



MINISTERSTWO  
SPRAWIEDLIWOŚCI

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**GUIDE ON HOW TO SUBMIT AN APPLICATION  
FOR RETURN OF A CHILD TAKEN ABROAD  
WITHOUT PERMISSION  
AND REQUEST FOR EXERCISE  
OF RIGHT OF ACCESS**

**Child protection under THE HAGUE CONVENTION of 25 October 1980  
on the Civil Aspects of International Child Abduction**



# WHAT TO DO IF A CHILD HAS BEEN ABDUCTED OR WRONGFULLY RETAINED

## APPLICATION FOR RETURN OF A CHILD

### 1. THE FIRST STEP

If a child has been abducted or wrongfully retained, an application must be submitted immediately. Compliance with the one-year time limit for lodging an application, as set out in the Hague Convention, from the time when the child was abducted or wrongfully retained, is of the utmost importance.

If this time limit is not observed, the court hearing the case may refuse to order the return of the child on the grounds that the child has adapted to the new place of residence.

### 2. THE FORM OF THE APPLICATION

It is recommended to submit an application on the proposed templates, which are available at:

<https://www.gov.pl/web/stopuprowadzeniomdzieci/formularze2>

You can use the interactive form or download the application in PDF format. The application is available for download in various languages. If a child is abducted or wrongfully retained outside Poland, you should remember to submit an application in two languages: Polish and the country of abduction or wrongful retention.

According to the Polish procedure the application may be signed by:

- the applicant in person;
- a legal representative appointed by the applicant if at the same time a power of attorney to act in these proceedings is attached;
- if the application concerns abduction or wrongful retention of a child abroad, then it is recommended that the applicant signs the application in person.

### 3. WHAT TO INCLUDE IN THE APPLICATION

In cases of abduction or wrongful retention of a child, the submitted application should state:

- when and under what circumstances the abduction or wrongful retention took place (date, circumstances);
- current address (if known) of the child, the abducting parent's mobile phone number. Details posted on social networking sites can also be valuable;
- how to organize the child's return.

### 4. WHERE TO SUBMIT THE APPLICATION

In cases of abduction or wrongful retention of a child, the application may be submitted:

- through the Polish central authority.
- The completed document should be signed and sent by post to the following address:

#### **Ministry of Justice**

Office of International Family Proceedings  
Department of Family and Juvenile Matters  
Aleje Ujazdowskie 11  
00-950 Warsaw

- through a foreign central authority;
- directly to the court of the place of child abduction. In Poland, abduction matters are dealt with by selected regional courts. The list of courts having jurisdiction to hear a case can be found here: <https://www.gov.pl/web/stopuprowadzeniomdzieci/mapa-sadow-specjalistycznych>

**THE POLISH CENTRAL AUTHORITY WILL HELP TO SUBMIT AN APPLICATION FOR RETURN OF A CHILD. HOWEVER, THE POWER TO PROVIDING COMPREHENSIVE LEGAL ADVICE IS OUTSIDE OF THE REMEDY POLISH CENTRAL AUTHORITY.**

## **5. WHAT DOCUMENTS TO ENCLOSE WITH THE APPLICATION**

1) power of attorney for the Polish central authority – the Minister of Justice with its seat in Warsaw, as well as for the foreign central authority in the country where the abducted or wrongfully retained child is currently living (templates of powers of attorney can be found here:

<https://www.gov.pl/web/stopuprowadzeniomdzieci/formularze-do-pobrania>

some forms already contain the a “power of attorney for the central authority” section;

2) the child's birth certificate or any other document proving the identity of the child;

3) evidence that you are entitled to submit the application:

- for married couples: marriage certificate, the child's birth certificate – it is best to obtain a multilingual marital status certificate;
- for spouses who are divorced: court decisions, for example a ruling finalising divorce together with information concerning custody, the place of residence of the child following divorce, etc;
- for unmarried couples: the child's birth certificate, court decisions on custody, parental responsibility, etc.;

4) evidence of the child's place of habitual residence prior to the abduction or wrongful retention – issued at the applicant's request, e.g. certificate from a school or kindergarten, certificate of registered address, medical certificate etc;

5) photos of the child and if possible of the abducting parent;

6) any other useful documents;

7) provisions concerning legislation (to be attached by the central authority submitting the application).

The documents should be translated into the language of the country of abduction or wrongful retention of a child. These do not have to be certified translations, but they should be understandable.

Remember to observe the rule that one document in Polish must correspond to one document in the language of the country of abduction or wrongful retention.

Copies may be submitted, but the originals must be produced if the court or other authority requests them.

**THE APPLICATION AND THE POWER OF ATTORNEY FOR THE CENTRAL AUTHORITY MUST BE SUBMITTED AS ORIGINALS AND SENT BY POST.**

A parent whose child has been abducted or wrongly retained can also be given the right of access to their child.

In such a case, a parent who cannot exercise this right due to abduction or wrongful retention may attach to the application for return a request to ensure access to the child for the duration of the proceedings, stating how this access will be assured.

In this event, the court dealing with the abduction case will decide whether to grant that access for the duration of the proceedings concerning order of return of the child.

The proceedings for the return of the child should be concluded before the court of first instance and before the court of appeal within six weeks for each of these courts.

**ABDUCTION CASES ARE ALWAYS DEALT WITH BY A COURT OF THE COUNTRY TO WHICH THE CHILD WAS ABDUCTED.**

# WHAT TO DO IF THERE IS A NEED TO FORMALLY REGULATE ACCESS TO THE CHILD ON THE BASIS OF ARTICLE 21 OF THE HAGUE CONVENTION

## REQUEST FOR THE EXERCISE OF RIGHTS OF ACCESS AND ACCOMMODATION

### 1. THE FIRST STEP

Where the child is in a country other than that of the applicant, a request may be made for access to the child to be formally regulated under the Hague Convention.

### 2. THE FORM OF THE APPLICATION

It is recommended to submit an application on the proposed templates, which are available at <https://www.gov.pl/web/stopuprowadzeniomdzieci/formularze2>

The application should be submitted in two languages: in Polish and the language of the country where the child is currently. These do not have to be certified translations, but must be legible and understandable.

### 3. WHAT TO INCLUDE IN THE APPLICATION

The application for access to a child should state:

- the address where the child is currently;
- the age of the child;
- to specify how access to the child is to be arranged/executed;

### 4. WHERE TO SUBMIT THE APPLICATION

A request for the exercise of rights of access may be submitted to:

- a central authority, in the same way as an application for return of the child, or
- directly to the court of the child's place of residence (this is not a request for the exercise of rights of access based on a previous ruling).

This applies where there is currently no regulated

access of any kind, or where a judgment passed in the country in which the child has previously resided is unenforceable.

### 5. WHO CAN SUBMIT THE APPLICATION

- anyone who has custody of the child;
- the person closest to the child (grandmother, grandfather);

### 6. WHAT DOCUMENTS TO ENCLOSE IN THE APPLICATION

As in the case of an application for the return of a child, the documents listed in points 5(1), 5(2), 5(3) and 5(6) must be attached, as well as any evidence suggesting that access to the child is not possible.

### 7. THE BODY THAT REVIEWS THE APPLICATION

For access to a child who is in another country, the application for access shall be dealt with by a court in the country where the child is currently. The court is not bound by existing rulings and can redefine this access.

**FOR CASES FOR THE EXERCISE OF RIGHTS OF ACCESS, THE TIME LIMIT FOR HEARING THE CASE MAY BE CONSIDERABLY LONGER THAN IN PROCEEDINGS REGARDING ORDER OF RETURN OF THE CHILD. THE SIX-WEEK TIME LIMIT DOES NOT APPLY IN THIS CASE.**

## COSTS OF THE PROCEEDINGS

There is no fee for submitting an application to the central authority. However, the parties to the proceedings may be ordered to pay court costs, the costs of a party's legal representative, and costs of mediation, unless they are exempt from these costs.

### 1. APPLICATION FOR EXEMPTION FROM COSTS AND APPOINTMENT OF A LEGAL REPRESENTATIVE

If a party cannot afford the costs, as well as the costs of appointing a legal representative in the case, it may submit an appropriate application the costs of proceedings to be waived and for a legal representative to be appointed by the state. In this respect, each State Party to the Convention has its own regulations.

### 2. LEGAL REPRESENTATIVE

In proceedings regarding order of return of a child before a court in Poland, each party must have

a legal representative (compulsory representation by a lawyer). If a party has not appointed a legal representative of its own choice, the court will appoint a legal representative.

In the case of other countries, the appointment of a legal representative is governed by the laws of that country.

### 3. INTERPRETER

During the hearing, the courts shall provide interpreters for parties who do not have a command of the official language of the country before which proceedings are being conducted.

**THE CENTRAL AUTHORITIES DO NOT TAKE PART IN THE HEARING. THEY CAN, ON THE OTHER HAND, HELP TO OBTAIN LEGAL REPRESENTATION IN COURT AND, IN SOME COUNTRIES, TO CARRY OUT MEDIATION.**

## MEDIATION

Cross-border mediation is a procedure conducted by a mediator if the parties are resident or habitually resident in different countries. An important attribute of a mediator is knowledge of the languages of both parties or of one language spoken by both parties (if any). Mediation can be attended by an interpreter to facilitate communication with ease and understanding of specialist terminology. This form of conflict resolution is becoming increasingly popular in many countries.

**AN AMICABLE SETTLEMENT OF A DISPUTE IS ENCOURAGED BY ALL CENTRAL AUTHORITIES, WHICH IN THIS REGARD FOLLOW ARTICLE 10 OF THE HAGUE CONVENTION.**

As far as mediation in cross-border cases is concerned, we encourage you to visit: <https://www.mediacja.gov.pl> or <https://crossbordermediator.eu/home/country/poland#countries>. To find mediators conducting cross-border mediation, refer to the lists of permanent mediators maintained by the presidents of the Regional Courts. These lists are available in the court

buildings and on their websites. One of the mediation centres providing cross-border mediation is the Polish Mediation Centre (Polskie Centrum Mediacji, PCM) with its headquarters in Warsaw. It has local centres all over Poland. A list of PCM mediators who are duly qualified and trained to conduct such mediation can be found on the websites of the centre and the individual centres.

The centre [www.mediatorzy.pl](http://www.mediatorzy.pl), which participates in the International Mediation Alliance intercultural mediation project, also has experience in the field of mediation with international aspects. Furthermore, it is a contact partner of MiKK e.V. (Mediation bei internationalen Kindschaftskonflikten) – an association specialising in helping and mediating in international conflicts concerning custody of children.

A mediator dealing with cross-border mediation can be found on lists (including information about language skills and specialisation) published on the websites of many international organisations, e.g. the above-mentioned MiKK e.V. <https://www.mikk-ev.de/informationen/informationen/>