



No. 0036/ 7463

Office of the Attorney General
Na Happhoei Road
Bangkok 10200
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May 19, 2003

Sir,

Pursuant to the standard questionnaire for newly-acceding states approved by the Special Commission to review the operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, the Office of the Attorney General of the Kingdom of Thailand as the Central Authority is very pleased to respond to the approved questionnaire as follows:

I. Implementing legislation

- (a) Yes
- (b) Pending draft

II. Locating children

The Royal Thai Police involves in the location of missing children. The process available for such location requires that the person responsible for taking care of the children inform the police of the incident. Thereafter, it is the duty of the police to use all available means to locate the missing children.

III. Central Authority

- (a) the Office of the Attorney General

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- (b) Mr. Trakul Winitnaiyapak

Language: English

Address: International Affairs Department

Office of the Attorney General
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- (c) Pending draft

IV. Judicial Procedures

- (a) Pending draft
- (b) Pending draft
- (c) Pending draft

V. Enforcement Procedures

(a) Pending draft

(b) Pending draft

VI. Substantive law

(a) Pertaining to the attachment

(b) Pertaining to the attachment

VII. Social Services and child protection services

Pending draft

Pending draft

VIII. Information and Training

To be considered after implementing legislation coming into force.

The unanswered queries will all be clarified in the pending-draft-
implementing legislation to be furnished after its coming into force.

Yours sincerely,



Prapun Naigowit

Deputy Attorney General

On behalf of the Attorney General

(อำนาจ)

No. 0036/ 4792

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March 28, 2003

Dear Sir,

Subject: The Essential Features of Thailand's Family Law and
the Procedural Means under Thai Law to Implement the Hague Convention

Pursuant to your facsimile dated February 13, 2003 addressed to Mr. Trakul Winitnaiyapak, Deputy Director General of the International Affairs Department, asking for details: firstly, on the issue of the essential features of our family law, especially concerning the effects of marriage and parenthood, and of parental custody and care; secondly, on the issue of the procedural means under our domestic law to implement the Hague Convention and our legal aid rules, we are very pleased to provide you with the details on such issues as follows:

The first issue requested is set forth in our Civil and Commercial Code. Followings are the relevant sections.

Section 19. On the completion of twenty years of age a person ceases to be minor and becomes sui juris.

Section 20. A minor becomes sui juris upon marriage, provided that it is made in accordance with the provision of Section 1448.

Section 23. A minor can do all acts which are strictly personal.

Section 1448. A marriage can take place only when the man and woman have completed their seventeen years of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age.

Section 1457. Marriage under this code shall be effected only on registration being made.

Section 1461. Husband and wife shall cohabit as husband and wife.

Husband and wife shall maintain and support each other according to his or her ability and condition in life.

Section 1501. Marriage is terminated by death, divorce or being cancelled by the court.

Section 1514. Divorce may be effected only by mutual consent or by judgment of the court.

Divorce effected by mutual consent must be made in writing and certified by the signatures of at least two witnesses.

Section 1515. Where marriage has been registered as provided by this code, divorce by mutual consent is valid only if the registration thereof is effected by both the husband and wife.

Section 1520. In case of divorce by mutual consent, the agreement for the exercise of parental power over each of the children shall be made in writing. In the absence of such agreement or an agreement thereon cannot be reached, the matter shall be decided by the Court.

In case of divorce by judgment of the Court, the Court trying the divorce case shall also order that the parental power over each of the children belongs to any party. If, in such trial, it is deemed proper to deprive that spouse of the parental power under Section 1582, the Court may give an order depriving that spouse of the same and appointing a third person as a guardian, by taking into consideration the happiness and interest of the child.

Section 1521. If it appears that the person exercising parental power of the guardian under Section 1520 behaves himself or herself improperly or there is a change of circumstances after the appointment, the Court has the power to give an order appointing a new guardian by taking into consideration the happiness and interest of the child.

Section 1546. A child born of a woman who is not married to a man is deemed to be the legitimate child of such woman.

Section 1547. A child born of the parents who are not married to each other is legitimated by the subsequent marriage of the parents, or by registration made on application by the father, or by a judgment of the court.

Section 1566. A child is subject to parental power as long as he is not sui juris.

The parental power is exercised by the father or the mother in any of the following cases:

- (1) the father or the mother is dead;
- (2) it is uncertain whether the father or the mother is living or dead;
- (3) the father or the mother has been adjudged incompetent or quasi-incompetent;
- (4) the father or the mother is placed in a hospital by reason of mental infirmity;
- (5) the parental power has been granted to the father or mother by an order of the Court;
- (6) the father and mother have come to such agreement as provided by the law that it can be made.

Section 1567. A person exercising parental power has the right:

1. to determine the child's place of residence;
2. to punish the child in a reasonable manner for disciplinary purpose;
3. to require the child to do such work as may be reasonable to his ability and condition in life;
4. to demand the return of the child from any person who unlawfully detains him.

Section 1568. When a person who already has a child marries another person, the parental power over such child, is exercised by the former person.

Section 1569. A person exercising parental power is the legal representative of the child. If the child is adjudged incompetent or quasi-incompetent, the person, exercising parental power shall be the custodian or curator, as the case may be.

Section 1582. When the person exercising parental power is adjudged incompetent or quasi-incompetent, or abuses his or her parental power as regards the minor's person, or is guilty of gross misconduct, the Court may, of its own motion or on the application of a relative of the child or of the Public Prosecutor, order the deprivation of the parental power either partly or wholly.

If the person exercising parental power is bankrupt or likely to endanger the minor's property by mismanagement, the Court may, upon the same proceedings as mentioned in paragraph one, order the deprivation of the right of management.

Section 1584/1. The father or mother would be entitled to contact his or her child, as may be suitable to the circumstances, irrespective of whether who is the person exercising the parental power of the guardian.

Section 1585. A person who is not sui juris and has no parents or whose parents have been deprived of their parental power may be provided with a guardian during minority.

Section 1598/2. The guardian has the same rights and duties as a person exerting parental power as provided in Section 1564 paragraph one and Section 1567.

Section 1598/3. A guardian is the legal representative of the ward.

The second issue on the procedural means under our domestic law to implement the Hague Convention is governed by our Civil Procedure Code and Act on Establishment of Juvenile and Family Court and Juvenile and Family Court Procedure B.E.2534 (1991). Followings are the relevant sections:

1. Civil Procedure Code, Section 55. Any person, whose rights or duties under the civil law are involved in a dispute or must be exercised through the medium of a court, is entitled to submit his case to a civil court having territorial jurisdiction and competency over it in accordance with the provisions of the civil law and this code;

2. Act on Establishment of Juvenile and Family Court and Juvenile and Family Court Procedure B.E. 2534 (1991):

Section 4. In this Act (Cited only relevant paragraph):

"Child" means the person having age exceeding completion of seven years but not exceeding completion of fourteen years;

"Juvenile" means the person having age exceeding completion of fourteen years but not attaining completion of eighteen years;

"Ordinary case" means other cases apart from those under the jurisdiction of the court having competence to try juvenile and family case;

"Juvenile and family case" means the case that the Juvenile and Family Court has the competence to try and adjudicate according to this Act;

"Juvenile and Family Court" means the Central Juvenile and Family Court, the Provincial Juvenile and Family Court or the Section of Juvenile and Family Case in Provincial Court established under this Act.

Section 6. The provisions of the Court Organization Act, the Criminal Procedure Code and the Civil Procedure Code shall be applicable to the juvenile and Family Case so far as they are not contrary to or inconsistent with the provisions of this Act.

Section 11. The Juvenile and Family Court has the competence to try and adjudicate or give order over the following cases:

1. The criminal case having charge of which the child or juvenile is accused;

2. The criminal case that the court having competence to try ordinary case has transferred according to Section 61, paragraph 1;

3. The family case is the civil case that is entered or requested to the court or that an act is performed through the medium of the court in respect of a minor or family, as the case may be, which shall be enforced according to the Civil and Commercial Code;

4. The case that the court shall adjudicate or give order in respect of the person of a child or juvenile according to the provisions of law prescribed to be under the competence of the Juvenile and Family Court.

In addition, the Act implementing the Hague Convention is in the stage of drafting.

As regards the second issue on our legal aid rules, we have Regulation of the Public Prosecution Department (Office of the Attorney General) on Legal Aid to the Public B.E.2533 (1990) of which its relevant provisions are as follows:

Section 4. In this Regulation (Cited only relevant Chapter)

"The poor" means the person who has not property or income or has property or income but not adequate for paying by himself or herself the fee for lawyer representing him or her.

Section 20. Counseling in the matter of law is the service rendered equally to the public regardless of status and income and it shall be rendered justly without exploiting other and without violating or evading law.

Section 22. Assistance in making a juristic act or a contract shall be considered to be given only for the poor people according to their wishes but without violation of law and exploitation of other.

Section 24. Assistance in the settlement of dispute shall be so accorded regardless of status and income that the dispute be terminated resulting in peace and order in society.

Section 30. Assistance in litigation shall be considered to be given as follows (Cited only relevant Sub-Section):

2. In civil litigation and other, consideration for the acceptance of entering or defending lawsuit shall be given only to the poor being suffered or damaged because of not receiving justice or being the litigation having reasonable cause for rendering assistance.

Assistance given under the Regulation is executed by our state attorney, legal officer or volunteer lawyer.

Thank you for your co-operation and your interest in our law. Please do contact us should you require any further clarification.

Yours sincerely,



Prapun Naigowit
Deputy Attorney General
On behalf of the Attorney General

FEDERAL OFFICE OF JUSTICE
Service for International Child Protection
Switzerland

Attn. Salome' Bolliger

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