

How can I have access to my child who lives overseas in a Hague Convention country?



Information for parents
about the 1980 Hague Convention on the Civil
Aspects of International Child Abduction
("the Convention")



The Convention

The 1980 Hague Convention on the Civil Aspects of International Child Abduction ("the Convention") can be used as one way to seek contact with your child if they live in another Convention country. This is called an access application.

For an up to date list of Convention countries, you should look at the Attorney General's Department's (AGD) website.

The following is general information about access applications under the Convention. For specific advice about whether you can make an access application and assistance in doing so, you should contact ISS Australia's legal service on 1300 657 843.

To be eligible

The requirements for making an access application under the Convention, are:

- The child must be under 16 years old
- The country the child lives in must be a Convention country
- You must have 'rights of access' to the child under Australian law
- Those rights of access must have been breached

In Australia, parents listed on a child's birth certificate automatically have rights of access to the child unless a court order has removed these rights.

Some court orders will set out specifically what a parent's rights of access are, e.g. regular video call contact and face to face visits.

Who can I talk to?

- International Social Service (ISS) Australia - our office is funded by the AGD to provide legal advice, emotional support, and help prepare documents for access applications free of charge
- Mediation - ISS Australia provides an international family mediation service for parents separated by borders who wish to discuss parenting matters
- Attorney General's Department

The process of making an access application under the Hague Convention:

1 Preparing the access application and supporting affidavit

Call ISS Australia on 1300 657 843 for free emotional support and legal advice.

Where possible, ISS Australia will prepare these documents for you free of charge.

2 Sending the application to the Australian Central Authority (“ACA”) of the Attorney General’s Department, a government body which will review your application and decide whether it meets the requirements for the Convention.

3 If your application is accepted by the ACA, it will be forwarded to the Central Authority in the country in which your child is currently residing.

4 The Central Authority in that country will also review your application and decide whether to accept or reject it.

If your application is accepted by the overseas Central Authority, it will be progressed in accordance with that country’s procedure for dealing with access applications under the Convention.

This might include being referred to mediation or the commencement of court proceedings that country.

Each Convention country deals with access applications differently. You may be required to engage a lawyer overseas and file the application in court yourself.

ISS Australia is funded to assist parents prepare access applications under the Convention and submit them to the ACA. If your child lives overseas and you have been denied access to them, contact us for advice about your options.

