

# Children who are wrongfully removed or retained in another country



 Departures



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## Introduction

The number of children who are wrongfully removed or are retained in a country other than the country where the child is resident has increased in recent years.

This booklet aims to give you as a parent in this situation some practical support by offering information about what you yourself can do as a parent, what help you can get and where you can turn. At the same time, it contains information about what help is not available to you. This information is also important to keep your expectations realistic.

We want to underline that the Ministry for Foreign Affairs (MFA) cannot be your representative. We therefore want to urge you to engage a lawyer who is very familiar with cases of this type, in case you run into problems that may require court proceedings.

This booklet is also aimed at those of you who suspect that your child may be abducted. It provides information and advice on what action you can take to prevent an abduction in so far as is possible.

Child abductions occur both to and from Sweden. This booklet, however, focuses primarily on child abductions from Sweden.

This booklet also deals with questions related to custody of and access to your child in international contexts. One example is what is applicable if you have a Swedish judgment regarding access, but the child has moved to another country.

As a result of the often difficult questions that arise in this area, several countries have felt a need for greater international cooperation. Three international agreements are particularly important - the 1980 Hague Convention<sup>1</sup>, the Brussels II Regulation<sup>2</sup> and the 1996 Hague Convention<sup>3</sup>.

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1. The 1980 Hague Convention on the civil aspects of international child abduction.

2. Council Regulation (EC) No 2201/2003 of 27 November 2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

3. The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.



## When is removal or retention wrongful?

### Swedish law

If a child is removed to, or retained in, another country, it does not necessarily mean that the parent who removed the child has done anything wrong. It depends on what the custody circumstances are like in the specific case. Custody of children is regulated in Chapter 6 of the Children and Parents Code. A brief outline is given below of how custody is decided and what rights and obligations custodians have as regards taking a child out of the country.

### *Who has custody?*

- If the parents are married to each other when the child is born, they automatically have joint custody of the child. In the event of a divorce, joint custody remains in force as a general rule.
- If the parents are not married to each other when the child is born, the mother has sole custody. However, the parents can register that they want joint custody, either with the municipal social welfare committee or with the Swedish Tax Agency.

- If the parents separate and cannot agree on who is to have custody of the child and court proceedings become necessary, the custody issue is determined by the district court. In all questions concerning custody, residence and access, the best interests of the child are to be the primary consideration. The law is clear that when this assessment is made particular attention shall be paid to the child's need for good and close contact with both parents and the possible risk of the child being removed or retained.

If the district court awards sole custody to one parent, it may decide at the same time that the other parent has access rights to the child at certain times.

### *Does a parent with joint custody have the right to take the child out of the country?*

Joint custody means that both parents are to decide together on matters relating to the child. In other words, one of the parents must not move from Sweden with the child without the other parent's consent. This applies even if the child lives with only one of the parents.

### *Does a parent with sole custody have the right to take the child out of the country?*

A parent with sole custody has the right to move abroad with the child without the consent of the other parent. However, it is always best – not least for the sake of the child – if both parents agree and try together to find a solution that, as far as possible, suits all concerned. If, for example, the other parent has access rights to the child, it is appropriate to try to see how the access times can be changed, if necessary, so that the child and the other parent can still continue to have contact.

### International law

In today's society, where we travel, live and work abroad, and increasingly build relationships across borders, it is necessary to have regulations that take this into account. Our Swedish legislation is



not enough; we need international regulations and agreements. In the field of civil law, there are a number of international conventions and some of these are important in child abduction cases. The most important of them are summarised briefly below.

### ***The 1980 Hague Convention***

In cases where parents wrongfully remove their children to another country, it is mainly the Convention on the Civil Aspects of International Child Abduction (known as the 1980 Hague Convention) that governs how a case is handled. The Convention is an important instrument for international cooperation regarding wrongfully removed children.

More than 90 countries have acceded to the Convention. For an up-to-date list of the countries it applies to, see [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=24](http://www.hcch.net/index_en.php?act=conventions.status&cid=24)

### ***The purpose of the Convention***

The Hague Convention has two main purposes:

- to secure the prompt return of a child wrongfully removed or retained to the country where the child is habitually resident
- to protect rights of custody and of access

### ***When is the Convention applicable?***

A number of criteria must be fulfilled for the Hague Convention to apply when a child has been removed from or is being retained outside of Sweden. They are:

- The child was resident in Sweden immediately prior to the removal.
- The parent applying for the return of the child has joint or sole custody of the child under Swedish law. In addition, the parent was actually exercising custody at the time when the child was removed or retained or would have been if this had been possible.
- The child has not yet reached the age of 16.

### ***What are the prospects like?***

In cases where the Hague Convention applies, there are relatively good chances of having the child returned. On average, around 85 per cent of cases are settled. This can happen, for example, if the parent who removed the child agrees to voluntarily return the child or if a court decides that the child is to be returned. But it can also happen by a court giving the parent who removed the child the right to keep the child. This may be the outcome if any of the exemption clauses contained in the Convention stating when a return can be refused is applicable. You can read more about this on page 6 under 'What happens after you have filed an application under the Hague Convention with the MFA?'. Even though the majority of convention cases are settled, it is important to remember that the process may take a long time.

If you find it difficult to determine by yourself to what extent the above criteria are fulfilled in your case and whether or not the Hague Convention is applicable, you can always contact the Ministry for Foreign Affairs for a preliminary assessment of whether or not your case is a Hague Convention case. If your case is not a Hague Convention case, the MFA may sometimes still be able to help. You can read more about this on page 12 under 'Non-convention cases'.



### ***What should you do if you are involved in a Hague Convention case?***

If your child is abducted, it is important that you collect as soon as possible information and all the relevant documents requested by the actors involved that you have or can get hold of. It cannot be emphasised enough that it is important that you act quickly. The Hague procedure builds on being able to initiate the process of having your child returned as quickly and efficiently as possible. The priority is to obtain information about the child's whereabouts and any contact details of the person who has removed or is retaining the child. It is also important to be able to provide details of other people in the country where you believe the child is who may have information. It is also important that you can be reached in case your child tries to contact you but also if the authorities concerned need to get in touch with you quickly. Here are some examples of what you should do:

#### **1. Contact the Ministry for Foreign Affairs**

The Ministry for Foreign Affairs (MFA) is the central authority for cases of wrongful removal and retention of children. This means that the MFA provides information and help to parents and cooperates with the central authorities of other countries in cases of this kind.

If your child has been abducted, you should call the MFA for guidance on how to proceed with your case. The switchboard number is 08-405 10 00.

#### **2. Engage a lawyer or representative**

In your first contact with the MFA, you will probably be encouraged to engage a representative. A representative is a lawyer who can help you and represent you in your case. Engaging a representative is not a requirement but it often makes things easier since these cases can be complicated and require many contacts with both Swedish and foreign bodies.

The MFA can help you find a lawyer with experience of working on these specific kinds of cases. If you decide to engage a representative, your representative will help you apply for the return of your

child under point 3. As regards the cost of a representative, see the section entitled 'Costs' on page 18.

As said initially the MFA *cannot* be your representative.

#### **3. Apply for the return of your child**

If your child has been abducted, you should send a formal application to the MFA for the return of your child. If you have engaged a representative, he/she will help you complete and send in the application.

##### **● Application**

To apply for the return of your child, you need to complete a special application form that is available from the MFA. You can have the form sent to you or print it yourself from the Government's website: [http://www.regeringen.se/uds-reseinformation/formular\\_bortforda\\_barn/](http://www.regeringen.se/uds-reseinformation/formular_bortforda_barn/). If your child has been removed to a Nordic country, you can use the Swedish version of the application form. For other countries, use the relevant language version. If you are not sure which language version to use, ask the MFA.

It is important to enter all the information requested on the application form.

##### **● Documents to be enclosed**

The documents you need to enclose are given on the last page of the application form. They include powers of attorney, population registration certificates, any judgments showing who has custody of the child, photographs and background information stating how and when the child disappeared. Note that the documents must be written in or translated into the relevant language. If your child has been removed to a Nordic country, documents in Swedish are accepted.

##### **● Send your application to the following address:**

Ministry for Foreign Affairs  
Department for Consular Affairs and Civil Law  
103 39 Stockholm

#### 4. Be aware that the process may take some time

When the MFA has received your application, a case officer goes through the documents and forwards them to the central authority in the other country. You can read about how this is done on page 10 under ‘What happens after you have filed an application under the Hague Convention?’

It is difficult to say how long it can take to settle your case. It can take a couple of months but it can also take much longer. It is important for you as a parent to be aware that all cases are different. This means that the process may be faster and more efficient in some cases and countries and slower in others.

#### *What happens after you have filed an application under the Hague Convention with the MFA?*

- Main tasks of the central authorities

When the MFA has received an application for the return of your child and checked that all the necessary documents have been enclosed, the application is sent on to the central authority in the country in which your child is located. Generally the central authority in the other country first tries to establish contact with the parent who removed the child to inform him or her about the Convention and to see whether he or she is willing to voluntarily return the child to Sweden. If this solution is not possible, the case will go to court.

- Court proceedings in the country where your child is located

Who turns the case over to the court and who represents you differs from country to country. In the great majority of cases, a ‘local representative’ is appointed for you, that is, a lawyer in the other country who represents you in that country. The other country’s central authority generally arranges this but in some cases you may be forced to find a representative yourself. However, in that case, your Swedish representative or the MFA can help you. The local representative submits the application to the correct court in that

country and also represents you in court. In some countries, however, the central authority sends the application directly to the court.

The aim is that the court will decide the case within six weeks of receiving the application, but it often takes longer. Often, an oral hearing is held in the court. You are not normally required to be present at the hearing; it may be sufficient for your local representative to represent you. Often, the parent who has removed the child also has a legal representative to represent him or her. What the court has to decide is whether the removal or retention was, or is, wrongful and whether or not the child is to be returned. In other words, the court is not to take a position on the issue of custody or assess which of you is most suitable as custodian.

The general rule under the Hague Convention is that a child shall be returned in the cases where the court has found that the removal or retention is wrongful. However, there are some exceptions when a return can be refused. In practice the most important exception is if the parent who removed the child succeeds in convincing the court that there is a *grave* risk that the child would be exposed to physical or psychological harm or placed in an intolerable situation if he or she were returned. It is the parent who removed the child or is retaining the child who has to convince the court. In addition, there has to be a grave risk. So it is not sufficient for the parent to be able to show that the child will be worse off financially or socially if it is returned.

Moreover, a return can be refused if the child objects to being returned and has attained an age and degree of maturity at which his/her wishes should be taken into account.

If the court concludes that the removal was wrongful and none of the points above applies, it shall decide that the child is to be returned.

The possibility of appealing the court’s decision is available in all countries that are parties to the Convention. Both the parent who applied for the return of the child under the Hague Convention and the parent who removed the child have the right to appeal. Your local representative in the country in question can tell you more about how to appeal.





- The return

When the court has decided that a child is to be returned, this means that the parent who removed the child has to hand over the child. If the parent does not do so, he or she may be fined and/or be sanctioned in some other way. If necessary, the police can collect the child. The court cannot force the parent who removed the child to return to Sweden personally with the child. So you may be forced to travel to the country in question yourself to collect your child. As regards costs, see under 'Costs' on page 18.

## Non-Convention cases

If your child has been removed to a country that has not acceded to the Hague Convention, this means that the country is not bound by the Convention and does not apply it either. Instead, it is the

country's own national legislation that regulates whether, and under which conditions, a return can take place.

Moreover, in non-Convention countries, there are no central authorities for cases of this kind. As a result, the MFA has no natural counterpart to cooperate with in the country concerned. This, combined with the fact that it is the country's national legislation that applies, means that the MFA's ability to act is considerably more limited than in cases with countries that have acceded to the Convention. Whether the MFA will be able to help depends on whether the parent who removed the child and/or the authorities in the other country are willing to cooperate. An estimated 25–30 per cent of non-Convention cases are settled.

The fastest and smoothest way to obtain the return of a child who has been removed or retained is therefore to try to get the parent who removed the child to return the child voluntarily. If this fails, the only remaining alternative for you may be to initiate proceedings in the other country to obtain custody or access rights to your child under that country's laws. This generally means that you have to bring legal action at a court in that country. If you decide to pursue your case in the legal system of the country to which your child has been removed it is important to bear in mind that every country decides its own national legislation and that the foreign court will apply the national legislation of its country. The legislation in certain countries is completely different from that in Sweden regarding, for example, which of the parents is deemed to be a custodian. A removal that is wrongful in Sweden may perhaps not be deemed to be wrongful under the law of the other country. Sweden can no more interfere with the legislation of or court cases in other countries, than other countries can do so in Sweden. You should therefore engage a local representative (a lawyer in that country) who is familiar with the country's legislation and can speak the language. Lawyer's fees vary from country to country. For information about legal aid, see the section entitled 'Costs' on page 18.



**To sum up: the MFA can, along with Sweden's embassies and consulates, give a left behind parent the following help:**

- Help to try to locate the child if you, as the parent affected, can provide information about the presumed whereabouts of the child or have contact details of other persons (e.g. relatives) who may know the whereabouts of the child.
- Contact the parent who has abducted the child and investigate whether that parent can consider returning the child to Sweden voluntarily or agreeing on access.
- Suggest local lawyers who may be willing to help you pursue your case in the legal system of the country to which your child has been removed or where it is being retained.
- Provide help with certain practical matters before a possible trip for you in order to, for example, try to arrange a voluntary agreement with the other parent, attend a trial, have access to the child or return the child if the legal conditions for returning the child have been fulfilled. In exceptional cases the MFA can also pay for such trips.

#### **What the Ministry for Foreign Affairs cannot do**

- Help to return the child contrary to the national legislation of the other country.
- Interfere in individual legal matters/cases in or the legal system of the other country.
- Provide assistance with a report to the police or try to have an international arrest warrant enforced abroad.
- Meet lawyer's fees.
- Give legal advice or represent you in court

#### ***Dual citizenship***

Many child abductions include parents and children who are citizens both of Sweden and of the country to which the child has been taken. Certain countries do not take account of the Swedish citizenship and view the child as solely or primarily a citizen of the other country. In those cases it can be particularly difficult for Swedish embassies abroad to take action. This also means that Sweden cannot prevent foreign embassies from issuing their own travel documents (passports) to Swedish children if the children are also citizens of such countries.

#### **Preventive measures**

There are a number of measures that you can take as a parent to, as far as possible, prevent the removal of your child if you suspect that there is such a risk.

- Contact the family law service of the social services in your municipality and/or a lawyer/representative

Social workers at family law services can help you and the other parent find a solution regarding custody, residence and access that is best for the child. A representative can also help you talk to the other parent or their representative so as to reach the best solution regarding custody, residence and access. If you cannot reach agreement, there may be reason to consider applying for sole custody and possibly also reviewing the issue of access and the forms of access.

- Find out about the country you suspect that your child may be removed to

If you suspect that your child may be removed to a certain country, for instance because the other parent has strong ties with that country, find out as much as possible about the other parent's background there. This can include addresses and telephone numbers of family members, relatives, friends, former colleagues, etc. The idea is to make it easier to contact them quickly if your child were to be removed.

If you have had or have good contact with any of these people, maintain your contact with them. The fastest way to get your child back is through voluntary return. Being on good terms with the other parent's contacts in that country can be of great help when trying to bring about a voluntary return. Such a contact might be able to function as an intermediary between you and the other parent.

- Find out about the possibilities the other parent has of obtaining foreign travel documents for the child

If the child's other parent originally comes from a country other than Sweden, you should contact that country's authorities to find out whether it would be possible for that parent to obtain a passport for the child. Some countries consider, for example, that the father automatically has the right to decide about the child. This means that even if under Swedish law the child is only a Swedish citizen, under the other country's law the child may be considered a citizen of that country if the father is. That country's embassy can then issue a passport for the child, if the father applies for one, even if this would be done without consent from the mother. In such cases, there is often very little you can do, but it may still be worth while submitting some proof that you have custody – for example, a judgment conferring custody on you – to that country's embassy in Sweden and informing the embassy that you oppose the child being granted a passport.

- Sign an agreement with the other parent

If the other parent has access to the child and/or if he or she is planning to travel abroad with the child, which you may well consent to but also feel some concern about, it is a good idea to sign an agreement with the other parent. The agreement should state, first of all, who has custody of the child. Then it should say that the other parent has your consent to travel abroad with the child for a certain period of time. (Here it is important that you state the date when the child must be back in Sweden.) Both you and the other parent then sign the agreement.

An agreement of this kind will probably not influence the other parent's decision to remove or retain the child if he or she has already made that decision. But it may be to your advantage in the event of proceedings to have your child returned.

- Inform preschool/school

If you have sole custody of your child and the other parent does not have access rights that include collecting the child from preschool or school, be sure to inform the staff of who has the right to collect the child at the end of the day. Stress how important it is that this is followed and also make sure that this information is given to any substitutes or new staff.

- Photograph your child

Make sure to photograph your child regularly because photos are valuable if it should become necessary to issue an alert for your child. Also make a written description of the child's hair and eye colour, height and weight and other special physical characteristics.

- Write down information about the other parent

Make a list of important information about the other parent – a physical description, personal identity number, passport number and bank account number. Also make a list of addresses and telephone numbers of the other parent's relatives, friends and business acquaintances in Sweden to make it easier to contact him or her in the future. Just as a person in another country can function as an intermediary between you and the parent who removed the child, a person in Sweden who is, or was, close to that parent can do the same. A recent photo of the other parent is also useful.

- Contact the border police

In a situation where you fear that your child is going to be taken out of the country immediately, we recommend that you contact the duty commander of the border police at the relevant airport or border crossing and inform them of the situation. You can be connected to the duty commander of the border police by calling 11414.

It is important to remember that it is not possible to apply for the return of your child as a preventive measure in an attempt to stop the child from being removed. The MFA can only consider an application once a wrongful removal has taken place.

## Costs

It does not cost anything to file an application with the MFA for the return of your child and nor does the MFA make any other any other charge for its work. The other countries' central authorities do not do so either.

Costs may still arise if your child is removed or retained in another country, and in that case they are primarily costs for a legal representative. This applies regardless of whether your case is a Hague Convention case or a non-Convention case.

Often, you may need to have a legal representative both in Sweden and in the other country. The MFA does not cover your costs in this regard. In Hague Convention cases, the central authorities of some countries may pay for a local representative, that is, a lawyer to represent you in that country, while the central authorities of others will not.

One way of getting compensation for your costs is to apply for legal aid. If you are granted legal aid, this means that the state will pay some, or all, of your costs in connection with the case including, where relevant, lawyer's fees. However, to be granted legal aid several requirements have to be met.

To put it simply, these requirements can be divided into two parts with regard to child abduction cases. The first part is about you and includes your ability to pay. If your income is regarded as being high enough to enable you to cover your own costs, you will not be granted legal aid. The second part is about the options available in the other country in terms of legal aid. It may, for example, be the case that the other country offers you legal aid. In such cases, you often cannot be granted Swedish legal aid for the same purpose.

You make an application for legal aid to the Legal Aid Authority. For more information about this, and what other requirements you need to meet to be granted legal aid, contact the Legal Aid Authority:

Legal Aid Authority

Box 853

851 24 Sundsvall

Telephone: 060-13 46 00

Email: [rattshjalpsmyndigheten@dom.se](mailto:rattshjalpsmyndigheten@dom.se)

There is also information on the website of the Legal Aid Authority:  
<http://rattshjalpsmyndigheten.se/In-English/In-English/>

If you have a legal representative, they will help you to apply for legal aid. However, before you can get legal aid, you must always first turn to a lawyer or legal associate for advice. In this context, advice means that the lawyer makes a preliminary assessment of your case. There is a certain fee to be paid for this advice, which is not covered by legal aid. The fee also includes interpretation and translation costs.

If a court in another country has decided that your child is to be returned to Sweden, the MFA may, in certain cases, pay for the child's actual trip back to Sweden and your travel costs to and from the country to collect the child.



## Other proceedings that may run parallel to the proceedings for the child's return

### *Child abduction – criminal proceedings*

Wrongfully removing a child is a crime under Swedish law. The crime is regulated in Chapter 7, Section 4 of the Penal Code. You can make a report to the police that your child has been wrongfully removed. It then becomes a 'criminal matter' and is dealt with separately from the proceedings that the MFA is involved in. It is handled by the police and prosecutor.

In that case, a matter regarding a child abduction handled by the police is conducted in parallel with MFA proceedings for the return of the child. Before you contact the police, you should be aware that a voluntary return of the child may be more difficult if the parent who removed the child has been reported for a crime. You should therefore always consider the advantages and disadvantages of making a report to the police and first at least investigate what the possibilities are of bringing about a voluntary return.

### *Custody disputes*

In some cases when a parent removes a child to another country, the parent also initiates proceedings for sole custody in that country. This is often done in the hope that the court in that country will award sole custody to that parent so that he or she will not have to return the child. The Hague Convention provides that a court may not make a decision on custody until the Hague Convention proceedings have been concluded. So the court in Hague Convention proceedings shall first decide whether or not the child is to be returned to its country of habitual residence. If the court concludes that the child is to be returned, it is the court in the child's home country that then has to examine the issue of custody.

If your child has been removed and you learn that the other parent has initiated custody proceedings in the other country, it is important that you inform the MFA about this. The MFA will then

ask the other country's central authority to request that the court in the other country halt the proceedings until the Hague case has been decided.

If, on the other hand, custody proceedings are taking place in Sweden when your child is removed, the proceedings may continue since Sweden is the country in which the child was habitually resident before being removed. The Swedish courts then have the right to try the matter.

## Other points to consider

### *Media*

Publicity in child abduction cases can have both advantages and disadvantages. One example of the negative effects that publicity *may* have is that the parent who removed the child may feel under pressure and go into hiding with the child. This obviously puts even more stress and strain on the child. Furthermore, publicity can, in certain cases, also have a negative effect on the authorities and parties concerned in certain countries, and make them less inclined to provide assistance. So if you are thinking of involving the media, it is important that you first discuss this with your legal representative and consider what consequences such a decision may have in your particular case.

### *Return by your own action*

As a parent, you may feel tempted to travel to the country where your child is located and try to 'take back' your child yourself. The MFA strongly advises against this. Even if the removal of your child from Sweden was wrongful under Swedish law, it may be just as wrongful – and perhaps even criminal under the other country's law – if you try to take your child back. So if you were to try to take your child back yourself, you would risk not only putting your child in danger but also being prosecuted and sentenced yourself in the other country. The same applies if you engage an outside





party to try to get your child back on your behalf. In this context it is important to remember, once again, that just as we in Sweden expect our laws to be respected, the other country also expects the laws to be respected there.

To bring about a return that is not in any way dangerous either for you or your child, and that is also permanent in the sense that it is legal from perspective of both countries, it is important to go through the channels and systems that are available and that are described in this booklet.

## The Brussels II regulation

### *The Brussels II regulation in relation to the 1980 Hague Convention*

#### **New examination of the question of return**

The Brussels II Regulation is an EU regulation that supplements the 1980 Hague Convention on the Civil Aspects of International Child Abduction. One way it does so is by giving the court in the Member State where the child was resident before the removal or retention the possibility of replacing a judgment from a court in the country to which the child has been taken that the child shall not

be returned with a decision that the child shall be returned despite that judgment.

In certain situations the court in the Member State that examines whether the child shall be returned can decide that the child shall not be returned even though the child has been wrongfully removed or retained there. This can be the outcome if the court considers that there is a grave risk that the child would be exposed to danger if it was returned or if the court finds that the child itself does not want to be returned and is so old and mature that there is reason to pay regard to the will of the child.

The Brussels II regulation can be said to give the left behind parent a second chance to have the question of a return examined in court. This then takes place in the country where the child was habitually resident before the removal.

### *Extended validity of a Swedish custody judgment*

The Brussels II Regulation also states that a decision made in one EU country concerning parental responsibility (e.g. custody, access and residence) shall also apply in other EU countries. This means, for example, that if you have sole custody by a decision of a Swedish court, this decision also applies in other EU countries. The position is the same if you have an agreement with the other parent that has been confirmed by the social welfare committee.

To enable you to make an application for the decision to be implemented (or declared enforceable) in the other EU country you can make an application to the MFA which passes your application on to the central authority in the country concerned. You can find the application form on our website: [http://www.regeringen.se/uds-reseinformation/formular\\_bortforda\\_barn/](http://www.regeringen.se/uds-reseinformation/formular_bortforda_barn/).

To have a custody judgment issued in another EU country recognised or declared enforceable in Sweden you have to make an application to that effect to a Swedish court. A judgment on access or return issued in another EU country is enforced at a Swedish district court under Chapter 21 of the Children and Parents Code. This means that the court can refuse enforcement if the child objects to it. It is the age and maturity of the child that decide what

weight the views of the child have. If the court orders enforcement, it can also order certain coercive measures, for example an order combined with a financial penalty or an order that the child shall be collected by the police authority. But the court shall, in the first place, ensure that the ruling is complied with voluntarily. An application for enforcement is made to the district court where the child is habitually resident or to Stockholm City Court if the child is not habitually resident in Sweden. You can also turn to the MFA with your application and the MFA then passes it on to the competent court in Sweden. You can find the application form on our website: [http://www.regeringen.se/uds-reseinformation/formular\\_bortforda\\_barn/](http://www.regeringen.se/uds-reseinformation/formular_bortforda_barn/). An application for enforcement generally requires a legal representative.

The Brussels II Regulation applies to all EU countries except Denmark.

## The 1996 Hague Convention

Since 1 January 2013 another Hague Convention on international cooperation for the protection of children is applicable in Sweden – the 1996 Hague Convention. Here again, the MFA is the Swedish central authority. The 1996 Hague Convention gives the parent living in a different country from the child the possibility of obtaining information about how the child is doing. To a great extent the Convention contains provisions similar to the Brussels II Regulation but it is applicable between Sweden and non-EU countries, to the extent that they have acceded to the Convention. If a child is living in an EU country (apart from Denmark), the Brussels II Regulation takes precedence to the 1996 Hague Convention.

Under the Convention a foreign decision on parental responsibility can be applicable and be enforced in Sweden. In the case of the enforcement of a judgment or decision under the 1996 Hague Convention it can be appropriate to engage a legal representative in order to obtain assistance with the application for enforcement.

