convention through the Police.

Before the return of a child to the territory of the Requesting Central Authority in case of receipt of the request on access, the Central Authority after the coming to agreement with the Police, determine the day of access, as well as the place and other necessary conditions and shall take

into consideration the wishes and intentions described in the application of the Requesting Central Authority.

The responsible employee of the Police shall meet and organize the access in fact of the person applied for the access/contact.

(b) As it is mentioned in the sub-paragraph (a) of this paragraph the return measures has been implemented by the Ministry of Justice of the Republic of Armenia and shall not be dealt with at first instance and on appeal.

Concerning the expeditious examination of applications on return of children, then in accordance with paragraph 22 of the Partnership Order the Central Authority in order provided for by the Convention within the period of three days after the receipt of the request of the Central Authority of the Contracting State and after the conduction of necessary activities regarding to examination of the application and determination of the necessity of implementation of return activities under the Convention, immediately inform the Police about a child wrongfully removed to or retained in the territory of the Republic of Armenia.

(c) Taking into consideration the circumstance, that activities in regard with return or access to a child has been implementing by non-judicial order, so, the foreign applicants shall apply to Central Authority of their states, the request of which according to the Convention shall be transmitted by the Ministry of Foreign Affairs of the Republic of Armenia (Transmitting Authority) to the Central Authority.

In such a case no permission of the court or legal aid has been need in case of return or access to a child. Nevertheless, concerning the available legal aid it is necessary to note also, that according to the Article 20 of the Constitution of the Republic of Armenia everyone shall be entitled to legal assistance and in cases prescribed by the law the legal assistance shall be provided at the expense of the state resources.

V. Enforcement procedures

(a) Conditions and order for enforcement of court decisions of the Republic of Armenia is constituted by the Law of the Republic of Armenia on “Enforcement of Judicial Acts” adopted on 5 May 1998 by the National Assembly of the Republic of Armenia.

Taking into account responses of IV part of this questionnaire, the enforcement of decisions concerning the return of a child is not regulating by the abovementioned law and enforcement of return and contact orders is not required.

Return of a child is implementing by the Central Authority and the Police in order prescribed by the Convention and Partnership order, if there is no doubt about that child was wrongfully removed to or retained in the territory of the Republic of Armenia. If such a doubt exists, then the Central Authority through the Requesting Central Authority shall demand of decision of the competent body of the state of Requesting Central Authority or any other confirmation that removing or retaining of a child in the territory of the Republic of Armenia is wrongful or illegal under the Article 3 of the Convention.

Return of a child may be refused mentioning the corresponding grounds by the Central Authority only based on the cases stipulated by the Article 12 and 13 of the Convention.

(b) The same concerns access/contact orders. In fact the responsible employee of the Police shall meet and organize the access of the person applied for the access/contact. As a rule, the access shall be organized in the institution taking him/her care (custody). Duration of the access determines the responsible employee of the Police having agreed with competent authority of the custody institution and the person applied for access. Partnership order also provides for regulation concerning the access to a child for more then one person applied for access.

The Police can refuse the access to a child, if there was a ground for doubt as the person applied for access wants to abduct the child or there is any warning of violent acts or psychotropic means with regard to a child.

VI. Substantive law

(a) In the Republic of Armenia family relations are regulated in order prescribed by the Family Code of the Republic of Armenia. Thus, according to the first paragraph of the Article 49 of the Family Code parents have equal rights and obligations with regard to their children.

While getting divorced by judicial procedure the spouses may present to the court an agreement regarding to whom the children will live with. In case if there is no agreement between the

spouses the court is obliged to decide who the children will live with after the divorce. In case of separate living of parents the residence place of children is decided by the court, proceeding from the interests of children and taking into consideration the opinion of a child above 10.

The parent living separately from a child has the right to communicate with the child, participate in his/her rearing, and solve the education issues of the child. If the parents cannot come to an agreement on this issue, upon the requirement of both or one of them the dispute is solved by the court with the obligatory presence of the department of custody and guardianship. In case of intended violation of the court's decision, upon the requirement of the parent living separately from the child the court can make a decision on granting him/her the child, proceeding from the interests of children and taking into consideration the opinion of a child above 10.

It is also necessary to note, that in order prescribed by the legislation of the Republic of Armenia the custody and guardianship may be established only for children deprived of parental care or for adults recognized by the court as legally incapable or limited capable.

(b) As it is noted in the sub-paragraph (a), the Family Code constitutes that parents have equal rights and obligations with regard to their children. There is no difference in legal status provided for by the legislation of the Republic of Armenia in regard with determination on taking care of a child (custody) after the divorce of his/her parents (notwithstanding is it father or mother).

VII. Social services and child protection services

In accordance with paragraph 23 of Partnership Order, while discovering a child the Police shall immediately inform about it the Central Authority in written and allocate the child in any institution acting in the territory of the Republic of Armenia, which is responsible for custody and security of children, before their return to the territory of the state of Requested Central Authority in order prescribed by the Convention. The Police shall also inform about it in written the institution of Custody and Guardianship.

In case of refusal of return of a child or if the application under the Convention is not lodged within a reasonable time following the receipt of the notice on wrongful removal or retention of a child in the territory of the Republic of Armenia (Article 16 of the Convention), the Central

Authority shall inform the Police to undertake the necessary measures on the merits of rights of custody under the Convention.

While receiving this notice from the Central Authority during the period of three days the Police within the limits of its jurisdiction undertake the necessary measures the merits of rights of custody.

It is already mentioned, that in the Republic of Armenia the institutions of Custody and Guardianship are acting. The main purpose of this institution is protection of rights and interests of children deprived of parental care, as well as adults recognized by the court as legally incapable or limited capable.

According to the Article 109 of the Family Code of the Republic of Armenia, institutions of custody and guardianship reveal the children deprived of parental care, register these children, and, proceeding from certain aspects of being deprived of parental care, choose the ways of placement of these children.

Within three days after getting information on whereabouts of a child the department of custody and guardianship is obliged to implement examination of living conditions of a child and in case of revelation of the absence of care by parents or relatives provide protection of rights and interests of a child until the solution of his/her placement issue.

Children deprived of parental care are subject to giving for rearing to a family (adoption), guardian or foster family, and in case of absence of such possibility, all kinds of organizations (rearing, medical, population social protection etc.) for children deprived of parental care.

While placement of a child his/her ethnic origin, certain religious or culture belonging, native tongue, possibilities of providing continuity of rearing and education should be taken into consideration (Article 111 of the Family Code).

What is about services available for the necessary protection of returning children, as well as the services available (including legal advice) to a parent accompanying the child on return, in accordance with paragraph 33 of the Partnership Order, when the Requesting Central Authority apply to Central Authority to take the obligation for the returning of a child, then the competent officer of the Police is responsible for the protection of a child during his/her return. The Child

may be also accompanied by the competent doctor or other specialist whom the child may need during his travel to the territory of the State of Requesting Central Authority.

If the agreement has been reached with parson during his arrival and access to a child in the territory of the Republic of Armenia, then the returning child shall be accompanied by the person arrived for access or contact to the child.

If there is more than one person arrived to the Republic of Armenia for access, than one of them shall give a writing guarantee to the competent officer of the Police that he/she is obliged to transmit the child and conduct his/her safe placement in the territory of the state of Requesting Central Authority and inform that authority about return of the child and his/her safe placement in writing form (paragraphs 31-32).

By the initial agreement with the Requesting Central Authority the return of a child may be conducted by the Diplomatic representation or Consulate of the corresponding country in the Republic of Armenia

VIII. Information and training

With the aim of implementation of the Convention no special training for the personnel of the Central Authority has been organized. Responsible division for the implementation of the Convention is duly familiarized with the “Partnership order of executive state bodies of the Republic of Armenia for the ensuring of implementation of obligations of the Republic of Armenia under the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction”, and in case of any application under the Convention shall follow the instructions provided for by this Partnership order.