



International Centre
FOR MISSING & EXPLOITED CHILDREN

RECOMMENDATIONS FOR GOOD PRACTICE ON ENFORCEMENT OF ORDERS UNDER THE 1980 CONVENTION

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By

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EXECUTIVE SUMMARY

1. Introduction

The U.S.-based International Center for Missing & Exploited Children funded this research on the enforcement of the return and access orders made under the 1980 Hague Convention on the Civil Aspects on International Child Abduction of 1980.

The State Parties to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (the 1980 Convention) meet together periodically in a Special Commission organized by the Permanent Bureau of the Hague Conference on Private International Law to review, and make recommendations on practice under the Convention.

At the Special Commission concerning the 1980 Convention held at The Hague from 27 September to 1 October 2002 the following recommendation was made:

“The Permanent Bureau should continue to gather information on the practice of the enforcement of return orders in different Contracting States. The Permanent Bureau should prepare a report on this subject with a view to the development of a guide to Good Practice.”

Good Practice Guides have already been published on Central Authority Practice and Implementing Measures and on Preventive Measures (available at www.hcch.net).

As a result of this recommendation, the Permanent Bureau entered into a joint initiative with Professor Nigel Lowe of Cardiff University and the International Centre for Missing and Exploited Children. The role of Professor Lowe and the Cardiff Team has been to undertake empirical research as to how the enforcement of Hague Convention return (and access) orders works in practice in a number of Contracting States. In co-ordination with the empirical research, the Permanent Bureau has also undertaken research on the procedural law on enforcement in Contracting States generally. It is intended that the two enquiries will lay the foundations for a Good Practice Guide on Enforcement.

As result of this research, three separate reports have been produced. One is a joint report with the Permanent Bureau which summarizes the overall findings of the survey and the common problems encountered and suggests points of good practice. A second report comprises the full national reports of the position in Australia, England and Wales, France, Germany, Netherlands, Romania, Slovakia and Sweden. This report outlines points of concern and points of good practice and summary of recommendations.

2. Summary of Common Problems Encountered

- The child and respondent go into hiding.
- The child is removed to another country.
- The child objects to being returned and refuses to travel/co-operate.
- The use of appeal system/legal system to delay enforcement.

- The respondent engages in obstructive behaviour to delay/avoid enforcement (e.g. the respondent refuses to reveal travel plans, changes travel plans, claims moving difficulties, refuses to sign visa applications).
- Enforcement of the return order is delayed because the parent cannot re-enter country of habitual residence (e.g. for immigration reasons or because of a criminal warrant).
- Enforcement is delayed due to non-compliance with conditions/undertakings contained in the return order, or a need to secure a mirror order in the requesting State (e.g. the applicant fails to pay money upfront or to comply with conditions; neither party can afford airfares; neither party can afford accommodation; the applicant is unable or unwilling to overturn a criminal warrant; lengthy process to secure mirror orders).
- Enforcement is delayed due to the impact of concurrent domestic custody proceedings in the requested State/requesting State.
- Enforcement is delayed due to the health/welfare of returning child.
- Enforcement delayed due to the health of the respondent (e.g. illness, pregnancy).
- Enforcement is delayed because the parents cannot fund travel arrangements (also relevant to conditions/undertakings).
- Enforcement is delayed because the applicant parent did not seek the enforcement of the return order.
- Enforcement is delayed because the applicant parent changed his/her mind about pursuing the enforcement of the return order.
- Court orders do not specify how the child's handover/return is to be effected nor within what time frame.
- Enforcement is delayed because of the pressure of public/media.
- Enforcement is delayed because the appellate court did not rule on the case for a long time without stating any reason (related to lack of awareness and knowledge of judges hearing Convention applications).

3. Summary of Recommendations

Speed

- Enforcement should be made a part of the Convention so far as timing is concerned in order to ensure that return orders are enforced within the timeframe indicated by the Convention.
- Contracting States should have an effective mechanism for the expeditious enforcement of return orders in order to handle the application within the timeframe indicated by the Convention.

Familiarity of all Those Involved with the Convention

- All those involved in the enforcement procedure (i.e. judges, advocates, Central Authority personnel, mediators and experts) should be familiar with the Convention.

Effective Communication

- Central Authorities should reply promptly to all communications.
- The different agencies involved in enforcement should communicate effectively in order to co-ordinate efforts and to prevent unnecessary delay.

Effective Location Powers

- The use of police assistance and Interpol should always be available.
- In appropriate cases, location orders which enable various searches to occur (including authorising the police to enter premises and search for the child) should be expeditiously issued.
- Central Authorities should be able to obtain disclosure of information from various authorities (e.g. Government agencies and services, local authorities' registries, municipality registers, youth welfare authorities, social affairs authorities, police, gendarmie, population register, etc.).
- Where appropriate, private investigators should be invited to participate in locating the child.
- Where appropriate, tracking devices such as wire taps should be permitted.
- It should be possible to require relatives, etc. to attend court and give information on the child's whereabouts.

Effective Preventive Measures

- Courts should be able to order removal of passports and travel documents.
- Passports should only be returned to the respondent and child at the place of departure.
- Where appropriate, the respondent and child should be escorted to airport/departure lounge.
- A mechanism such as a port alert system should be in place to prevent departure from the country.
- Where appropriate, it should be possible to order the respondent to appear regularly at a police station office.
- Procedures that assist parties to reach an amicable resolution prior to court proceedings as well as in course of enforcement proceedings should be put in place. A body providing mediation services should be established in every Contracting State. The possibility of international mediation service should be considered.
- Where the respondent has agreed to return the child voluntarily after court proceedings have been initiated, it should be possible to stipulate the terms of the 'voluntary return' by way of entering into consent orders. This would give a legally enforceable basis for the voluntary return agreement and thus help to prevent enforcement problems.
- Where appropriate, it should be possible to attach conditions or undertakings to the return order.

Effective Enforcement Measures

- Mediation should always be available in the course of enforcement proceedings.

- Where necessary for enforcement, it should be possible to secure urgent orders for the police/welfare agencies to remove/collect the child from the respondent for the purpose of securing the child's return (i.e. child uplifted and given to escort or applicant).
- Systems should be in place whereby, pursuant to a court order, it is possible to remove and place the child into temporary care for the purposes of enforcement.
- It should be possible to impose a civil fine on the respondent as a way of ensuring compliance with the return order.
- Contempt of court procedures (or their equivalent) against the respondent and family members, including the risk of imprisonment, should be available.

Concentrated Jurisdiction and Centralised/Pro-Active Central Authority

- The advantages of concentrated jurisdiction at all stages of the Convention process (i.e. a limited number of judges who consequently have a good understanding and experience in handling Convention applications; a small pool of experts who are similarly expert in Convention work, the development of consistent practices for the handling of applications and the methods of enforcement, the availability of sound legal advice for the parties on the operation of the Convention, its defences, prospects of success of an appeal, and enforcement measures, etc) should be considered especially by the Contracting States where further court orders are required for the enforcement.
- Central Authorities should act pro-actively in all aspects of Convention applications including the enforcement stage.

Expedited Access to the Courts for Enforcement Measures

- Systems should be put in place to ensure applications for enforcement are dealt with quickly by the court and preferably by the court that made the final order.

Expedited Procedures for Appeals/Restrictions on Appeals

- Return orders should be immediately enforceable notwithstanding an appeal.
- Appeals should be discouraged. For this purpose there should be restrictions on appeals namely the lodging an appeal
 1. should only be permitted on limited grounds,
 2. within a certain and relatively short (e.g. 2 weeks) timeframe and/or
 3. only with permission/leave to appeal.
- Legal aid for appeals should be restricted. Restrictions should be based on the merits of the case (e.g. prospects of success).
- Systems should be in place to ensure the expedited processing of appeal applications.

Judges' Role

- When making a return order, judges should be alive to the potential issue of enforcement and where possible, spell out exactly what is expected by each party and the time within which the specified actions should be taken.

1. COMMON PROBLEMS ENCOUNTERED

Although this research has been able to identify some weaknesses in the substantive law provisions, or the enforcement procedures used in each jurisdiction, in the jurisdictions surveyed, the enforcement system generally works in practice. Even those jurisdictions that do not routinely remove passports, or have border alert systems in place, few cases have been reported by those countries where enforcement has been unsuccessful because the respondent absconds with the child outside the jurisdiction. The enforcement problems encountered in each jurisdiction generally fall under the following categories:¹

- The child and respondent go into hiding [Australia, England & Wales, France, the Netherlands, Romania, Sweden, the USA].
- The child is removed to another country [the Netherlands-rarely, France-rarely].
- The child objects to being returned and refuses to travel/cooperate [Australia, England & Wales, France].
- The use of appeal system/legal system to delay enforcement [Australia, England & Wales, France- rarely -given the fact that as a rule return orders are enforceable notwithstanding an appeal, Romania, Slovakia, Sweden, the USA].
- The respondent engages in obstructive behaviour to delay/avoid enforcement [Australia, England & Wales, France, Italy, Slovakia, Sweden].
-Eg: the respondent refuses to reveal travel plans, changes travel plans, claims moving difficulties, refuses to sign visa applications etc.
- Enforcement of the return order is delayed because the parent cannot re-enter country of habitual residence [Australia, England & Wales, France, Germany, the Netherlands].
-Eg: for immigration reasons or because of a criminal warrant.
- Enforcement is delayed due to non-compliance with conditions/undertakings contained in return order, or a need to secure a mirror order in the requesting State [Australia, England & Wales, Germany, the USA].
-Eg: the applicant fails to pay money upfront or to comply with conditions; neither party can afford airfares; neither party can afford accommodation; the applicant is unable or unwilling to overturn a criminal warrant; lengthy process to secure mirror orders etc.
- Enforcement is delayed due to the impact of concurrent domestic custody proceedings in the requested State/requesting State [Netherlands; Romania, Slovakia, the USA].
- Enforcement is delayed due to the health/welfare of returning child [Australia, Netherlands, Sweden].
- Enforcement delayed due to the health of the respondent (e.g. illness, pregnancy) [the USA].
- Enforcement is delayed because the parents cannot fund travel arrangements (also relevant to conditions/undertakings) [Australia, England & Wales, France, Romania, Slovakia, the USA].
- Enforcement is delayed because the applicant parent did not seek the enforcement of the return order [Australia].
- Enforcement is delayed because the applicant parent changed his/her mind about pursuing the enforcement of the return order [Australia, England & Wales and Sweden].

¹ For an excellent analysis of enforcement problems as evidenced by current law in Australia see Justice Joseph Kay in *The Judges' Newsletter* Volume VII/Spring 2004 p.10.

- Court orders do not specify how the child's handover/return is to be effected nor within what time frame [France, Slovakia, the USA].
- Enforcement is delayed because of the pressure of public/media [France, Germany].
- Enforcement is delayed because the appellate court did not rule on the case for a long time without stating any reason (related to lack of awareness and knowledge of judges hearing Convention applications) [the USA].

2. POINTS OF CONCERN/AREAS FOR IMPROVEMENT

2.1. Australia

- A more proactive approach to securing the enforcement of return orders, particularly those involving conditions for return, could be taken by the Central Authority.
- The undesirability of Judicial Registrars (instead of Judges) hearing first instance applications under the Convention given that the decisions of Judicial Registrars only really become binding if neither party seeks a review (a hearing *de novo* before a single Judge) and can potentially inhibit the courts' compliance with the Regulations that require the court to ensure applications are dealt with as quickly as possible. However, in practice most cases are heard by Judges.
- Within the applicable legislation, there is a lack of expedited time-frames and procedures for appeals. If an appeal progresses to the final appellate court (the High Court) lengthy delays involved. In practice, however, appeals are expedited as much as possible and leave to appeal is required.
- One recommendation for improvement could be to review systems available to offer counselling, mediation, use of welfare workers to assist a respondent and/or the child in coming to terms with return decision, or to achieve voluntary returns.

2.2. England and Wales

- A small number of cases have been identified in recent years where difficulties in enforcement have arisen due to the strength of the child's objections to returning. A point of concern is that in one case², the child ended up intervening through a separate legal representative in order to appeal the return order. There is a need to consider the process by which children are heard and their views given to the first instance court. One recommendation for improvement could be to review the system of counselling available to assist child in coming to terms with the decision.
- The use of undertakings and conditions which cannot always be easily or quickly met by respondent parent can lead to delayed enforcement. An area of concern is the impact on the returning parent if the undertakings are not complied with upon their return³, particularly given the extent to which undertakings are not enforceable in many requested States. The use of undertakings also shifts a burden to the requesting State. If there is a move to an increased use of 'mirror orders' to ensure enforceability of the return conditions/undertakings, one recommendation could be to consider whether an improved or streamlined system could be

² *Re J (Abduction: Child's Objections To Return)* [2004] EWCA Civ 428, [2004] 2 FLR 64.

³ Which may not be unlikely considering the findings of the Reunite study *The Outcomes for Children Returned following an Abduction* A report by the Reunite Research Unit, September 2003.

developed for the registration or mirror orders/safe harbour orders. The making of a mirror order can be a time-consuming and difficult process which leads to delayed enforcement.

- One recommendation for improvement could be to review the current systems available to offer counselling, mediation, use of welfare workers to assist respondent in coming to terms with a return decision, or to achieve voluntary returns.

2.3. France

- There is a time-consuming procedure to begin proceedings. The Central Authority transmits the return application to the principal public prosecutor who in turn transmits the case to the public prosecutor concerned. This procedure causes unwelcome delays in dealing with the return application. Furthermore, a change of residence of the child within France may require a change of public prosecutor which causes further delay in the proceedings.
- The lack of routine preventive measures (judges do not have right to order removal of passports).
- The lack of effective enforcement measures such as contempt of court/imprisonment. It is not possible for the court to find the respondent who does not comply with the return order in contempt and then impose a penalty of imprisonment.
- Parties may not be well represented by a legal aid lawyer because of the low remuneration under the scheme.
- High costs involved particularly for translations of documents.
- The possibility of obtaining a loan to meet the costs of return is restricted to parents who are habitually resident in France.
- The risk of imprisonment of the respondent from the criminalisation of abduction.

2.4. Germany

- Parties may not be well represented by legal aid counsel because of the low remuneration under the scheme.
- The lack of the specialization of judges can lead to delays. Specialization would also enhance the positive impact of the concentration of jurisdiction.
- There are insufficient mediation services. Instead, coercive measures are considered to be the most effective enforcement measure.
- The lack of familiarity with the aims of the Convention by youth welfare authorities which in turn is related to lack of concentration of competence of such authorities.
- There are some concerns as to the obligation of the court to take enforcement measures *ex officio* and not upon request of the applicant. The applicant cannot instigate enforcement and does not take part in it. It is doubtful whether judges can deal with enforcement effectively.
- According to the new rule, return orders of the regional courts of the first instance (*Familiengerichte*) enter into force at a fairly late point in time and, thus, endanger quick and expedient procedure.
- The lack of immediate enforceability of return orders.

2.5. Italy

- The lack of concentrated jurisdiction for the hearing of Convention cases.
- The lack of expedited procedure for hearing appeals.
- Applicants wishing to appear in court proceedings can only do so at their own expense by hiring private lawyers.

2.6. Netherlands

- The lack of concentrated jurisdiction for the hearing of Convention cases, although the deficiency is offset to a certain extent by the proactive involvement of Dutch Central Authority who act as the applicants (and provide in-house legal representation) for abduction matters before the courts.
- There is a lack of routine preventive measures such as the removal of passports and no border/port alert system.
- The mode and timing of police assistance with enforcement is left to police discretion and improvements to ensure consistency and availability of police for Convention matters could be considered.
- Although orders for return are immediately enforceable, even if an appeal is lodged, in practice appeals cause delay in enforcement in a number of cases.

2.7. Romania

- Laws have been passed to address many of the general concerns with the Romanian system but these are yet to be implemented in practice. In particular, the specialised court with concentrated jurisdiction has not been formed and the duties of the Central Authority are yet to be passed by Regulation.
- There are discrepancies between officially stated practice and procedure and what occurs in practice. For example, none of the courts approached in connection with the research had any knowledge of any 1980 Convention cases despite 14 pending cases reported by the Central Authority and the existence of the European Court of Human Rights' judgment.⁴
- The lack of involvement of the Central Authority in Convention court proceedings despite the fact it is required to be present/applicant and be actively involved under the new laws.
- The lack of general knowledge and understanding amongst the judiciary in relation to the 1980 Convention, evidenced by the difficulties on the interaction of domestic custody proceedings and perceived diplomatic immunity with the return proceedings.

2.8. Slovakia

- The lack of concentration of jurisdiction in a limited number of courts is the main obstacle in facilitating quick and expedient proceedings in Hague Convention matters. Judges are usually not familiar with the Hague Convention system. Hence, the courts are not able to follow the principle of expedient procedure enunciated in Articles 2, 11 and 12 of the Hague Convention and Article 11(3) of the Revised Brussels II Regulation. This is, however, seen

⁴ *Ignaccolo-Zenide – v – Romania* (Appl. No 31679/96) 31 EHRR 7.

as a result not only of the lack of concentration of jurisdiction but also as a consequence of the lack of appropriate training of judges.

- Return/access orders are not immediately enforceable. The successful applicant will have to wait for at least 15 days⁵ before he/she can actually enforce his/her return/access order. If the respondent has lodged an appeal, the ‘waiting period’ for the enforcement of the order is significantly lengthened as there are no expedited time-frames for the appellate proceedings. In addition, the enforcement procedure itself is very complicated as it requires the applicant to initiate a separate enforcement proceedings if the return/access order has not been complied with voluntarily. There are also no expedited time-frames for the enforcement proceedings in the existing legislation.
- The law does not allow any coercive measures to be taken against the respondent without the return order being made enforceable by a competent Slovak court and the coercive measures to secure the return of the child being specified by the court.
- There is a lack of routine preventive measures such as the collection of travel documents or a port alert system expressly set out in the Slovak legal system. In this context, a closer system of co-operation between the Central Authority and courts with border police and airports should be established.
- Similarly, the involvement of the police in the return proceedings (including the final - enforcement stage) is not explicitly required by the relevant law.

2.9. Sweden

- The Swedish courts rarely use their available power to place a child into immediate care to assist with enforcement, or to prevent problems arising in Convention matters. If the courts do make an order for the child to be put into immediate care, the execution of this order still depends upon police discretion as to whether they will intervene and remove the child pursuant to the order.
- There is a lack of routine preventive measures used (passports and travel documents are rarely removed from the respondent and there is no port alert system).
- The enforcement system used in Sweden relies on *inter partes* court orders (with the exception of immediate care applications) so the respondent participates in the enforcement process which has the disadvantage of the respondent being aware of the nature of the enforcement action being taken which can then be anticipated by the respondent absconding or obstructing the enforcement process. They can also appeal or request a stay against the enforcement measures ordered which may lead to delays.
- The primary method of enforcement used is police assisted enforcement ordered by the court. The mode and timing of the assistance provided by the court is, however, at the police discretion. This involves some delays (as the police first give the respondent a number of days to comply voluntarily and return the child). Furthermore, unless there are exceptional circumstances the police are required to announce to the respondent when they will attend the house to enforce of the order (the enforcement is usually done by removing the child and handing them to the applicant who is present). By providing this notice, the respondent is given the opportunity to abscond.

⁵ The period for lodging an appeal.

- An apparent lack of education and training on the Convention which causes difficulties given its interaction with domestic laws whereby the best interests of the child are paramount. This is particularly relevant in the context of action undertaken by the police as many police officers will not have been involved in a Convention case prior to receiving their first matter. The research findings suggest that the police may also be reluctant to exercise their powers for police assisted enforcement given the legislative requirement to only act in the child's best interests.
- Some mediators treat the case as a custody matter and therefore seek to find a voluntary solution (such as an access schedule) to the dispute rather than seeking to negotiate a voluntary return pursuant to the Convention. Some mediators interviewed indicated that they would appreciate being offered education and training on the Convention.
- The system of 'penalty fines' is considered ineffective in achieving enforcement. However, police assisted enforcement is now the normal measure used for abduction matters.

2.10. USA

- The ineffectiveness of border controls at airports (even where there are orders preventing removal).
- There are difficulties in securing enforcement if the respondent leaves the State (e.g. criminal contempt/pick-up orders may not be recognised and enforceable in a neighbouring State-this depends on the jurisdiction).
- There is a lack of concentrated jurisdiction leaving numerous courts and judges having jurisdiction.
- One consequence of the lack of concentrated jurisdiction is the lack of awareness and knowledge of judges and attorneys hearing Convention applications.

3. POINTS OF GOOD PRACTICE

3. 1. Key Operative Principles (Pervasive Points)

3.1.1. Speed

The obligation under the 1980 Convention to ensure the child's prompt return should apply equally to enforcement. Quite apart from the general need to keep the disruption in the child's life to a minimum the longer the child stays in the requested State the more likely there are to be enforcement difficulties.

3.1.2. Familiarity of All Those Involved with the Convention

It is vital that all those involved, i.e. judges, advocates, Central Authority personnel, mediators and experts are familiar with the Convention. It is evident from this research that a lot of potential enforcement problems can be avoided if those involved in the case are experienced. Moreover, if those involved are experienced, applications are likely to be disposed of more

quickly. Mediators need to be familiar with the Convention so as to know the parameters within which they are working.

3.1.3. Effective Communication

It is important that communication can be made with the Central Authority at all times. This will ensure speedy processing and prosecution of the application. It is just as important that there is effective communication between the different agencies involved in enforcement so as to co-ordinate efforts and to prevent unnecessary delay.

3. 2. Effective Location Powers (prior to, and after, return order made)

- Location orders which enable various searches to be made (including authorising the police to enter premises and search for the child) are vital [*Australia, England & Wales, the Netherlands* (in which State a court order is not required); *Romania*⁶].
- The use of police assistance to locate children is important [*Australia, England & Wales, France*- police specialized in protection of minors, *Germany, Italy, the Netherlands, Romania, Slovakia* - if criminal proceedings has been brought, *Sweden, the USA*] – some countries require location orders (see above).
- The use of wire taps can be helpful in locating children [*the Netherlands*].
- The ability to obtain disclosure of information on children's whereabouts from various official authorities is crucial to speedy location in difficult cases [*Australia* (broad range of bodies); *England & Wales* (broad range of bodies); *France* (local authorities registries, police, gendarmie, social security files); *Germany* (Federal Criminal Police Office, youth welfare authorities, social affairs authorities, Federal Bureau of Motor Vehicles and Drivers, other authorities); *the Netherlands* (municipality register, public prosecutor); *Romania* (police, gendarmie, local council and other authorities); *Slovakia* (local authority, municipality, Central Registry of the Population); *Sweden* (population register) and the *USA*- FBI, State and local authorities, US Marshals, Federal Inspection Services, National Crime Information Centre, U.S. Postal Service, Defence Department Legal Assistance Officers and Worldwide Military Locator Services, Federal Parent Locator Service, State Missing Children's Clearinghouses, Non-Profit Missing Children's Organisations].
- The use of private investigators can be helpful to locate children [*Australia, England & Wales, France, Sweden, the USA*].
- The ability to require relatives etc to attend court and give information can also be helpful in locating children [*Australia, England & Wales*].
- The use of the media (after securing publicity order from the court) [*Australia, England & Wales*].
- Interpol (normally assists where a warrant for the abducting parent has been issued in the requesting State); International Social Service.

⁶ The extent to which Romanian location powers are effective might be questionable given the European Court of Human Rights decision, *Ignoccolo-Zenide –v- Romania*, op cit. n 4.

3.3. Effective Preventive Measures

3.3.1. To Prevent Party Going into Hiding or Absconding

The following measures can be helpful to prevent the defendant from going into hiding or absconding with the child:

- The removal of passports and travel documents in majority of cases [*Australia, England & Wales, Germany*-if ordered by the court, *Italy, Romania, Slovakia* – if ordered by the court, the *USA*].
- Ordering the respondent to appear regularly at a police office [*Australia, Germany*].
- The making of an injunction restraining the movement of the parent/child to reside at a particular address [*Australia*].
- The making of *ex parte* orders compelling respondent to appear in court/to keep the court informed of the child's location at all times/order for non-removal of child [the *USA*].
- The use of a port alert system to prevent departure from the country [*Australia, England & Wales, Germany, the USA*].
- The use of private investigators to observe respondent and child's movements prior to return [*Australia*].
- Only returning passports to defendant and child at place of departure [*Australia, England & Wales*].
- Escorting the defendant and child to airport/departure lounge [*Australia, England & Wales, the Netherlands* – rarely utilised, *Sweden* – rarely utilised, *Slovakia*-if ordered by the court].
- The making of a collection/removal order to remove the child(ren) from the respondent for purpose of securing return (i.e. child uplifted and given to escort or applicant) [*Australia, England & Wales, Italy, the Netherlands and Sweden* - rarely utilised].
- The making of a collection/removal order to place the child in care, pending proceedings or to ensure return order can be enforced (*Australia, England & Wales, the Netherlands, Sweden* – but rarely utilised in all jurisdictions, the *USA*).
- Making an order providing for the child to attend counselling to assist them to come to terms with the return order and therefore alleviate risk of enforcement issues [*Australia*].
- Parents making a financial bond to return the child [*Australia, England & Wales, Romania, the USA*].
- The use of tracking device [*England & Wales, the USA*-possible though not often utilised].
- Requesting the handover of the child be at the embassy of the requesting State in the requested State [*Slovakia*].

3.3.2. Amicable Resolution of Issues

Procedures that assist parties to reach an amicable resolution, and in particular to achieve a voluntary return, can prevent enforcement problems from occurring in the first place. Clearly, where the parties have reached an agreement on the issues between them, they are much more likely to cooperate and abide by the terms of the agreement reached, and return the child voluntarily without enforcement issues arising. Examples of this practice are:

- The reunite pilot mediation programme in *England & Wales*.

- In *France*, there is well-developed system of mediation, particularly through the organisation called MAMIF (Mission of International Mediation Assistance for Families); availability of mediation even after a return order has been made.
- In *Italy*, mediation does not hinder instituting court proceedings; rather, they usually run in parallel. This helps to speed up proceedings.
- In the *Netherlands*, amicable resolutions of the issues are regularly sought by the Central Authority prior to court proceedings being initiated and may also refer the parties to mediation).
- Mediation is required to take place in *Romania* prior to referral to court (existing procedure and likely to be in new regulations for Central Authority procedure, but extent to which occurs in practice unknown).
- In *Slovakia*, an amicable resolution of issues is a top priority and it is sought prior to court proceedings being initiated as well as in course of enforcement proceedings (after a return order has been made).
- Use of court-ordered mediation e.g. in *Sweden* can help the parties to reach an amicable resolution.

It is also worth noting that where the respondent has agreed to return the child voluntarily after court proceedings have been initiated, jurisdictions such as *Australia* and *England & Wales* may stipulate the terms of the 'voluntary return' by way of entering into consent orders, therefore giving a legally enforceable basis for the voluntary return agreement.

3.3.3. Use of Undertakings / Conditions in Return Order

The use of undertakings/conditions within a return order can assist enforcement in two ways. It can

- (i) alleviate any fears, concerns or safety issues that the abducting parent may have regarding a return to the country of habitual residence (e.g. provision of accommodation, maintenance, temporary residence of child, protection measures etc); and
- (ii) ensure the prompt return of the child and to prevent illicit removal (i.e. child and respondent to return by direct flight and passports only returned when the parties reach the requesting State).

Both *Australia* and *England & Wales* have systems whereby conditions or undertakings can be attached to the return order. In some cases the courts in these jurisdictions have required a mirror order/safe harbour type order to be made in the requesting country prior to the return order being enforced. This is particularly relevant in cases where there are concerns for the safety of a returning parent or child or where the returning parent has no access to funds to support themselves and the child.

In *Germany*, undertakings in Hague Convention matters, in principle, are possible according to German procedural law, although they are not explicitly regulated in the relevant legislation and their legal nature is therefore uncertain.

The concept of undertakings or mirror orders is not recognised in the *Netherlands*. However, the court might write down certain conditions for the return within the considerations of the decision

(particularly if the applicant makes promises to the court). There have also been a few cases where the court ordered the child's return under certain conditions. Furthermore, the Dutch Central Authority also requires conditions to be met by the applicant as part of the resolution of the matter amicably.

In *Slovakia*, undertakings/conditions are not explicitly provided for. Nevertheless, it is believed⁷ that if an undertaking/condition to be attached to a return order is applied for, the judge can decide as to whether incorporate the undertakings into the return order.

As in the *Netherlands*, the concept of undertakings or conditions is not recognised in *Sweden* but is currently under consideration for legislative reform.

In the *USA*, undertakings or pre-conditions on return involving actions to be taken in the requesting State are rarely issued but there is ample experience of making safe harbor orders and/or requiring mirror orders.

In contrast, there are also cases where the use of conditions/undertakings/mirror orders has resulted in delays to the enforcement of the return order.

3.3.4. Effective Co-operation and Communication between Agencies and Bodies involved in the Enforcement Process

The need for effective co-operation and communication is not just limited to internal co-operation within the requested State, but can also apply to a range of external personnel in the requesting State. For example, the use of judicial liaison between judges in the requesting and the requested States may aid enforcement by ensuring conditions for the return are complied with (for example, where it is desirable that the criminal warrant for the returning parent be suspended, or that the children need be placed directly into care upon their return etc). Using an incoming return application to *England & Wales* as an example, the following bodies might be involved in the enforcement process at any given time:

Internally: Judges, Tipstaff (High Court enforcement officer), police, solicitors, child welfare authorities, court staff, airlines, immigration authorities, passport office, Central Authority personnel etc.

Externally: Immigration and visa authorities of the requesting State, passport office, embassy staff, foreign central authority staff, judges, solicitors, police etc.

As highlighted, the number of possible personnel involved in the process reinforces the need for Contracting States to ensure effective co-operation and communication is maintained between all those involved. Additionally, in *Australia*, the effective communication and co-operation between the Commonwealth Central Authority and the responsible State and Territory Central Authority who may be undertaking the enforcement procedure(s) is particularly worth noting.

⁷ Interview with the lawyers at the Central Authority, January 4, 2006.

3.4. Effective Enforcement Measures

In some countries, such as *France*, *Italy*, the *Netherlands* and *Sweden*, the return order may be enforced immediately (the order is immediately executable even when an appeal is pending) although in practice further orders for enforcement are regularly obtained. A number of countries have a broad range of enforcement measures at their disposal which means enforcement can be tailored to the circumstances of the case and the most coercive measures can be utilised as a last resort (hence minimising the impact on the child). Set out below are examples of effective enforcement measures identified throughout this enquiry:

3.4.1. Collection / Removal of Child

In *Australia* and *England & Wales* urgent orders can be made on an *ex parte* basis for the police/welfare to remove/collect the child if necessary for enforcement, with the child to be handed over to the applicant, or another escort. The child can also be removed /collected in *Germany*, *Italy*, the *Netherlands* and *Sweden* through police assisted enforcement (see below). In *Romania*, a writ of execution can be issued by the court authorising the applicant (or through his representative) to take the child with the assistance of the police. It is worth noting that both *Sweden* and the *Netherlands* have a system whereby the police wear plainclothes and can be accompanied by a member of the relevant child welfare authority when enforcing orders.

3.4.2. Placement into Care

Australia, *England & Wales* and the *USA* have systems in place whereby, pursuant to a court order, the child can be removed and placed into temporary care for the purposes of enforcement. This may be whilst the applicant travels to collect the child, or to prevent the child from being removed whilst the return proceedings are pending (children may also be removed for welfare reasons). This option is also available in *France*, *Germany*, the *Netherlands* and *Sweden* but is even more rarely used in these jurisdictions than in the three jurisdictions originally mentioned.

3.4.3. Mediation / Use of Social Welfare Officers

Mediation and/or the use of Social Welfare Officers can be crucial in the enforcement process. Outlined below is the position in the States studied:

- In *Australia*, there is a system available to offer counselling, mediation, use of welfare workers to assist a respondent in coming to terms with the return decision, or to achieve voluntary returns.
- In *England & Wales*, the practitioners interviewed have indicated that children and family court reporters do provide some level of assistance in enforcement matters, particularly in those cases where a child is opposing the enforcement of the order. However, aside from the valuable work undertaken by Reunite, there is no systematic approach to the provision of counselling to assist a respondent (or child) to come to terms with the return decision. Nevertheless, in 1999 Reunite commenced a 3 year mediation pilot project in parental abduction matters under the 1980 Convention.

- In *France*, there are three bodies involved in providing mediation services in the course of return proceedings. First, it is the responsibility of the public prosecutor to seek an amicable resolution of issues. In most cases, the public prosecutor asks the specialized police service to visit the abductor and discuss the application prior to court proceedings being initiated. The public prosecutor attempts mediation also at the later stage of the proceedings. After an appeal being lodged against the return order, he mediates between the parents the conditions for the return of the child. Secondly, mediation is possible through the help of lawyers specializing in international children cases. Finally, a separate body, MAMIF, was set up in 2001. It can help the parents at any stage of the proceedings, particularly where problems with enforcement occur, to engage in dialogue and seek negotiated solutions.
- In *Germany*, mediation is generally not considered as an effective means of settlement of Hague Convention issues and there is no specialized body offering mediation services to the parties. Nevertheless, at the enforcement stage, courts try to achieve an amicable solution even once the court order has become final and enforceable.
- In *Italy*, it is not a rule that mediation be attempted. Nevertheless, the Central Authority through the Police of the Children Issues can attempt to persuade the parties to agree upon an amicable resolution of the issues. The negotiations usually run in parallel with court proceedings.
- If the child is taken into hiding, the *Netherlands* sometimes uses the Child Protection Board to prepare the respondent/child for return and to avoid the use of coercive enforcement measures. The Dutch Central Authority is actively involved in pursuing amicable resolution of applications prior to court action and may refer the parties to mediation.
- *Romania* and *Slovakia* also have a system of seeking an amicable resolution/mediation prior to court proceedings.
- In *Sweden*, the court can order mediation to be used in combination with an order for police assisted enforcement or penalty fines. Furthermore, when police assisted enforcement takes place, a social worker or psychologist attends with the police and talks to the abducting parent before the child is collected or enforcement occurs (such as police escorting abducting parent and child to the aircraft).
- In the *USA*⁸, mediation is available through an independent charity “Child Find of America”. *Child Find’s* mediation programme is designed to prevent parental abduction and to return parentally abducted children to a legal environment through free, confidential dispute resolution. The programme also offers a national network of volunteer professional mediators experienced in divorce, custodial and family mediation.

3.4.4. Police Assisted Enforcement

In all countries the police can provide assistance to remove/collect the child for enforcement. In *Sweden*, there is a particular procedure of police assisted enforcement which is worth noting. Under this procedure, police are required to attend the premises with social workers and a doctor. Police assisted enforcement is undertaken as a result of a court order, with the respondent normally participating in those proceedings. In addition, the date and time for enforcement is usually announced to the respondent prior to police attendance. Social workers will usually talk to the parent before the child is removed. The police will normally wear civilian clothes (as in

⁸ URL <http://www.childfindofamerica.org/programs.htm>

the *Netherlands*) to lessen the impact of the police presence on the child. In the *USA* (Massachusetts) the police can become involved once arrest order against the respondent is issued.

3.4.5. Escort to Flight

In *Australia*, it is possible to order the Central Authority staff or Australian Federal Police to escort respondent and child to the airport. In *England and Wales*, it is common where the respondent is returning with the child, for someone to be present at the airport on the day of departure and for that person to handover the travel documents and passports at the departure gate.

3.4.6. Penalty / Fines / Imprisonment in Civil Law Jurisdictions

Most jurisdictions can impose fines as a way of ensuring compliance with return orders. In the civil jurisdictions studied the position is as follows:

- In *Germany*, if the respondent does not comply with the return order, the court can order him/her to pay a fine (*Ordnungsgeld*) up to 5.000 Euros. If the respondent does not comply with the return order, the court can order his/her imprisonment (*Ordnungshaft*).
- In the *Netherlands*, the court can order the respondent to pay a daily fine (*Dwangsom*) until the order is complied with. It is also possible for a respondent to be committed to prison (*liifsdwang*) for a maximum of one year for failure to comply with a judicial order.
- In *Romania*, as part of the return order a civil fine for non compliance can be imposed. Once the time-frame for the return of the child has passed, the Central Authority can apply for a writ of execution which the court transmits to the tax authorities for enforcement. If, after payment of the fine, the child is still not returned, further enforcement measures can be applied for in the courts including the payment of a daily fine by the respondent until the child returns.
- In *Sweden*, the court can also include a penalty fine as an enforcement measure prior to invoking measures such as police assisted enforcement.

3.4.7. Contempt of Court / Imprisonment in Common Law Jurisdictions

In *Australia, England & Wales* and the *USA*, if a respondent does not comply with the court order for the child to be returned it is possible for the court to find them in contempt/impose a sanction for failure to comply with an order of the court and impose a penalty of imprisonment and/ or a fine. Contempt procedures, including the risk of imprisonment, may also be utilised as a means of persuading family members to provide evidence as to the respondent and child's location if they are in hiding. In the context of incoming abduction matters, contempt proceedings have rarely been utilised, as the ability to collect and remove the child has secured enforcement of the return order. Practitioners in *England and Wales* could only recall one case in

recent years where contempt proceedings have been used and a relative imprisoned as a means of locating the child.⁹

However, practitioners in these jurisdictions have noted that by informing parties of the existence of contempt laws, they can be persuasive in ensuring a respondent complies with the return order, or persuasive in persuading family members to disclose a child's whereabouts.

3.5. Concentrated Jurisdiction

The advantages of concentrated jurisdiction apply to all stages of the Convention process (see in particular the discussion at 5.1 of the *Guide to Good Practice, Part II – Implementing Measures*).¹⁰ There are also obvious benefits to an application for enforcement being heard by a judge and other personnel familiar with the Convention and familiar with invoking coercive measures in abduction matters. *Australia, England & Wales, France*¹¹, *Germany* and *Sweden* have concentrated jurisdiction whereas *Italy*, the *Netherlands*, *Slovakia* and the *USA* do not. Under the new laws in *Romania*¹², jurisdiction is to be concentrated in one specialist court, with the law specifying that until this court is established, abduction applications are to be heard in a specialized section of the Bucharest Tribunal.

3.6. Expedited Access to the Courts for Enforcement Measures

In the context of enforcement, where further court orders are required, the ability to access the courts on an urgent basis is important.

Australia, England & Wales, Germany and *Sweden* have systems in place to ensure applications for enforcement are dealt with quickly by the court (note in particular the system in *Australia* where The Family Court of Australia provides an out of hours court service for urgent matters, the system in *England & Wales* where a 24 hour Duty Judge is available as well as daily access to the High Court Applications Judge; in *Germany* – it is a new rule that if an appeal has been lodged, it is for that regional Court of Appeal (*Oberlandesgericht*) alone to decide on enforcement measures). In the *USA*, courts may issue emergency orders on an *ex parte* basis. In many instances emergency orders can be obtained after hours.

3.7. Expedited Procedures for Appeals / Restrictions on Appeals

Concentrated jurisdiction and in particular the hearing of abduction matters by a higher level court can restrict the number of appeal avenues available to an unsuccessful defendant. Examples of good practice in the context of appeals are as follows:

- Having limited grounds on which the first instance decision can be appealed [*Australia* and *England & Wales*].

⁹ In Australia, there is one recorded contempt case where the abductor in an outgoing abduction matter was imprisoned in Australia due to their failure to comply with domestic court orders and the return order made by the foreign court pursuant to the Hague Convention. However, this was a punishment rather than an enforcement measure.

¹⁰ Published by Jordans (2004).

¹¹ Elements of concentrated jurisdiction introduced in 2004.

¹² Law no. 369 of September 15 2004 on the application of the Convention on Civil Aspects of International Child Abduction (Law no. 369/2004) specified that the Bucharest Court for Minors and Family will have jurisdiction for abduction matters, however, the court still needs to be established.

- Requiring permission/leave to appeal, requirement to lodge appeal within certain timeframe [*Australia, England & Wales, Germany, Italy, France, the Netherlands, Romania, Slovakia, Sweden, the USA*].
- Having an expedited process for appeal applications [*Australia* – occurs in practice as much as possible, *England & Wales, the Netherlands, Sweden, the USA*; but unknown in *France, Italy, Romania and Slovakia*].
- Restricting funding on legal aid for appeals – by only granting it on the merits of the case [*England & Wales*].
- Having a small pool of experts involved – so that applicants (and sometimes respondents) are given sound advice as to whether they have good prospects of success if they appeal [*Australia, England & Wales, Germany, the Netherlands*].
- Return orders being enforceable pending an appeal unless a stay is secured to ensure that prompt enforcement can occur in those cases where the appeal is clearly being used to delay enforcement and has no prospects of success [in *Australia*- although normally granted, the Family Court of Australia has refused to grant a stay on the return order in some cases pending appeal; in *England & Wales* – return orders are immediately enforceable unless the respondent has applied for a stay on enforcement of the return order; in *France*- a return order is, as a rule, immediately enforceable, though in practice it is often delayed; in *Germany*- a return order is not, as a rule, immediately enforceable; however, the regional Court of Appeal (*Oberlandesgericht*) is obliged to order the immediate enforceability of the return order if the appeal is obviously ill-founded, or if, after consideration of due interests of the parties involved, the return of the child even before the appellate decision appears reconcilable with the child’s best interests; in the Netherlands-return orders are immediately enforceable; in *Romania and Slovakia* - return orders are not immediately enforceable; in *Sweden* - a return order may be made enforceable without hindrance of legal force. In practice, most respondents apply, and are granted, a stay of action; in *Italy* and the *USA* - a return order is immediately enforceable unless otherwise specified in the order or stayed pending an appeal.].

3.8. Small Pool of Experts Involved in Abduction Work (judges, practitioners, authorities etc) and Centralised/Proactive Central Authority

The existence of a small pool of experts can be a consequence of a concentrated jurisdiction. As already noted, concentrated jurisdiction ensures there is a group of experienced judges hearing applications, including applications for the purposes of enforcement. In *England & Wales*, the use of a small panel of solicitors, primarily located in London, has led to the development of a specialized group of legal experts involved in abduction matters (a similar process occurs in *Germany* and in *Australia* through the use of the State Central Authorities). In *England & Wales*, the respondent is also often referred to a solicitor from a panel firm. Where a restricted number of practitioners are used in a jurisdiction, parties are more likely to be given sound legal advice from experienced lawyers on the operation of the Convention, defences, prospects of success should they wish to appeal, and what enforcement measures can be taken should they not comply with the order.

A limited group of experts involved can also lead to the development of consistent practices for the handling of applications and the methods of enforcement best used (as well as the

development of good working relationships with the other agencies involved in enforcement such as the police or welfare authorities). This is particularly relevant in *Australia*, the *Netherlands* and *Slovakia* where the Central Authority acts as the applicant in the proceedings and therefore has developed considerable expertise and is pro-active with their involvement in abduction matters.

In *France*, public prosecutors play an essential role at every stage of the return proceedings. Generally, they are familiar with the Hague Convention procedure. Similarly, it is very helpful that judges dealing with Convention applications are specialized in family law matters.

In *Germany*, the Central Authority initiates the court proceedings and then transmits the case to local counsel. The participation of counsel appointed on behalf of the applicant is of crucial importance in Hague Convention proceedings. Counsel attends hearings, submits pleadings, negotiates amicable solutions, keeps in touch with the applicant and the respondent or his/her representative, etc. The counsel is always a qualified attorney who is highly specialized in family law and experienced in Hague Convention cases. There is a relatively small group of approximately 20 counsel spread all over Germany. Similarly, the Central Authority personnel are highly qualified in the Convention case. The Central Authority plays an important role especially at the 'location' stage of the proceedings.

In *Italy*, jurisdiction over the Convention applications is vested in specialist Juvenile Courts comprising professional judges and experts.

The new legislative framework in *Romania*, which is particularly relevant to enforcement, requires the Central Authority to have a pro-active role in all aspects of Convention applications and the duties of the Central Authority will also be set out by regulation.

3.9. Judges' Role

When making a return order it is helpful if judges are alive to the potential issue of enforcement and, wherever possible, spell out exactly what is expected by each party and the time within which the specified actions should be taken. For example, the order should contain details of the time, location and mechanisms of the child's handover to the parent and/or concerning the return journey to the requested State. Thought also needs to be given to the travel documents needed and whose responsibility that is and, where appropriate, specific guidance should be given about the safe keeping of the child's passport.

In *Australia*, for example, the return order will specify detailed return arrangements, including, where available, that the return be by direct flight. In cases where there is a concern the respondent and child may disappear because of a stopover the return order may specify that the applicant parent or an escort accompany the respondent and child on the return flight. Moreover, the return order may specify who will pay the cost of the return travel (order can be made for the respondent to pay costs pursuant to Regulation 30).

In *France*, it has been found useful to spell out in the return order details such as exact time and location of the surrender of the child to the applicant and if there is a risk of non-compliance with

the return order, to decide also on a possible penalty for the breach of the return order. It appears that there are fewer appeals against such return orders compared with the orders not containing terms of enforcement and/or penalties for possible non-compliance.

Similarly, in the *USA* some of the attorneys interviewed stated that it was important to make certain that the order for return was as specific as possible. Orders that lack specificity may not be easily enforceable.

4. OVERALL SUMMARY OF RECOMMENDATIONS

Speed

- Enforcement should be made a part of the Convention so far as timing is concerned in order to ensure that return orders are enforced within the timeframe indicated by the Convention.
- Contracting States should have an effective mechanism for the expeditious enforcement of return orders in order to handle the application within the timeframe indicated by the Convention.

Familiarity of all Those Involved with the Convention

- All those involved in the enforcement procedure (i.e. judges, advocates, Central Authority personnel, mediators and experts) should be familiar with the Convention.

Effective Communication

- Central Authorities should reply promptly to all communications.
- The different agencies involved in enforcement should communicate effectively in order to co-ordinate efforts and to prevent unnecessary delay.

Effective Location Powers

- The use of police assistance and Interpol should always be available.
- In appropriate cases, location orders which enable various searches to occur (including authorising the police to enter premises and search for the child) should be expeditiously issued.
- Central Authorities should be able to obtain disclosure of information from various authorities (e.g. Government agencies and services, local authorities' registries, municipality registers, youth welfare authorities, social affairs authorities, police, gendarmie, population register, etc.).
- Where appropriate, private investigators should be invited to participate in locating the child.
- Where appropriate, tracking devices or other surveillance (such as wire taps – suggest delete 'wire taps' as wire taps used to record conversations on phones between people etc) should be permitted.

- It should be possible to require relatives, etc. to attend court and give information on the child's whereabouts.

Effective Preventive Measures

- Courts should be able to order removal of passports and travel documents.
- Passports should only be returned to the respondent and child at the place of departure.
- Where appropriate, the respondent and child should be escorted to airport/departure lounge.
- A mechanism such as a port alert system should be in place to prevent departure from the country.
- Where appropriate, it should be possible to order the respondent to appear regularly at a police station office.
- Procedures that assist parties to reach an amicable resolution prior to court proceedings as well as in course of enforcement proceedings should be put in place. A body providing mediation services should be established in every Contracting State. The possibility of international mediation service should be considered.
- Where the respondent has agreed to return the child voluntarily after court proceedings have been initiated, it should be possible to stipulate the terms of the 'voluntary return' by way of entering into consent orders. This would give a legally enforceable basis for the voluntary return agreement and thus help to prevent enforcement problems.
- Where appropriate, it should be possible to attach conditions or undertakings to the return order.

Effective Enforcement Measures

- Mediation should always be available in the course of enforcement proceedings.
- Where necessary for enforcement, it should be possible to secure urgent orders for the police/welfare agencies to remove/collect the child from the respondent for the purpose of securing the child's return (i.e. child uplifted and given to escort or applicant).
- Systems should be in place whereby, pursuant to a court order, it is possible to remove and place the child into temporary care for the purposes of enforcement.
- It should be possible to impose a civil fine on the respondent as a way of ensuring compliance with the return order.
- Contempt of court procedures (or their equivalent) against the respondent and family members, including the risk of imprisonment, should be available.

Concentrated Jurisdiction and Centralised/Proactive Central Authority

- The advantages of concentrated jurisdiction at all stages of the Convention process (i.e. a limited number of judges who consequently have a good understanding and experience in handling Convention applications; a small pool of who are similarly expert in Convention work, the development of consistent practices for the handling of applications and the methods of enforcement, the availability of sound legal advice for the parties on the operation of the Convention, its defences, prospects of success of an appeal, and

enforcement measures, etc) should be considered especially by the Contracting States where further court orders are required for the enforcement.

- Central Authorities should act pro-actively in all aspects of Convention applications including the enforcement stage.

Expedited Access to the Courts for Enforcement Measures

- Systems should be put in place to ensure applications for enforcement are dealt with quickly by the court and preferably by the court that made the final order.

Expedited Procedures for Appeals/Restrictions on Appeals

- Return orders should be immediately enforceable notwithstanding an appeal.
- Appeals should be discouraged. For this purpose there should be restrictions on appeals namely the lodging an appeal
 4. should only be permitted on limited grounds,
 5. within a certain and relatively short (e.g. 2 weeks) timeframe and/or
 6. only with permission/leave to appeal.
- Legal aid for appeals should be restricted. Restrictions should be based on the merits of the case (e.g. prospects of success).
- Systems should be in place to ensure the expedited processing of appeal applications.

Judges' Role

- When making a return order, judges should be alive to the potential issue of enforcement and where possible, spell out exactly what is expected by each party and the time within which the specified actions should be taken.



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