

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

STANDARD QUESTIONNAIRE FOR NEWLY ACCEDING STATES

Response from: Republic of Korea

Date of Response: May, 2013

I Implementing legislation

(a) Is implementing legislation necessary to bring the Convention into force in domestic law?

Yes, it is.

(b) If so, has the necessary legislation been enacted, and is it in force? (*Please provide a copy or indicate where copies of the legislation may be obtained.*)

"The Act Concerning Implementation of the Hague Convention of *the International Child Abduction* (hereinafter "Implementation Law")" was passed by the National Assembly of the Republic of Korea on November 22, 2012 and entered into force on March 1, 2013 (See the Attachment for the full text).

II Locating children

Please indicate the agencies involved and the processes available for the location of missing children in your country:

Once a missing children's parents or a person responsible to take care of them informs the police, it becomes a duty of the police to locate them using all available means. The Minister of Justice may request that the head of a relevant central administrative agency, local government or public institution or the Minister of the National Court Administration provide necessary data or information such as the immigration records, the whereabouts and social background of the children, and other cooperation required for the performance of the duties of the Central Authority under Article 7 of the Convention.

When it is probable from their immigration records that the children are staying in Korea, the Minister of Justice can request that the Minister of Public Administration and Security provide the *resident registration information* of the children or the person taking care of/accompanying the children. If the residence of the children is confirmed through the previous process, the Minister of Justice can request that the head of the district police station *search* the whereabouts of the children.

III Central Authority

(a) The designation and contact details of the Central Authority (please note that this information will be added to the relevant webpage of the Hague Conference website):

The Ministry of Justice
Address : 427-720, Government Complex Gwacheon, Gwacheon City
Tel. 82-2-2110-3661/3662 Fax. 82-2-504-1378

(b) Contact persons within the Central Authority, languages spoken, contact details for each (see remark at (a) above):

Hwang, WooJin, Public Prosecutor
Tel. 82-2-2110-3661 Fax. 82-2-504-1378 e-mail : ildhd@moj.go.kr
Languages spoken : English, Korean

Kim, Narae, Deputy Director
Tel. 82-2-2110-3661 Fax. 82-2-504-1378 e-mail : ildhd@moj.go.kr
Languages spoken : English, Korean

Jung, Woo-Suk, Public Service Advocate
Tel. 82-2-2110-3661 Fax. 82-2-504-1378 e-mail : ildhd@moj.go.kr
Languages spoken : English, Korean

(c) Please indicate measures taken to ensure that the Central Authority is in a position to carry out the functions set out in Article 7 of the Convention:

It is stipulated in the Implementation Law Article 4

IV Judicial procedures

(a) Which courts/administrative bodies within your system have been given jurisdiction to consider applications for return orders (and questions of access) under the Convention?

The Seoul Family Court shall have exclusive jurisdiction as a court of first instance on cases involving the return of a child under the Convention (Implementation Law Article 11).

(b) What measures exist to ensure that return applications will be dealt with expeditiously at first instance and on appeal?

When the court fails to reach a decision within six weeks from the date a petition for adjudication or an *application* for conciliation was filed in a case involving the return of a child, the court shall notify the applicant the reasons for such delay in writing at the request of the petitioner or the Central Authority (Implementation Law Article 14).

(c) What facilities are available to foreign applicants to assist them in bringing their applications before the courts, and in particular is legal aid available and, if so, on what conditions?

According to the Legal Aid Act, legal aid would be provided to those in economic difficulty, or those not adequately protected by the law due to ignorance of the law, including foreign residents.

There are some pro bono organizations such as the "Korea Legal Aid Center for Family Relations".

V Enforcement procedures

What procedures and measures exist for the enforcement of:

(a) a return order?

Imprisonment, Pecuniary Measures (Implementation Law Article 13)

(b) a contact/access order?

VI Substantive law

(a) What are the legal criteria by which custody and contact determinations are made?

Custody and contact arrangements are determined by parents when they can reach an agreement. If they cannot, the court will make a decision on custody and contact arrangements under the Civil Act (Article 824-2, 837, 837-2, 843).

(b) Is there a difference in the legal status of mothers and fathers in custody or contact cases?

There is no difference in the legal status between a father and a mother concerning child custody and the right of access unless one of them waives or his/her legal rights.

VII Social services and child protection services

Please describe the services which exist for the assessment, care and protection of children in the context of international child abduction:

The court may render a prior disposition under Article 63 of the Family Litigation Act or grant a provisional disposition under Article 63 of the aforesaid Act, to protect the rights and interests of a child or prevent further abduction or concealment of a child in connection with the petition cases (Implementation Law 12).

Please indicate the services available for the protection (if necessary) of returning children, as well as the services available (including legal advice and representation) to a parent accompanying the child on return:

Organizations such as the "Korea Legal Aid Center for Family Relations" would offer legal counselling, mediation, preparation of documents and legal representation all free of charge.

VIII Information and training

What measures are being taken to ensure that persons responsible for implementing the Convention (e.g. judges and Central Authority personnel) have received appropriate information and training?

(Note: the Permanent Bureau may be contacted for information in relation to forms of assistance which may be available for this purpose.)

The Minister of Justice may carry out education and training of the personnel in charge, and promote the exchange of experience and know-how about matters such as efficient prevention of child abduction and the prompt return of abducted children with the Central Authorities of other Contracting States as stipulated in the Implementation Law Article 10.

When necessary for implementation of the Convention, the Minister of Justice may request that the head of a relevant central administrative agency, local government or public institution or the Minister of the National Court Administration provide cooperation necessary for performance of the duties of the Central Authority under Article 7 of the Convention. In such cases, the head of the agency who has received such a request shall comply unless there are extraordinary circumstances.