



Organization of  
American States



Together  
against  
**SINNA**  
International Child Abduction



# Inter-American Convention on the International Return of Children <sup>(1)</sup>

## What is international child abduction (ICA)?

Situations in which one of the parents wrongfully removes or retains abroad a child under the age of 16; that is, without the consent of the other parent who has sole or joint custody of the child.

In international restitution cases, the custody of the child is not under discussion. Therefore, the issue does not entail a child custody case. The matter to be determined is whether wrongful removal or retention has taken place in violation of pre-existing custody rights.

## When does the wrongful removal and retention of children occur?

When one of the parents or responsible adults travels beyond the borders of their customary place of residence together with the child, retaining him or her without the consent of the other parent; by not returning within the authorized period, or when the other parent was unaware that an intention to remove the child existed.

## What rights are affected by this situation?

International abduction violates children's rights, both affectively and physically, inasmuch as it prevents the normal development of children in their family environment, uprooting them from their customary residence and personal relationships, affecting their personal security and right to identity and disregarding the best interest of the child. Children may also be exposed to hazardous situations, in view of the characteristics of the action taken, which is usually violent and covert.

Sole or joint custody, guardianship and/or visitation rights enjoyed before the event are also violated.

(1) CD/RES. 03 (82-R/07) 7. To recognize that the term "child", as used both in the text of The Hague Convention on the Civil Aspects of International Child Abduction and in the background documents that the IIN promotes for its various activities, should be responsive to the spirit of the Convention on the Rights of the Child and encompass boys, girls, and adolescents. The IIN Office is urged to explicitly define the use of this term by quoting this paragraph in its working documents.



### What international agreements protect children in these situations?

1. **The Convention on the Rights of the Child** establishes that States Party are committed to adopting measures to fight against the wrongful removal and retention of children abroad.

2. The objective of the **Inter-American Convention on the International Return of Children** is to ensure the prompt return to the country of customary residence of children who have been abducted or wrongfully retained, as well as respect for the enjoyment of custody, guardianship or visitation rights.

3. **The Hague Convention on the Civil Aspects of International Child Abduction** shares the same objectives as the Inter-American Convention.

For these regulations to be applied it is necessary for the states from and to which the removal was effected to have ratified one of the Conventions.

### Can the abducting adult oppose the return of the child?

The Convention specifically stipulates the following reasons for which an abductor can request that a child not be returned:

- Failure on the part of the applicant for restitution to exercise custody effectively.
- The proven existence of prior consent to the removal or retention by the person who was exercising custody of the child when the removal or retention occurred.
- The exposure of the child to serious risk or an intolerable situation as a result of restitution.
- The opposition of the child to return, taking into account his or her level of maturity or autonomy.

### Where to go in cases of international child abduction?

Contact the “Central Authority” appointed for the application of the conventions in:

- The country of customary residence of the child who was removed or wrongfully retained.
- The state in which the child is alleged to be wrongfully retained.
- The state from which the child was wrongfully removed.

The Central Authority will advise on measures to be taken. A list of the Central Authorities in all of the American states may be found on the Inter-American Children's Institute website:

<http://www.iin.oea.org>

### What to do when confronted with a case of abduction?

International restitution proceedings must be initiated.

It is vital to initiate such proceedings before one year has elapsed from the moment of the abduction.



## Who initiates the restitution process?

- ✓ The Central Authority
- ✓ A court with jurisdiction in the matter

## In general, how does a restitution process develop?

Proceedings initiated through the **Central Authority** involve the submission of a specially-designed form together with all the information required therein.

If relevant, the petition will be remitted to the Central Authority of the country to which the child has been removed or in which he or she is being retained. This Central Authority will be responsible for locating the child as promptly and safely as possible, requesting any protective measures or precautions to be taken in order to prevent further movements or the exposure of the child to danger.

If the applicant agrees, an attempt will be made to convince the abductor to return the child voluntarily.

Should the applicant not agree to attempt voluntary restitution, or should the abductor refuse, the Central Authority will initiate appropriate proceedings before the courts so that the case may be resolved by granting or denying restitution.

The Central Authorities shall at all times cooperate with each other and with other competent bodies in order to facilitate the exchange of information and the development of the proceedings.

Once the process is completed and if restitution has been granted, the Central Authority will coordinate the safe return of the child.

When proceedings are initiated **through a court with jurisdiction in the matter**, the abduction is reported and the application of precautionary measures is requested for the protection of children in danger, as well as their immediate return to the country of customary residence.

This petition may be submitted:

- by the Central Authority of the country to which the application for return has been remitted (requested state)
- directly by the interested party before the judicial authorities in the child's country of customary residence, in the country to which the child was removed or in the country in which the event took place.

The court will order that the child's location be determined and impose the relevant protective or precautionary measures requested.

Once the relevant procedures have been completed, the court with jurisdiction in the matter will issue a decision, granting or denying restitution.





It is our view that the phenomenon of international child abduction should be prevented and combated by means of the implementation of public policies in support of the issue and for its dissemination. Restitution procedures should take place in the shortest possible time in order to minimize distress to children. Original visitation and custody rights should be respected; that is, there should be a return to the situation existing before the abduction, but always with respect for the rights of children, their wishes and their best interest.

We suggest visiting the Inter-American Children's Institute (IIN)'s website for information on the subject:

[www.iin.oea.org](http://www.iin.oea.org)

[www.sinna.org](http://www.sinna.org)

The IIN is an OAS Specialized Organization for matters involving childhood that contributes, with the states, to the development of the "Inter-American Programme on Cooperation to Prevent and Remedy cases of International Abduction of Children by one of their Parents". The principal purpose of the programme is to strengthen cooperation between American states, assisting them in taking concrete action to prevent the international abduction of children by one of their parents and to adopt effective measures for the prompt return of abducted or wrongfully retained children to their country of residence, visitation, custody or guardianship.



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American States



Inter American  
Children's  
Institute

Specialized Organization of the OAS



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With the support of the Republic of Argentina.

# SINNA

Sustracción Internacional de  
Niños, Niñas y Adolescentes

Inter-American Program of Cooperation to prevent  
and Remedy Cases of International Abduction of  
Children by one of their Parents

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