

**Approved questionnaire at the 4<sup>th</sup> meeting of the Special  
Commission on the practical operation of the Hague Convention  
of International Child Abduction**

**I.- Implementing Legislation**

**a) Is Implementing legislation necessary to bring the Convention into force in domestic law?**

No, it is not necessary because Articles 55 and 56 of Peruvian Politic Constitution and the juridical nature of the norms under the Convention are Human Rights, in that sense Peruvian Congress, before the President's ratification, approve Hague Convention on the Civil Aspects of International Child Abduction.

**b) If so, has the necessary legislation benn enacted, and is it in force?**

No, Peruvian State doesn't have Legislation about Civil Aspects of International Child Abduction.

**II.- Locating Children**

**Please indicate the agencies involved an the processes available for the location of missing children in your country.**

The state agencies are Policía Nacional del Perú with its Oficce : División de Personas Desaparecidas and there isn't a especific procedure. The person, who has been affected, must be present his or her denunciation to Police.

**III.- Central Authority**

**a) The designation and contact details of the Central Authority**

The Peruvian Central Authority is Ministerio de la Mujer y Desarrollo Social This Ministry has a Office names Dirección General de Niñas, Niños y Adolescentes This Direction has been designed by Resolución Ministerial 206-2002-PROMUDEH for execution the norms of The Hague Convention.

Address : Jr. Camaná 616 – Lima 1  
Telephones: 4269210 and 4289800 Ext : 2704 Fax : 4261336

**b) Contact persons within the Central Authority, languages spoken, contact details for each**

Dr. José ALVARADO DE LA FUENTE  
Director General Adjunto de Niñas, Niños y Adolescentes

Dr. Luis Raúl SERRANO ARRIBASPLATA  
Abogado de la Dirección General de Niñas, Niños y Adolescentes  
Emails : [lserrano@minmimdes.gob.pe](mailto:lserrano@minmimdes.gob.pe)  
[jalvarado@minmimdes.gob.pe](mailto:jalvarado@minmimdes.gob.pe)

Languages : Spanish and English

**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**

Peruvian Central Authority has taken the following measures :

- Sent a communication to Ministerio de Justicia, the purpose was design gratuitous lawyers for foreign and national people that have abduction child problem.
- Have reunions with other authorities of Peruvian State and Civil Society for coordinate actions.
- Sent the cases to Judiciary Power for them resolution.

**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?**

Juzgados Especializados de Familia (en Lima) y Juzgados Mixtos (en Provincias)

Cortes Superiores de Justicia (in all of country)

Corte Suprema de Justicia

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

Only the measures exist in law (Código de los Niños y Adolescentes, Código Procesal Civil y Código Civil).

**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?**

Only exist Ministerio de Justicia, the purpose of its service is design gratuitous lawyers for foreign and national people that have abduction child problem. The Central Authority also brings information about legislation and its action for abduction child.

## **V.- Enforcement procedures**

### **a) What procedures and measures exist for the enforcement of a return order?**

It doesn't exist a specific procedure, however it is possible to execute a judicial return order with police help, this help could be brought through the Central Authority.

### **b) What procedures and measures exist for the enforcement of a contact/access order?**

The same as for a return order, it is possible to execute a judicial contact/access order with police help. It doesn't exist a specific procedure.

## **VI.- Substantive law**

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

According to Law N° 27337 Código de los Niños y Adolescentes, we have the following concepts :

**Patria Potestad.-** This concept includes all the Rights and Obligations that parents have for care of their children, also include care of children's effects.

**Tenencia.-** Is the parent's right to live with their children and in some cases require police help to recover them.

**Régimen de Visitas.-** Is the Right that have father or mother that doesn't execute Tenencia. It consists in visit his or her son or daughter under 18 years old.

The legal criteria for apply the concepts before wrote are :

- In case of invalidhood married or causal divorce apply article 340 of Código Civil, it said that children live with the parent that obtains the separation by specific causal, however the judge could, in the name of higher interest of child, resolve the case in the sense that the other couple or other person care the children.  
If both of parents are guilty (in causal divorce) the sons after seven years old will live with father and the daughters before seven years old will live with mother, however the judge could resolve in other sense.  
The father or mother who lives with the child/children execute the Patria Potestad respect of his/her/them, respect the other that right will be suspended, but resume if the other dead or results legally impeded.
- In case of Conventional Separation and Finally Divorce or Fact Separation, anyone of parents will be suspended of execute Patria

Potestad. It must be conventionally between the couple the Tenencia and Régimen de Visitas.

- If doesn't exist agreement about Tenencia, the Judge will resolve, whit the following considerations :
  1. The child must live whit the progenitor whit who lived more time, if that rule is better for child.
  2. The child before three years old will live whit the mother.
  3. For the progenitor that doesn't obtain Tenencia of Child, must have a Regimen de Visitas.

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

No one difference, because anyone of them must be follows the Peruvian law (Código de los Niños y Adolescentes).

**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 chil abduction**

For the assessment only exist the Central Authority, It doesn't especific services or procedures for care and protection abduction child.

**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**

It doesn't exist especific services, however for return of child, the parent accompanying the child on return, Ministerio de la Mujer y Desarrollo Social as Central Authority could solícite Police help and other diferent services that depend of Peruvian State.

### **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?**

Child Abduction is a new topic for people who work in child themes in Peru and for State Authorities and Civil Society, however in Peruvian Central Authority, people are training and learning with quotidian experience and foreign experientia (other countries). Finally is not necessary but better implementing legislation that develop The Hague Convention of Child Abudction.