

Brief Summary of Implementation Procedures of the 1980 Hague Convention in Japan

1. Japanese Central Authority (JCA)

- JCA: Minister for Foreign Affairs of Japan (Hague Convention Division, Consular Affairs Bureau, Ministry of Foreign Affairs)
- Case officers from various backgrounds (Lawyer, Judge, Family Court Investigating Officer, Immigration Officer, Expert in Domestic Violence, Expert in Child Psychology, Social Worker, Diplomat, et al.) are engaged.

2. Incoming Case Procedure

(1) Acceptance of Application Documents

- Application documents need to be submitted in English or Japanese. Documents written in languages other than English or Japanese must be accompanied by Japanese or English translation.
- Application documents need to be sent via e-mail or postal mail to JCA.
- JCA sends an acknowledgment of receipt via e-mail within a few days.
- For further information about required documents, please refer to our website below:
https://www.mofa.go.jp/ca/ha/page22e_000380.html

(2) Screening (at least two weeks required)

- Screening consists of the following three steps:

(a) Documentation check

If necessary, JCA requests the applicant (via the requesting Central Authority) to submit additional documents;

(b) Confirmation of the child's whereabouts

JCA locates the child who resides in Japan by referring to passport issuance information, immigration record, residence registration, et al.; and

(* If JCA learns that the child is in a Contracting State other than Japan, JCA transmits the application to the CA of that Contracting State. If the child is in a non-Contracting State, JCA dismisses the application.)

(c) Review the applicability of the Convention

JCA dismisses the application if it falls under any dismissal reasons provided in the Act for Implementation of the Convention.

* Please refer to the link below for the Act for Implementation of the Convention:

<https://www.japaneselawtranslation.go.jp/ja/laws/view/4008>

- After JCA decides to assist, it sends a notice with explanatory documents (such as information on mediation and court proceedings) to the applicant (via the requesting CA).

(3) Discovery of Whereabouts of Child

- JCA can request information from the relevant government organizations, et al., and requested organizations are legally obliged to provide information pertinent to JCA.
- Whereabouts of the child and the taking parent (TP) are not disclosed to the applicant (Left-Behind-Parent: LBP). The location of the child and TP is only shared with the Court.
- After the location of the child and TP is identified, JCA sends a letter to TP. In the letter, JCA explains procedures to follow and requests TP to contact JCA.

* If LBP does not wish JCA to contact TP, JCA may not send a letter to TP until a petition for the child's return/ conciliation for visitation is filed.

(4) Mediation

- JCA conveys messages between the parties to facilitate their communication, but it will not work as a mediator between them.
- JCA commissions mediation proceedings to six Alternative Dispute Resolution (ADR) institutions.
- JCA bears the cost of ADR within the availability of its' budget.
- The parties concerned can use an ADR institution other than the six commissioned ADR institutions by JCA as long as the parties bear the cost.

(5) Lawyer Referral Service

- The Japan Federation of Bar Association offers lawyer referral services to both TPs and LBPs. The parties should send the application for the service to JCA.
- Three lawyers who have the following qualifications are referred to the parties:
 - (a) Three or more years of professional experience as a lawyer;
 - (b) Experience in handling child custody cases; and
 - (c) English language proficiency, and completion of specialized training in the 1980 Hague Convention Cases.
- Lawyers are referred about two weeks after the submission of the application.
- JFBA provides this service only once per case.

(6) Legal Aid

- The Japan Legal Support Center provides loans for legal fees and costs.
- Applicants must meet the means test.

(7) Court Procedure for Return of the Child

- The jurisdiction of the 1980 Hague cases is concentrated in two Family Courts of Tokyo and Osaka.
- The standard procedures aim to complete within six weeks.

- Documents submitted to the Courts must be presented in the Japanese language. JCA will outsource the translation of documentary evidence in a foreign language into Japanese to a translation agency, and its' incurred translation costs are to be borne by JCA within the availability of its' budget if the party wishes.

(8) Compulsory Execution for Return of Child

- If TP should not follow the return order by the Court, there are two ways of compulsory execution:

(a) Indirect Compulsory Execution

The Court orders to place a certain financial burden on TP; and/ or

(b) Execution by Substitute

Execution officers from the court visit TP and the child to return the child by the court order.

(9) Court Procedures for Access with Child

- The cases will be dealt with under the existing Japanese family laws, for instance, the Civil Code and the Family Affairs Cases Procedures Act.
- Documents submitted to the Courts must be presented in the Japanese language. JCA will outsource the translation of documentary evidence in a foreign language into Japanese to a translation agency, and its' incurred translation costs are to be borne by JCA within the availability of its' budget if the party wishes.

(10) After the Return of Child

- JCA requests a parent who returns with the child to inform of when the child arrives in the State of his/her habitual residence.

3. Outgoing Case Procedure

- After JCA receives the application document, it conducts screening as follows:

(a) Documentation check

If necessary, JCA requests the applicant to submit additional documents; and

(b) Review the applicability of the Convention

JCA dismisses the application if it falls under any dismissal reasons provided in the Act for Implementation of the Convention.

* Please refer to the link below for the Act for Implementation of the Convention:

<https://www.japaneselawtranslation.go.jp/ja/laws/view/4008>

- After JCA decides to provide assistance, where necessary, JCA provides assistance for translating the application documents into English, French or other languages within its budget.

- JCA transmits the application to the CA of the State where the child is and facilitates communication between the applicant and the requesting CA.

END