



**United States Central Authority for the Hague Convention
on the Civil Aspects of International Child Abduction**

Legal Representation Options and Procedures in the United States

By making a reservation to Article 26 in accordance with Article 42, the United States is not bound to assume any costs or expenses resulting from the participation of attorneys or from court proceedings in Hague Convention cases in the United States except insofar as they are covered by a legal aid program. Under Article 25, applicants in Hague treaty-partner countries who apply for legal aid in the United States are to be treated as if they are nationals of and habitually resident in the United States. Because there is no entitlement to legal aid in civil cases in the United States, this means that Hague applicants may be considered for legal aid, but there is no guarantee that they will receive it.

The United States Central Authority (“USCA”) recognizes that the effective functioning of the Convention is improved if Hague applicants in treaty-partner countries expeditiously retain legal counsel to assist them with their cases in the United States. Consistent with the role ascribed to Central Authorities by Article 7(f) to facilitate the institution of judicial proceedings, the USCA provides financially-eligible applicants with information to assist them find affordable legal representation. This legal representation may be *pro bono* (no attorney fee) or reduced-fee. It is our experience that the likelihood of finding a private attorney will increase if the applicant is willing to contribute some payment towards legal representation. The USCA also assists applicants who can afford to hire an attorney by providing, upon request, a list of attorneys that they may contact directly.

***PRO BONO* and REDUCED-FEE LEGAL ASSISTANCE**

An applicant asking for *pro bono* or reduced-fee legal representation must submit a *Request for Legal Assistance* along with the Convention application. Links to the *Request for Legal Assistance* (English and bilingual) are provided at the end of this document. In addition, the foreign central authority cover letter accompanying the Convention application should refer to the applicant’s request for *pro bono* or reduced-fee representation.

The applicant must personally assess his or her eligibility to request *pro bono* or reduced-fee legal services based on income guidelines that represent 125% and 200% of the U.S. Federal Poverty Guidelines. The guidelines, which are published annually by the Legal Services Corporation, are available from a link at the end of this document. The guidelines are typically followed by all legal aid programs in the U.S. They also provide guidance to private attorneys considering *pro bono* representation. Additional financial information may also be required to determine eligibility for *pro bono* or reduced-fee legal services.

PLEASE NOTE: If the applicant is not forthcoming or in error in his or her financial self-assessment, the U.S. Central Authority may limit any further legal assistance to the applicant.

Attorneys and attorney fees

Upon receipt of the required documents, the USCA seeks to develop an ‘attorney list’ comprising private attorneys from its all-volunteer Hague Convention Attorney Network who are contacted and agree in advance to speak with the particular applicant. They have not committed to taking the case, but rather to discussing that possibility with the applicant. Lists may also include legal aid programs, which are notified that a particular applicant may be contacting them about a Hague Convention case. There is no guarantee that available attorneys will be identified, or that an attorney will agree to take the case.

An attorney list is sent to the applicant via the foreign central authority. Upon receipt, the next step is for the applicant to contact one or more of the attorneys and/or legal aid programs. This should be done within two weeks. If there are language barriers, the foreign central authority may contact the USCA, and the USCA may arrange to provide telephone translation services at no charge to the applicant or prospective attorney.

At this point in the process, the USCA has not provided case-specific information to prospective attorneys, who will learn the details of the case from the applicant. In addition, attorneys may request additional financial information (e.g., income tax returns) from the applicant to determine whether to offer legal services *pro bono*, for a reduced fee, for full fee, or not at all. Regarding reduced fees, some attorneys have reported taking Convention cases for reduced hourly fees ranging from \$50 - \$75 for qualified clients, but reduced rates more typically exceed this range (e.g., \$100 - \$150). Legal aid programs will follow their normal intake procedures to determine if the applicant meets financial eligibility and other

program guidelines. Applicants and attorneys may choose to enter into attorney-client relationships; however, there is no obligation to do so.

The USCA does not participate in any way in the formation of the attorney-client relationship, including negotiation of attorney fees, payment schedules for attorney fees, or the terms of the retainer agreement. These matters are to be negotiated strictly between the attorney and applicant. Terms of representation and decisions regarding the objectives and means of representation are matters between attorney and client only.

PLEASE NOTE: Attorneys for Hague applicants are not agents or representatives of the USCA or the United States government. Inclusion on attorney lists does not constitute an endorsement or recommendation of the U.S. Department of State, and the Department of State assumes no responsibility for the performance of attorneys on these lists.

Costs and expenses

Applicants receiving *pro bono* or reduced-fee legal services may still be expected to pay court costs and other related expenses (*e.g., filing fees, service of process on other party, phone calls, travel expenses, stenographer, translations*). These may be as much as \$1000 or more, and may vary depending on the particular case (*e.g., trial transcripts in appellate cases, and expert witnesses, may be costly additional expenses*). The court may have authority to waive court costs in a given case if requested by the applicant's attorney. In addition, legal fees and expenses may be recoverable if the applicant prevails in the Convention proceeding. Some legal aid programs may bear some or all of the costs and expenses of proceedings.

FULL-FEE LEGAL ASSISTANCE

The USCA will provide a list of full-fee attorneys to an applicant upon request. The applicant will also need to contact these attorneys directly.