

Recent Trends of Law & Regulation in Korea

Issue and Law

- **The Cornerstone of Children's Rights: An Introduction to the UN Convention on the Rights of the Child (CRC)**
- **Returning Children Taken Across Borders: The Hague Convention on the Civil Aspects of International Child Abduction**
- **Child Support Across Borders: The 2007 Hague Maintenance Convention and Korea's Tasks**

Living in Korea

- **"Now a State Responsibility": Korea's New International Adoption System and the Rights of the Child**



Editor's Note

Dear Readers

When children and families cross borders, the protection of their rights often requires cooperation that extends beyond any one country's laws or institutions. This issue explores how international legal frameworks seek to safeguard children and preserve family unity across borders, while also considering Korea's evolving role in translating those commitments into law and practice. We hope the discussions presented here will offer readers a clearer understanding of both the progress made and the work that remains in ensuring that the rights and best interests of every child are protected, wherever borders may lead them.

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Emblem

Ministry of Justice

The Republic of Korea government has changed its official "government identity." The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea's national flag Taegeukgi with the taegeuk circular swirl and the blank canvas embodies in white.

The typeface was inspired by the font used in the "Hunminjeongeum" (1446), the original Hangeul text, in consideration of the harmony embodied in the taegeuk circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.

The Cornerstone of Children's Rights: An Introduction to the UN Convention on the Rights of the Child (CRC)

Why Was the Convention on the Rights of the Child Necessary?

In the aftermath of the two World Wars, the international community continued to recognize the need to protect children's rights. Beginning with the 1924 Geneva Declaration of the Rights of the Child adopted by the League of Nations, children's rights continued to be addressed in the 1959 United Nations (hereinafter "UN") Declaration of the Rights of the Child and in specific provisions of various international treaties.

However, most of these instruments lacked binding legal force. At the same time, children were still largely understood not as independent holders of rights, but as persons placed under the protection and control of their parents.

As reports continued to emerge from around the world of children being unjustly exploited, placed in inadequate care environments, and exposed to threats to their survival and development, there was growing international recognition of the need for a more effective framework to guarantee children's rights in practice.

In response to these concerns, on November 20, 1989, the UN General Assembly unanimously adopted the Convention on the Rights of the Child (hereinafter "CRC"), a historic commitment to children around the world. The CRC has become the most universally accepted international human rights treaty, with 196 States Parties—the highest number of any human rights treaty in history—and functions as a legally binding human rights instrument that comprehensively sets out the rights of the child.



Overview of the CRC, Its General Principles and Optional Protocols

The CRC defines a child, in principle, as any human being below the age of 18, and recognizes children not merely as objects of protection by their parents or guardians, but as active holders of human rights. The Convention consists of a preamble and 54 articles. Part I, comprising Articles 1 to 41, sets out the substantive rights of the child. Part II, comprising Articles 42 to 45, provides for procedural rules relating to the implementation of the Convention, while Part III, comprising Articles 46 to 54, contains final provisions on matters such as ratification, accession and amendment.

In General Comment No. 5 (2003), the UN Committee on the Rights of the Child (hereinafter "the Committee") identified four general principles that guide the interpretation and implementation of the CRC: the principle of non-discrimination, the best interests of the child, the

right to life, survival and development, and respect for the views of the child. These principles form the foundation of the Convention and are reflected in four key provisions.

First, the principle of non-discrimination is based on Article 2 of the CRC. Article 2 requires States Parties to ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind. The principle of the best interests of the child is reflected in Article 3(1), which provides that in all actions concerning children, the best interests of the child shall be a primary consideration.

The right to life, survival and development is grounded in Article 6, under which States Parties recognize that every child has the inherent right to life and must ensure to the maximum extent possible the survival and development of the child.

Finally, the principle of respect for the views of the child is set out in Article 12, which guarantees the right of the child to express his or her views freely in all matters affecting the child and requires that those views be given due weight in accordance with the age and maturity of the child.

In addition, the UN General Assembly adopted two Optional Protocols in 2000 to strengthen the protection of children who may be exposed to particularly serious risks and to supplement the CRC. A third Optional Protocol was later adopted in 2011. The first is the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (hereinafter “OPAC”). It was adopted against the understanding that the CRC alone was not sufficient to address the protection and promotion of the rights of children in situations of armed conflict. Concerns over the impact of armed conflict on children, together with the need to strengthen and expand their protection from involvement in such conflict, formed the basis of OPAC.

The second is the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereinafter “OPSC”). As the sexual exploitation of children had long been a matter of concern for the international community, a number of earlier international efforts to eliminate such exploitation significantly influenced the adoption and drafting of the OPSC.¹⁾ The OPSC provides specific definitions of the sale of children, child prostitution and child pornography and requires States Parties to criminalize and punish specified conduct relating to those practices.

Finally, after years of discussion, the third Optional Protocol—the Optional Protocol to the Convention on the Rights of the Child on a

communications procedure (hereinafter “OPIC”)—was adopted in 2011.²⁾ Until then, the CRC had been the only core international human rights treaty without an individual complaints mechanism. OPIC filled this gap by providing a basis for children to submit complaints directly before the Committee regarding violations of their rights.

Ratification and Implementation by the Republic of Korea

The Republic of Korea (hereinafter “Korea”) ratified the CRC on November 20, 1991, and OPAC and OPSC on September 24, 2004. As these treaties were duly concluded and promulgated under the Constitution, they have the same effect as domestic law in accordance with Article 6(1) of the Constitution.

However, when ratifying the CRC, Korea entered reservations to three provisions that were considered inconsistent with the domestic law at the time. These were Article 9(3), concerning the child’s right to maintain personal relations and direct contact with both parents; Article 21(a), concerning authorization of adoption; and Article 40(2)(b)(v), concerning review by a higher authority or judicial body.

Following the 2007 amendment to the Civil Act, which recognized the child’s right to visitation and contact with his or her parents, Korea formally withdrew its reservation to Article 9(3) in 2008.

Later, as the 2011 amendment to the Act on Special Cases Concerning Adoption introduced a system requiring Family Court authorization for domestic and intercountry adoptions of children, Korea withdrew its reservation to Article 21(a) in 2017. As a result, Article 40(2)(b)(v) remains the only provision to which Korea maintains a reservation. In its 2019 Concluding Observations on the combined fifth and sixth periodic reports of Korea, the Committee encouraged Korea to expedite withdrawal of this remaining reservation.³⁾

Korea has also not yet signed, ratified, or acceded to OPIC. In its 2019 Concluding Observations, the Committee recommended that Korea ratify OPIC in order to further strengthen the fulfillment of children’s

1) N.H. Lee, The International Trend on the Protection of Children’s Rights under the UN CRC and Its Optional Protocols, Global Legislative Strategy Research No. 13-22-5-3 (Korea Legislation Research Institute, 2013), 65.

2) Ibid., 73.

3) UN Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of the Republic of Korea, October 24, 2019, para. 6.

rights.⁴⁾ In Korea, some have also called for accession to OPIC, arguing that Korea should review the legislative and policy efforts of other States parties to OPIC, explore possible domestic legislative improvements, and thereby strengthen the effective implementation of the CRC and its first and second Optional Protocols.⁵⁾

Korea has established a range of laws for children, centered on the Child Welfare Act, including the Act on Welfare Support for Children with Disabilities, the Special Act on Domestic Adoption, and the Child Care Act. The following section examines how the four general principles of the CRC are implemented within Korea's domestic legal system.

First, the principle of non-discrimination is given concrete effect through Article 2(1) of the Child Welfare Act and Article 3(3) of the Child Care Act, which provide that children, including infants, shall not be subject to discrimination of any kind. These provisions correspond to the purpose of Article 2 of the CRC, in that they seek to ensure that children are not disadvantaged on the basis of their own status or that of their parents or guardians.

Second, the principle of the best interests of the child is reflected in Article 2(3) of the Child Welfare Act, which requires that the interests of children be given primary consideration in all activities concerning children, and in Article 15(1) of the same Act, which requires the heads of local governments to take protective measures for children in the best interests of the child. In addition, Article 3(1) of the Child Care Act provides that infant care services shall be rendered with priority consideration given to the interests of infants, while Article 912 of the Civil Act requires that the welfare of the child be given priority in the exercise of parental authority. This principle is also expressly specified in Korea's adoption legislation.

Under Article 3(2) of the Special Act on Domestic Adoption and Article 3(1) of the Act on Intercountry Adoption, adoption must be conducted in a way that gives primary consideration to the interests of the child. In particular, intercountry adoption is permitted only when it is in the best interests of the child. These provisions concretely reflect the purpose of Article 3 of the CRC in domestic law by ensuring that the interests of the child are treated as a primary consideration in matters where decisions by parents and the State directly affect the child's life.

Third, the principle of the right to life, survival and development is implemented through Article 2(2) of the Child Welfare Act, which provides that children should grow up happily in a stable family environment for the development of their personality, and Article 4(1) of the same Act, which imposes duties on the State and local

governments to support children in order to promote their safety, health and welfare. Article 21 of the Act on Welfare Support for Children with Disabilities also provides a legal basis for supporting the realization of the developmental rights of children with disabilities by allowing the State and local governments to provide appropriate developmental rehabilitation services for the improvement of their functional abilities and behavioral development.

Finally, the principle of respect for the views of the child is reflected in Article 15(5) of the Child Welfare Act, which requires that the views of a child in need of protection be respected when protective measures are taken, and Article 19(3) of the same Act, which provides that the child's opinion shall be respected when a guardian is appointed for the child.⁶⁾ In addition, Article 4 of the Special Act on Domestic Adoption requires that the opinion of the child be heard in adoption proceedings, taking into account the child's age and degree of maturity. This provision may be understood as a direct reflection of Article 12 of the CRC in Korea's domestic adoption procedure.

CRC as a Human Rights Framework for Children

As the most widely ratified international human rights treaty in history, the CRC has encouraged each State Party to establish and revise its laws and policies and to increase investment in order to implement the Convention. As a result, more children around the world have been provided with the nutrition and healthcare services necessary for their survival and development, protected from harmful environments, and given a legal basis to express their views as members of society.⁷⁾ In fact, Korea has developed a range of child-related laws since ratifying the CRC, seeking to close gaps in rights protection and to promote the realization of children's rights. In particular, significant efforts and progress have been made in strengthening the protection of children.

The principle of respect for the views of the child has also played an important role in recognizing children not merely as objects of

4) Ibid., para. 50.

5) S.K. Hong, S.H. Baek, T.H. Kim, and J.W. Ryu, [Study on Accession to the Third Optional Protocol to the UN Convention on the Rights of the Child] (National Human Rights Commission of Korea, 2018), 3.

6) Article 19(3) of the Child Welfare Act remains in force until August 3, 2026. Under the amended Act taking effect on August 4, 2026, the same provision will be moved to Article 19(4).

7) UNICEF, "Convention on the Rights of the Child", accessed July 8, 2026, <https://www.unicef.org/child-rights-convention>.

protection, but as rights holders capable of active participation, and in affirming their status as subjects who may exercise their rights.

Ultimately, the CRC moves beyond an approach that regards children as passive beneficiaries of welfare. Instead, it enables children, as rights holders, to claim the policies, services and other measures necessary for their full and harmonious development.⁸⁾

In addition, the CRC covers a broad range of children's rights and therefore serves as a common human rights norm in child- and family-related matters where the legal systems of multiple States may intersect. Functioning as a universal reference point for rights across States, regions, cultures and communities, the CRC provides a basic framework that States Parties must consider in all public and private matters affecting children. It also establishes a legal standard for cross-border efforts to protect and promote the rights of the child. Accordingly, the 196 States Parties must place the four general principles at the center when applying and interpreting the CRC within their systems and procedures. They are also subject to periodic review and recommendations by the Committee through the State reporting procedure. In this respect, the CRC carries significance beyond the child policies of individual States. It serves as a universal and comprehensive standard for the protection of the human rights of children and families, as well as a common language for international cooperation.

Nevertheless, the effective implementation of the CRC remains an ongoing task. Children with unstable legal or social status, such as undocumented migrant children, refugee children, and children facing difficulties in birth registration or acquisition of nationality, may still fall into gaps in rights protection. In particular, a child's undocumented status is often not the result of the child's own will, but arises from the nationality and immigration status of the child's parents, and such children are frequently not accurately reflected in official data or statistics.⁹⁾

In its 2019 Concluding Observations, the Committee recommended that Korea ensure access to education, healthcare and financial support services for all children and remove legislative and practical barriers to such access.¹⁰⁾ Therefore, Korea's future task will be to ensure, across

its domestic legal system and administrative procedures, that the CRC's core principle is fully realized: every child must be protected as an equal holder of rights, regardless of legal or social status.



8) Good Neighbors, [Tasks for Implementing Children's Rights in Korea: Focusing on the Fifth and Sixth Concluding Observations of the UN Committee on the Rights of the Child], Children's Rights Issue Focus 17 (2019).
 9) H.Y. Lee and M.K. Park, "A Critical Study on the Policies for Undocumented Migrant Children in Korea: Focusing on the Implementation of <the United Nations Convention on the Rights of the Child>," Politics & Public Opinion 34 (2024): 207-249.
 10) UN Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of the Republic of Korea, October 24, 2019, para. 43.

Returning Children Taken Across Borders: The Hague Convention on the Civil Aspects of International Child Abduction

Introduction

As international marriages have become more common, cases of international child abduction from cross-cultural marriages have also increased. International child abductions have more serious consequences for the child than domestic abductions as they abruptly remove children from the environment in which they formed their familial and social ties. Cross-border factors, such as differences between national legal systems, make such cases particularly difficult to resolve.¹⁾ To address these issues and to protect the welfare of children while assisting left-behind parents, the Hague Conference on Private International Law drafted the Hague Convention on the Civil Aspects of International Child Abduction (the Hague Child Abduction Convention or Convention). By establishing a system of cooperation between Contracting Parties and a rapid procedure for the return of the child, it aims to prevent taking parents from benefiting from the abduction and deter wrongful removal or retention.

Recognizing the need to participate in international cooperation in light of the increase in international marriages and resulting child abduction cases, the Government of the Republic of Korea considered acceding to the Convention.²⁾ On December 13, 2012, Korea deposited its instrument of accession with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, becoming the 89th Contracting State, and the Convention entered into force for Korea on March 1, 2013. To implement the Convention, the Korean National Assembly enacted Act No. 11529, the Act on the Implementation of the Hague Child Abduction Convention, on December 11, 2012.

As related subordinate regulations, the Ministry of Justice enacted the Enforcement Rule of the Act on the Implementation of the Hague Child



Abduction Convention, while the Supreme Court enacted the Supreme Court Rules on the Implementation of the International Child Abduction Convention.

Purpose and Structure of the Hague Child Abduction Convention

The Hague Child Abduction Convention (hereinafter, the “Convention”) seeks to protect children internationally from the harmful effects of their wrongful removal or retention by providing a system of cooperation between Contracting Parties and a rapid procedure for the return of the child to their State of habitual residence and by providing for the protection of rights of access to the child. The Convention consists of 45 articles divided into six chapters: Scope of the Convention, Central Authorities, Return of Children, Rights of Access, General Provisions, and Final Clauses.³⁾

1) HCCH, Outline: HCCH 1980 Child Abduction Convention, p. 1.

2) Ministry of Foreign Affairs and Trade, “Results of the Public Hearing on Accession to the Hague Convention on International Child Abduction,” Press Release, Oct. 21, 2011.

3) Convention on the Civil Aspects of International Child Abduction, Preamble and Art. 1.

Chapter I, “Scope of the Convention,” is comprised of Articles 1 to 5. Article 1 identifies the Convention’s specific objectives as securing “the prompt return of children wrongfully removed to or retained in any Contracting State; and to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.”⁴⁾ To achieve the objectives, the Convention requires Contracting States to take all appropriate measures and to use the most expeditious procedure available.⁵⁾ The emphasis on an expeditious procedure reflects the reality that the longer a child is internationally abducted, the less likely a court may order the child’s return.⁶⁾ The Convention applies to “any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights,” but only until the child reaches the age of 16.⁷⁾ Article 3 provides that the removal or retention of a child is considered wrongful when it breaches the rights of custody attributed under the law of the State in which the child was habitually resident immediately before the removal or retention, and those rights were actually exercised, either jointly or alone, or would have been exercised but for the removal or retention. For the purposes of the Convention, “rights of custody” is defined as including rights relating to the care of the person of the child and, in particular, the right to determine the child’s place of residence.⁸⁾ Because the authority to participate in decisions concerning the child’s removal abroad or change of residence encompasses the authority to determine whether the child may leave the country, a removal or retention may still be wrongful even when the taking parent holds primary custody and the left-behind parent holds only the right to consent to a change in the child’s residence.⁹⁾ Rights of access include the right to take a child for a limited period of time to a place other than the child’s habitual residence.¹⁰⁾

Chapter II, “Central Authorities,” sets out in Articles 6 and 7 how Central Authorities are to be designated in light of each State’s constitutional structure and defines their functions. More specifically, these functions include but are not limited to: discovering the whereabouts of a child who has been wrongfully removed or retained; taking provisional measures; securing the voluntary return of the child or bringing about an amicable resolution to the issues; and providing or facilitating legal aid and advice, including the participation of legal counsel and advisers.¹¹⁾

Specific roles of the Central Authority will be discussed in greater detail below in IV. Role of the Ministry of Justice as the Central Authority.

Chapter III, “Return of Children,” specifies the procedures necessary to obtain a child’s return and clarifies the roles of judicial and administrative authorities. A person seeking assistance under the Convention may submit an application for assistance in securing the

child’s return,¹²⁾ and the Central Authority that receives the application must directly and without delay transmit the application to the Central Authority of the relevant Contracting State when it has reason to believe that the child is in another Contracting State.¹³⁾ The Convention also sets out the grounds for return and the grounds for refusing return. Where a child has been wrongfully removed or retained and less than one year has elapsed between the date of the wrongful removal or retention and the commencement of proceedings in the Contracting State where the child is located, the competent authority must order the return of the child.

Even if proceedings begin after the one-year period, the authority shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.¹⁴⁾ This provision may be understood as a means to protect the child’s welfare, as returning a child who has already settled may itself cause another disruptive change of environment. The Convention further provides exceptions where “the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention or there is a grave risk that [the] return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.”¹⁵⁾ An important thing to note is that a return decision under the Convention must not be treated as a determination of the merits of custody. The Convention expressly prevents the authorities of the requested State from deciding the merits of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice. Furthermore, it also makes clear that the mere existence or possible recognition of a custody decision in the requested State is not, by itself, a ground for refusing return.¹⁶⁾ Article 19 reinforces this point: it provides that a decision concerning the return “shall not be taken to be a determination on the merits of any custody issue.”

4) *Id.*, Art. 1.

5) *Id.*, Art. 2.

6) Kwang Hyun Suk, “The Hague Convention on the Civil Aspects of International Child Abduction and Korea’s Accession,” *Seoul Law Journal*, vol. 54, no. 2, 2013, pp. 79–134.

7) Convention on the Civil Aspects of International Child Abduction, Art. 4.

8) *Id.*, Art. 5.

9) Ministry of Justice, “A Practice Guide for Attorneys on the 1980 Hague Child Abduction Convention”, 2018, p. 40.

10) Convention on the Civil Aspects of International Child Abduction, Art. 5.

11) *Id.*, Art. 7.

12) *Id.*, Art. 8.

13) *Id.*, Art. 9.

14) *Id.*, Art. 12.

15) *Id.*, Art. 13.

16) *Id.*, Art. 16, 17.

Chapter IV, “Rights of Access,” consists solely of Article 21, which provides that an application to make arrangements for organizing or securing the effective exercise of rights of access may be submitted to a Contracting State’s Central Authority in the same way as an application for the return of the child. However, it could be said that the Convention does not establish a fully developed remedy for breaches of access rights.¹⁷⁾

Chapter V, “General Provisions,” rather than governing the merits of whether a child should be returned, addresses operational matters such as costs, documents, language, and the Convention’s relationship with other international instruments. They include, for example, a prohibition on requiring security, bond, or deposit,¹⁸⁾ and a right to receive legal aid and advice in other Contracting States on the same conditions as nationals or habitual residents in that State.¹⁹⁾ Chapter V also regulates general matters concerning implementation of the Convention, such as permitting an applicant to apply directly to a judicial or administrative authority for return or access without first going through a Central Authority.²⁰⁾

Chapter VI, the “Final Clauses,” addresses accession, entry into force, reservations, and other matters relating to the operation of the Convention, rather than the substantive adjudication of return cases or the work of Central Authorities. In particular, it sets out which States may become bound by the Convention, through what procedures, when it takes effect, and how it operates between Contracting States. It prescribes procedures for signature and ratification by States that were Members of the Hague Conference,²¹⁾ and allows other States to accede by depositing an instrument of accession, with the Convention taking effect between the acceding State and an existing Contracting State only where the latter accepts the accession.²²⁾

One important provision is Article 42, which regulates the permitted reservations and their withdrawal. In the case of Korea, pursuant to Article 24, it declared that it would not accept French in applications, communications, or other documents sent to its Central Authority. Additionally, pursuant to Article 26, Korea declared that it would not be bound to assume costs arising from the participation of counsel or legal advisers or from court proceedings except to the extent covered by its system of legal aid and advice.

Korea’s Accession to the Convention and the Implementation Act

In Korea, the Act on the Implementation of the Hague Child Abduction Convention (hereinafter the “Implementation Act”) designates the

Central Authority and provides detailed rules on support procedures and judicial proceedings necessary to implement the Convention.²³⁾ The Implementation Act consists of 17 articles in four chapters. Chapter I contains general provisions concerning the Convention and the Act; Chapter II governs procedures for assistance in return of child and related matters; Chapter III governs judicial proceedings; and Chapter IV contains supplementary provisions. Article 1 states that the Act aims to contribute to the protection of children’s rights and interests through ensuring matters such as prompt return of abducted children.

The Implementation Act designates the Minister of Justice as the Central Authority and assigns the Minister the powers and functions set forth in Chapter II. The Ministry of Justice’s role as the Central Authority is discussed further in the following section.

Chapter II, “Procedure, etc. for Assistance in Return of Child,” addresses applications for return assistance.

A person whose right of custody or access within the meaning of the Convention has been breached may file an application to request the Minister of Justice to discover the whereabouts of the child, provide information of a general character as to the Korean law in connection with the application of the Convention, and other assistance specified in the Convention. The Minister of Justice may refuse to accept an application where it is obvious that the requirements of the Convention are not met or the application is otherwise not well founded.²⁴⁾ The Minister of Justice or any person who filed the application may notify the competent court of the wrongful removal or retention of the child to obtain suspension of judicial proceedings on the merits under Article 16²⁵⁾ of the Convention.²⁶⁾ This provision gives domestic effect to Article 16 of the Convention and once again underscores that neither the Convention nor the Implementation Act is intended to decide the merits of custody.

Chapter III, “Judicial Proceedings,” enables the jurisdiction and procedural rules for child-return cases to operate within the Korean legal system. Under Article 11, the Seoul Family Court is given exclusive jurisdiction over child-return cases under the Convention. This is to enhance expertise in international child abduction cases.²⁷⁾

17) Ministry of Justice, “A Practice Guide for Attorneys on the 1980 Hague Child Abduction Convention”, 2018, p. 154.

18) Convention on the Civil Aspects of International Child Abduction, Art. 22.

19) *Id.*, Art. 25.

20) *Id.*, Art. 29.

21) *d.*, Art. 37.

22) *Id.*, Art. 38.

23) National Law Information Center, Legislative Purpose of the Act on the Implementation of the Hague Convention on the Civil Aspects of International Child Abduction.

Article 12 further provides that except for matters prescribed by the Convention, the Act and the Supreme Court Rules, the provisions regarding category E family non-litigation cases under the Family Litigation Act shall apply *mutatis mutandis*. This is because the expedited return proceedings established under the Convention were not procedures previously provided for under Korean law.²⁸⁾ The same article permits the court to issue a prior disposition under Article 62 of the Family Litigation Act or a preliminary injunction under Article 63 of the same act. The Implementation Act also lists grounds for refusing return as described under Articles 12, 13, and 20 of the Convention.²⁹⁾ Additional provisions intended to improve the effectiveness of child-return proceedings also exist in the Act. A court may order a person to return their child and can subject a person who violates that order to a fine or detention under the Family Litigation Act.

Although a decision ordering the return of the child constitutes an execution title under Article 41 of the Family Litigation Act, the Implementation Act does not establish a separate direct-enforcement procedure. In practice, Article 257 of the Civil Execution Act is applied *mutatis mutandis*. The Supreme Court also issued the Supreme Court Regulations on Enforcement of Child Return Orders under the Hague Child Abduction Convention (hereinafter, Regulations), which sets out detailed enforcement procedures such as requiring the enforcement officer to consider the child's age, level of development, emotional condition, and safety, and permits a child-related expert to participate as an enforcement assistant where necessary.³⁰⁾



The Implementation Act reiterates the Convention's requirements while adapting them to procedures suited to Korean domestic law. It once again emphasizes that child-return proceedings do not determine the merits of custody. It also intends to facilitate the prompt and effective return of children through Article 3, which imposes a duty on State agencies and other authorities to process cases expeditiously, and Article 14, which requires the court to notify reasons for delay.

Role of the Ministry of Justice as the Central Authority

As noted above, the Minister of Justice is designated as the Central Authority for the Republic of Korea, and its functions are carried out in practice by the International Legal Policy Division of the Ministry's International Legal Affairs Department. The Ministry of Justice was chosen as the Central Authority over the Ministry of Health and Welfare, due to its expressed willingness to assume the role, its responsibility for immigration matters relevant to locating abducted children, and the inclusion of the prosecution service within its organizational structure.³¹⁾

Under the Implementation Act, the Ministry of Justice may request the head of a relevant central administrative agency, local government or public institution to provide data or information on the child, or other cooperation necessary to perform the duties under Article 7 of the Convention.³²⁾

The Ministry is able to collect statistics on cases, conduct domestic and overseas public relations activities, research and survey matters such as

24) Act on the Implementation of the Hague Convention on the Civil Aspects of International Child Abduction, Art. 5.

25) "After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice."

26) Act on the Implementation of the Hague Convention on the Civil Aspects of International Child Abduction, Art. 7.

27) Kwang Hyun Suk, "The Hague Convention on the Civil Aspects of International Child Abduction and Korea's Accession," *Seoul Law Journal*, vol. 54, no. 2, 2013, pp. 79–134.

28) *Id.*

29) Act on the Implementation of the Hague Convention on the Civil Aspects of International Child Abduction, Art. 12.

30) Supreme Court Order, May 26, 2025, 2025ㄱ514

31) Kwang Hyun Suk, "The Hague Convention on the Civil Aspects of International Child Abduction and Korea's Accession," *Seoul Law Journal*, vol. 54, no. 2, 2013, pp. 79–134.

32) Act on the Implementation of the Hague Convention on the Civil Aspects of International Child Abduction, Art. 9.

prevention of child abduction and prompt return, engage in exchanges with Central Authorities of other Contracting States, and educate and train personnel in charge of relevant matters.³³⁾

Further details regarding application forms, required application information, and the Ministry of Justice's functions as the Central Authority are set out in the Enforcement Rule.

Efforts to Improve the Enforcement Framework

Because the Implementation Act establishes no separate direct-enforcement procedure, the enforcement of return orders was long governed by rules designed for domestic child-delivery cases. Article 257 of the Civil Execution Act was applied *mutatis mutandis* together with the 1982 Supreme Court rule on the enforcement of judgments ordering the delivery of an infant (as in force before its amendment on January 15, 2025), which provided that enforcement could not be carried out where a child capable of forming an intention personally refused to be handed over. That restriction made it difficult to secure the effectiveness of orders directing the delivery of a child.³⁴⁾

To address this, the Supreme Court enacted a dedicated rule on January 10, 2024, following a twenty-day period of administrative notice and public comment: the Regulations on the Enforcement of Child Return Claims under the Hague Child Abduction Convention.³⁵⁾ The Regulations do not carry over the refusal-based bar on enforcement. They also impose duties of care on the enforcement officer and allow child-related experts to take part as enforcement assistants, and were thus framed to weigh the child's welfare alongside the effectiveness of enforcement.

Rule-making alone, however, was not presented as a complete answer. In enacting the Regulations, the Supreme Court noted a shared view, within and outside the judiciary, that the subject and the specific methods of child-delivery enforcement should be prescribed by statute, and stated that it would continue to study legislative improvements.

Conclusion

The Hague Child Abduction Convention establishes a framework for protecting children from wrongful removal or retention and promptly restoring them to the environment of their habitual residence. By enacting the Implementation Act and designating the Minister of Justice as the Central Authority, Korea has established the institutional foundation necessary to implement the Convention. The Convention's effectiveness, however, depends not only on the existence of return procedures but also on whether return decisions are enforced in practice. The 2024 Regulations supplied a set of enforcement rules tailored to Convention returns in place of those designed for domestic child-delivery cases, and the Supreme Court has since addressed their application.

International child returns must be carried out promptly, yet must also take account of the child's emotional stability, safety, and dignity. The task ahead, therefore, is to refine detailed standards and enforcement practices so that return orders are effective without compromising the child's welfare. In enacting the Regulations, the Supreme Court noted a shared view that the framework for child-delivery enforcement should be prescribed by statute, and said it would continue to study legislative improvements. The Convention remains a central mechanism for enabling the prompt return of children and protecting rights of access in cross-border child abduction cases, and Korea's implementation framework should accordingly continue to develop in a manner that harmonizes prompt return with the protection of the child's welfare.

33) *Id.*, Art. 10.

34) Supreme Court Order, May 26, 2025, 2025그514.

35) 이용경, "대법원, 국제 아동반환청구 사건 집행예규 제정", *법률신문*, 2024. 1. 11.

Child Support Across Borders: The 2007 Hague Maintenance Convention and Korea's Tasks

Child Support as a Matter of Children's Right to Survival

Child support is directly linked to children's right to survival. This is because, without adequate child support, children may not be guaranteed a safe environment in which to grow. In this context, child support refers to the expenses necessary to protect and raise a child who has not reached adulthood (hereinafter a "minor child").

Regardless of marital status or whether they have custody, a father or mother must create the best possible environment for the minor child's healthy growth in all areas of life, including food, clothing, housing, education, and health, pursuant to Article 3(1) of the 「Act on Enforcing and Supporting Child Support Payment」.

Ultimately, parents have a joint responsibility to raise their children, and child support, in principle, must also be borne jointly by both parents.

However, cases in which custodial parents fail to receive child support from a former spouse or other person have continued to occur,

and a significant number of custodial parents who do not receive child support appear to belong to vulnerable groups.

Among approximately 30,000 people who applied for child support enforcement services through the Child Support Agency between March 2015 and May 2026, 48 percent were classified as members of vulnerable groups, including recipients of basic livelihood security benefits, persons of the near-poor category, and persons eligible for support under the Single-Parent Family Support Act.

By family type, divorced single-parent families accounted for 94.1 percent, while unmarried single-parent families accounted for 5.9 percent; multicultural families and grandparent-headed families accounted for 3.4 percent and 0.4 percent, respectively.¹⁾

These figures show that, after the divorce of parents with minor children, if the parent obligated to pay child support fails to fulfill that obligation, children in vulnerable groups in particular may be deprived of a safe environment for growth.

Indeed, according to the Ministry of Gender Equality and Family's 2024 Survey on Single-Parent Families, child support was identified as one of the greatest difficulties faced by single-parent families.²⁾

Meanwhile, as international marriages and divorces have increased, child support cases can no longer be viewed solely as domestic matters. According to data from the Korean Statistical Information Service



1) [‘The State Will Recover It to the End’: Half of Custodial Parents Deprived of Child Support Are Vulnerable], Hankook Ilbo, June 21, 2026, <https://www.hankookilbo.com/news/article/A2026062112480004468> (last visited July 9, 2026).

2) Ministry of Gender Equality and Family, “[Announcement of the Results of the 2024 Survey on Single-Parent Families],” Mar. 31, 2025, https://www.mogef.go.kr/nw/enw/nw_enw_s001d.do?mid=mda700&bbtSn=712551 (last visited July 7, 2026).

(KOSIS), the number of international marriages between Korean husbands and foreign wives, and between Korean wives and foreign husbands, increased from 16,666 in 2022 to 20,759 in 2024.³⁾ Accordingly, international divorces have also continued to occur, and the number of divorces involving a foreign spouse and minor children has increased each year: 1,515 cases in 2022, 1,662 cases in 2023, and 1,672 cases in 2024.³⁾ As a result, the importance of child support cases arising across national borders is growing.

At a time when the boundaries of child support enforcement are expanding, it is necessary to examine Korea’s child support system and the 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (hereinafter the “2007 Hague Maintenance Convention”) as part of domestic and international efforts to secure child support.

Korea’s Domestic Framework: The Child Support Agency and the Introduction of the Advance Child Support Payment System in 2025

In order to ensure child support enforcement at the national level, Korea enacted the 「Act on Enforcing and Supporting Child Support Payment」. Pursuant to Article 7(1) of the Act, the Child Support Agency (hereinafter the “CSA”) was established to carry out tasks related to claims for child support for minor children and support for securing its enforcement. The CSA provides legal assistance for child support claims and enforcement, supports sanctions against child support debtors who fail to comply with their obligations, assists in collecting child support claims confirmed by agreement or court judgment, and transfers child support to custodial fathers or mothers.

In July 2025, the advance child support payment system was introduced, with the CSA responsible for administering the program. The purpose of this system is to prevent minor children from facing economic hardship due to debtors’ failure to fulfill their child support obligations. Under the system, the State makes advance child support payments for minor children in single-parent families with income at or below 150 percent of the standard median income if a right to receive periodic child support has been established but payment is not being made. The State later recovers the amount from the child support debtor. From October 29, 2026, the income requirement for application will be abolished, allowing applications regardless of income. Once advance child support

payment is approved, up to KRW 200,000 per child is paid every month until the child reaches the age of 18. Thereafter, the debtor is encouraged to repay the amount through a recovery notice and demand. If the amount is not recovered despite such demand, it is collected, with the approval of the Minister of Gender Equality and Family, in the same manner as the compulsory collection of national taxes.

One year after the implementation of the advance child support payment system, a total of KRW 16.73 billion in child support has been paid in advance to 10,917 minor children. On January 19, 2026, procedures to recover advance child support payments formally began. At that time, the recovery targets were child support debtors who were obligated to pay the child support advanced to single-parent families and others between July and December 2025, and the total amount subject to recovery was KRW 7.73 billion.⁵⁾ It has been confirmed that KRW 640 million had been recovered by the end of May 2026.⁶⁾ To ensure effective recovery, the CSA has increased personnel and established a system linking its electronic network with those of the Korea Financial Telecommunications and Clearings Institute, the National Health Insurance Service, and the National Tax Service for debtor information inquiries and attachment procedures.

Procedure for Advance Child Support Payment	
Stage	Main Content
1. Application for support	- Counseling - Receipt of application
2. Document review and eligibility determination	- Review of submitted documents including the application - Confirmation of whether eligibility requirements are satisfied
3. Payment and monitoring	- Payment of advance child support - Monitoring of child support compliance and changes in eligibility
4. Return and recovery	- Return in cases of improper receipt - Recovery of advance payments from child support debtors ※ Collected in the same manner as the compulsory collection of national taxes

The International Gap: When the Non-Custodial Parent Is Abroad, Recovery Is Practically Impossible

Unlike domestic child support cases, child support cases arising across national borders require relatively substantial time and costs. However, compared with the time and costs involved, the likelihood that such efforts will actually lead to payment of child support is not high, and many creditors in international child support cases appear not to attempt to file claims at all.⁷⁾ This is because, even when they attempt to claim child support, they may face limitations at the stage of applicable requirements or procedures.

If requirements such as the child's possession of Korean nationality or the custodial parent's residence in Korea are not met, the case may fall outside the scope of support provided by the CSA. In addition, the process of confirming parentage or identifying the child support debtor may itself require considerable time or relatively high costs.

Even where a child support decision is obtained in an international child support case, the creditor may still face difficulty in actually realizing his or her rights.

Even if a creditor obtains a child support decision against the debtor in Korea, if the debtor or the assets subject to enforcement are located abroad, child support generally cannot be recovered through compulsory enforcement unless the decision is recognized and enforced in the country where the debtor resides or where the enforceable assets are located.

In this way, international child support cases inevitably create gaps that cannot be resolved effectively through the current domestic child support system alone. The 2007 Hague Maintenance Convention was adopted to fill these international gaps concerning child support. Due to the structural limitations of existing maintenance-related conventions, the lack of an institutional foundation for cooperation, and delays throughout the procedures, it had been difficult to address the special characteristics of cross-border maintenance cases.

As a result, States generally came to share the view that existing conventions needed to be improved. Ultimately, the 2007 Hague Maintenance Convention was adopted on November 23, 2007. Since its entry into force in 2013, the number of Contracting Parties has steadily increased, and as of 2025, a total of 55 States and the European Union participate as Contracting Parties.⁸⁾

Structure of the 2007 Hague Maintenance Convention

The 2007 Hague Maintenance Convention emphasizes the international protective role of Central Authorities so that maintenance creditors are not prevented from realizing their rights due to differences between national legal systems. A maintenance creditor in a Contracting State may apply for matters related to the realization of rights under a child support decision, while a debtor may apply for matters related to the suspension, limitation, or modification of enforcement of a previous payment decision.

Meanwhile, Central Authorities assist in making cross-border child support payments effective by supporting, where necessary, the establishment of parentage, the modification of maintenance decisions, and the initiation or facilitation of proceedings.

In addition, the Central Authority of the Contracting State in which the applicant resides, namely the requesting State, may directly communicate with the Central Authority of the Contracting State in which the respondent is located, namely the requested State.

As a general rule, the requested State must provide free legal assistance for creditor applications made through Central Authorities under Chapter III concerning maintenance obligations arising from a parent-child relationship toward persons under the age of 21. These principles are key mechanisms for ensuring speed and effectiveness in all procedures related to the enforcement of maintenance obligations.

3) Korean Statistical Information Service (KOSIS), "Marriages by Type of Marriage of Korean Husband / Nationality of Foreign Wife," https://kosis.kr/statHtml/statHtml.do?sso=ok&returnurl=https%3A%2F%2Fkosis.kr%3A443%2FstatHtml%2FstatHtml.do%3Flist_id%3DA23_4%26obj_var_id%3D%26seqNo%3D%26tblId%3DDT_1B83A31%26vw_cd%3DDMT_ZTITLE%26orgld%3D101%26path%3D%252FstatisticsList%252FstatisticsListIndex.do%26conn_path%3DDMT_ZTITLE%26itm_id%3D%26lang_mode%3Dko%26scrid%3D%26 (last visited July 16, 2026).

4) Minji Kim, Eunhyun Kang, Heejin Kim & Jonghee Suh, A Study on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Research Series 25-B-12, Korean Institute of Criminology and Justice, 2025, p. 9.

5) Child Support Agency, [Recovery Procedures for Advance Child Support Payments Begin in Earnest], Jan. 19, 2026, <https://www.childsupport.or.kr/lay1/program/S1T27C29/front/board.do?sa=view&sno=33291&bid=2&pg=1> (last visited July 15, 2026).

6) Narin Ko, "[Thanks to This, I Can Breathe': One Year of the Advance Child Support Payment System Supports Around 10,000 Minor Children]," The Hankyoreh, July 5, 2026, <https://www.hani.co.kr/arti/society/women/1266754.html> (last visited July 8, 2026).

7) Minji Kim, Eunhyun Kang, Heejin Kim & Jonghee Suh, A Study on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Research Series 25-B-12, Korean Institute of Criminology and Justice, 2025, p. 22.

8) Minji Kim, Eunhyun Kang, Heejin Kim & Jonghee Suh, A Study on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Research Series 25-B-12, Korean Institute of Criminology and Justice, 2025, p. 73.

Structure of the 2007 Hague Maintenance Convention

Applicant	Maintenance Creditor	Maintenance Debtor
Available Applications⁹⁾	- Recognition or recognition and enforcement of a decision - Enforcement of a decision made or recognized in the requested State - Establishment of a decision in the requested State where there is no existing decision - Establishment of a decision in the requested State where recognition and enforcement of a decision is not possible or is refused - Modification of a decision made in the requested State - Modification of a decision made in a State other than the requested State	- Recognition of a decision, or a procedure leading to the suspension or limitation of enforcement of a previous decision in the requested State - Modification of a decision made in the requested State - Modification of a decision made in a State other than the requested State
Role of Central Authorities	- Information on the debtor's location and financial circumstances - Information on domestic law - International cooperation - Promotion of amicable solutions - Facilitation of securing documentary or other evidence - Facilitation of the continuing establishment, enforcement, and collection of maintenance decisions - Assistance in establishing parentage where necessary for maintenance proceedings - Initiation or facilitation of procedures to secure the outcome of an application for maintenance, such as applications for provisional attachment	

The United States, the first State to sign the 2007 Hague Maintenance Convention, provides a useful example of the Convention's implementation through a coordinated federal-state framework, combining federal implementing legislation with state laws enacting the 2008 version of the Uniform Interstate Family Support Act (UIFSA).

The U.S. Department of Health and Human Services serves as the federal Central Authority. It does not itself process applications under Article 10 of the Convention; such applications are transmitted directly

to the central registry of the relevant State or territory. The federal office instead performs coordinating and administrative functions, including facilitating communication with foreign Central Authorities and access to federal information systems. Where a foreign Central Authority requests assistance in locating a maintenance obligor in the United States or enforcing child support, the Office of Child Support Services provides a basis for using information such as the person's address, employment and income-related leads, and federal case registration information through the Federal Parent Locator Service. It also operates and supports the Central Authority Payment Service so that child support payments can be delivered to creditors abroad.

Expected Benefits of Accession to the 2007 Hague Maintenance Convention and Prerequisites for Implementation

As discussed above, the 2007 Hague Maintenance Convention is expected to provide practical assistance in resolving international child support cases that Korea's domestic child support system has not been able to address effectively. In particular, as the recent increase in international marriages has heightened the need to respond to international child support cases, accession to the Convention would help protect children's substantive rights to a healthy environment for care and growth. In its 2019 Concluding Observations on the combined fifth and sixth periodic reports of the Republic of Korea, the United Nations Committee on the Rights of the Child recommended that Korea accede to the 2007 Hague Maintenance Convention as a way to strengthen child protection and family support.¹⁰⁾ Although this recommendation is not legally binding under domestic law, it is meaningful as an international standard for evaluating the protection of children's rights. Accordingly, through accession to the Convention, Korea would be able to respond in line with international standards for the protection of children's rights.

If Korea accedes to the Convention, its Central Authority and relevant administrative and judicial bodies will be required to ensure effective access to procedures, provide legal assistance within the scope required by the Convention, and process international maintenance cases promptly and effectively. If foreign child support or maintenance decisions are readily recognized and enforced in Korea, while the enforcement of Korean decisions abroad remains relatively difficult, a practical imbalance may arise between the overseas enforcement of domestic decisions and the domestic enforcement of foreign decisions. To prevent this, the grounds for refusing recognition and enforcement

under the Convention should be interpreted appropriately, and the level of domestic procedural safeguards should also be raised in line with international standards.¹¹⁾

Ultimately, implementation of the Convention should not stop at formally treating foreigners and Korean nationals equally. Rather, it should be designed in a way that takes into account substantive support for maintenance creditors residing abroad, fair procedural safeguards for domestic maintenance debtors, and the protection of children and other socially vulnerable persons.

9) Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Nov. 23, 2007, art. 10(1)–(2).

10) Committee on the Rights of the Child, Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Republic of Korea, CRC/C/KOR/CO/5-6, United Nations, Oct. 24, 2019.

11) Minji Kim, Eunhyun Kang, Heejin Kim & Jonghee Suh, A Study on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, Research Series 25-B-12, Korean Institute of Criminology and Justice, 2025, p. 350.

Protecting an International Family from Honor-based Violence: Revocation of a Decision on Non-recognition of Refugee Status

Background Information

In refugee status determination, children occupy a uniquely precarious position. Because a child's legal status is often closely tied to that of the accompanying parent, the child is rarely treated as an independent claimant with a distinct narrative of persecution. This creates a particular vulnerability: the child's need for protection may be overlooked when the claim is assessed primarily through the parent's circumstances.

The normative anchor for addressing this vulnerability is the United Nations Convention on the Rights of the Child ("CRC"), to which the Republic of Korea has been a State Party since 1991.¹⁾ Article 3(1) states that the best interests of the child be a primary consideration in all actions by administrative authorities and courts, while Article 9(1) protects children from being separated from their parents against their will, except where such separation is necessary for the child's best interests.

The principle of family unity gives practical effect to these obligations in the refugee context. Although the 1951 Refugee Convention itself does not express the family unity clause, the Final Act of the conference that adopted the Convention recommended that States take the necessary measures to protect the refugee's family.²⁾ This recommendation has been treated as an integral part of the international refugee protection regime. At the domestic level, Article 37(1) of the Refugee Act guarantees the spouse and minor children of the recognized refugee the right to enter Korea, subject to the conditions set out in the Act.³⁾



In short, Article 37(1) of the Refugee Act may be understood as a provision that gives domestic legal effect to the principle of family unity by ensuring the reunification of recognized refugees with their family members at the stage of entry into the country.

The CRC, meanwhile, provides a normative framework for recognizing and protecting children seeking refugee protection as rights-holders in their own right.

1) Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990, 1577 UNTS 3, arts 3, 9 and 22.

2) United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, 25 July 1951, UN Doc A/CONF.2/108/Rev.1, Recommendation B.

3) Refugee Act [난민법], Act No 11298, 10 February 2012, art 37(1).

On April 19, 2022, the Seoul High Court reversed the first-instance judgment and accepted the plaintiffs' claim of persecution based on the risk of an "honor crime," finding that they satisfied the requirements for recognition as refugees.⁴⁾ For child-rights jurisprudence, however, the central point is not the parents' claim but the fate of their child. Although Plaintiff 3, the child, had no personal history of persecution, the court found that there was a humanitarian need to grant its refugee status.

The Seoul High Court's resolution of this case offers a concrete domestic illustration of how refugee protection may be assessed from the perspective of the CRC.

Case Facts⁵⁾

(1) Plaintiff 1 and Plaintiff 2, Pakistani nationals from different tribal and caste backgrounds, married in May 2016 without the consent of Plaintiff 2's family, which had already arranged her marriage to another man from the same tribal group.

(2) Upon discovering the marriage, Plaintiff 2's family confined, threatened, and physically assaulted her and the members of Plaintiff 1's family, filed false criminal complaints (FIRs) against Plaintiff 1, and pursued the assault even after the couple went into hiding in Islamabad. These events were consistent with the prevalent pattern of honor-based violence against Pakistani couples marry for love against family wishes.

(3) The two plaintiffs entered Korea on August 7, 2016. Plaintiff 2 entered under F-3 visa, joining plaintiff 1, who had already been residing in Korea on a student visa.

(4) Plaintiff 3, the child of the plaintiffs, was born on September 4, 2017.

(5) On March 29, 2019, all three plaintiffs jointly applied for recognition of refugee status.

(6) The Chief of the Incheon Immigration Office denied all three applications on June 18, 2019, and the Minister of Justice dismissed the plaintiffs' subsequent objection on December 23, 2019.

(7) The Incheon District Court, as the court of first instance, dismissed the plaintiffs' suit on February 5, 2021 (Incheon District Court Decision 2020Gudan51478), ruling against the plaintiffs and in favor of the

defendant, the Chief of Incheon Immigration Office.

(8) The plaintiffs appealed. On April 19, 2022, the Seoul High Court reversed the judgment of the court below in the plaintiffs' favor by ① setting aside the first-instance judgement, and ② revoking the defendant's dispositions denying refugee status to all three plaintiffs. The Seoul High Court held that both Plaintiffs 1 and 2 fell within the relevant "particular social group" and had a well-grounded fear of persecution. As to Plaintiff 3, the court found a humanitarian need to grant the child refugee status, considering both the principle of family unity and the possibility—which the court found could not be ruled out—that Plaintiff 3 would face persecution by members of Plaintiff 2's family upon return to Pakistan.

(9) The defendant appealed to the Supreme Court. On July 28, 2022, the Supreme Court dismissed the appeal without a full merits review, thereby rendering final the Seoul High Court's judgment revoking the decisions denying refugee status to all three plaintiffs.

Subject Matter of Review

(1) The Underlying Claim: "Membership of a Particular Social Group" and Persecution

Because Plaintiff 3's refugee claim was partially affected on the status of its parents, whether the parents themselves qualified as refugees constituted an important part of the court's analysis.

Under Article 2, subparagraph 1 of the Refugee Act, a refugee is defined as "any foreign national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is unable or unwilling to avail themselves of the protection of the country of their nationality; or any stateless person who, owing to such fear, is unable or unwilling to return to the country of their habitual residence prior to entering Korea."⁶⁾

4) Seoul High Court, 19 April 2022, 2021Nu34345, aff'd, Supreme Court, 28 July 2022, 2022Du41751.

5) Plaintiffs 1–3 v Chief of Incheon Immigration Office (Seoul High Court, 19 April 2022) 2021Nu34345 [Revocation of a Decision of Non-recognition of Refugee Status], provisional English translation, on file with the author.

6) Refugee Act, Act No 11298, 10 February 2012, art 2(1).

The Seoul High Court held that both Plaintiff 1 and Plaintiff 2 fell within a “particular social group” comprising “a woman who, against her family’s wishes, married a partner of a different tribal background or caste by her own volition, and her spouse,” where ① the marriage contravenes widely accepted marriage customs or family norms in the country of origin, ② the couple is consequently likely to face persecution, such as violence, forced divorce, or murder by members of their family or tribal community, and ③ adequate government protection against such persecution cannot reasonably be expected.

Additionally, based on the consistent and detailed testimony corroborated by documentary evidence, including court petitions and FIRs against Plaintiff 1, the court found that a well-founded fear of persecution had been established. Accordingly the court found that Plaintiffs 1 and 2 satisfied the requirements for recognition as refugees, reversed the first-instance judgement, and revoked the challenged decisions denying refugee status.

(2) The Principle of Family Unity: Doctrinal Basis for the Child

Plaintiff 3’s position was unique. Because the child was born and raised outside the country in which the alleged persecution would occur, it was difficult for Plaintiff 3 to independently establish the same objectively grounded fear that refugee law ordinarily requires of an adult claimant. The Seoul High Court held that, under Article 2, subparagraph 1 of the Refugee Act, both Plaintiffs 2 and 1 qualified as refugees. It further stated that, even if only Plaintiff 2 were found to satisfy those requirements, the same conclusion would apply to Plaintiff 1 under the principle of family unity. Significantly, the court also addressed Plaintiff 3 separately. It did not treat the absence of a personal history of persecution as determinative. Rather, its conclusion was supported by both the principle of family unity and the possibility—which the court found could not be ruled out—that Plaintiff 3 would face persecution by members of Plaintiff 2’s family upon return to Pakistan.

(3) The Judgment Viewed Through the CRC Framework

The court’s reliance on family unity did not stand alone. The Seoul High Court did not resolve this difficulty by treating Plaintiff 3 as a mere appendage to her parent’s status, rather, it treated the child as an independent subject of protection.

In Pakistan, not only women who enter into love marriages but also their spouses and children have reportedly become victims of honor crimes. Taking this into account, the court addressed the humanitarian need to grant refugee status to Plaintiff 3, which closely resembles the best-interests assessment required under CRC Article 3(1). The decision of the court may therefore be understood as having considered the risks the child could face upon return and as having viewed remaining with the family unit as being in the child’s best interests.

Article 9 of the CRC and the principle of family unity may be understood as providing complementary protection to Plaintiff 3. The principle of family unity supports extending refugee status to a minor child, while CRC Article 9 protects the child against separation from her parents unless such separation is determined to be necessary for the child’s best interests in accordance with applicable law and procedures. In this case, the recommended principle of family unity and Article 37(1) of the Refugee Act provide international and domestic legal context for that protection.

Refugee Act (Republic of Korea)

Article 2

(1) The term “refugee” means a foreigner who is unable or does not desire to receive protection from the nation of his/her nationality in well-grounded fear that he/she is likely to be persecuted based on race, religion, nationality, the status of a member of a specific social group, or political opinion, or a stateless foreigner who is unable or does not desire to return to the nation in which he/she resided before entering the Republic of Korea (hereinafter referred to as “nation of settlement”) in such fear.

Article 37

(1) Where a spouse or a minor child of a recognized refugee applies for entry, the Minister of Justice shall permit such entry unless it falls under Article 11 of the Immigration Act.

United Nations Convention on the Rights of the Child (“CRC”)

Article 3

(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration.

Article 9

(1) States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence.

(2) In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

Implications

Although the Seoul High Court did not expressly refer to the CRC, the Court's decision can be understood as integrating the principle of family unity with the CRC's child-protection framework. From this perspective, the decision represents a child-protection precedent in the Republic of Korea that does not necessarily require a minor child to provide an individualized persecution narrative in order to obtain refugee status. This could be instructive for the growing population of children born in Korea to parents whose asylum applications remain pending for years⁷⁾.

However, because the Supreme Court dismissed the appeal without a full merits review, the precedent remains grounded solely in the High Court's reasoning. It therefore remains open to future case law and legislation to determine whether CRC principles in Korean refugee law will depend merely on courts' willingness to consider them or develop into a standalone legal basis for protecting children.

Against this backdrop, further consideration may be given to how the CRC's best-interests standard could be reflected in the interpretation and application of the Refugee Act. Relevant questions include whether a separate best-interests assessment should be conducted for each minor child named in a refugee application, irrespective of the outcome of the parent's claim, and whether additional procedural support may be appropriate to ensure that the child's interests are adequately represented during interviews and appeals.

These questions point to a broader issue concerning the legal position of children in refugee proceedings: whether a child should be treated primarily as a dependent whose status follows that of a parent or be recognized as an individual rights holder whose distinct circumstances, protection needs, and best interests warrant independent consideration. The Seoul High Court's decision provides a meaningful basis for continued discussion of this issue in the development of Korean refugee law and practice.

7) Jung Min-kyung, "Undocumented Migrant Children in South Korea Left in Legal Limbo," Asia News Network, Feb. 16, 2026.

International Legal Policy Division: Serving as Korea's Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction



Jinoo IM

Public Service Advocate
International Legal Policy
Division

Q: *The Minister of Justice is designated as the Central Authority of the Republic of Korea under the Hague Convention on the Civil Aspects of International Child Abduction, and the International Legal Policy Division is responsible for the relevant practical work. Could you briefly introduce your current duties and your role in the practical operation of the Convention?*

The Hague Convention on the Civil Aspects of International Child Abduction and its domestic implementation legislation, the Act on the Implementation of the Hague Child Abduction Convention, designate the Minister of Justice as the Central Authority of the Republic of Korea, and the International Legal Policy Division of the Ministry of

Justice is responsible for the related practical work. Chapter II of the Act sets out the functions of the Central Authority, including providing assistance in relation to children wrongfully removed to or retained in Korea, taking measures for the amicable resolution of disputes and the voluntary return of children, and providing assistance in relation to children wrongfully removed to or retained in other Contracting States.

Pursuant to these laws, I receive applications for assistance to secure the return of a child or to exercise rights of access, submitted by applicants in Korea or abroad or by foreign Central Authorities via email, registered post, or other means.

I review whether the application is eligible for assistance under the Convention and the implementing Act. Where the application is eligible for assistance, I carry out the relevant work so that the assistance set out by the Act can be provided, including discovering the whereabouts of the child, taking measures for the amicable resolution of the dispute and the voluntary return of the child, and providing general information regarding the relevant Korean law.

Q: *Could you explain the overall process from receiving the case until the child is returned or the case is otherwise closed?*

Where a child has been wrongfully removed to or retained in Korea, the parent whose child was taken generally has two options. One is to

file an application for assistance in securing the return of the child with the Ministry of Justice, which performs the functions of the Central Authority, and the other is to file a petition seeking the return of the child directly with the Seoul Family Court without utilizing the Ministry of Justice's assistance procedure.

There is sometimes a misunderstanding that the Ministry of Justice itself conducts the return proceedings on behalf of the applicant. The Ministry of Justice, as the Central Authority, does not conduct the litigation itself or determine whether the child should be returned. Instead, it seeks an amicable resolution between the parties and the voluntary return of the child by, among other things, discovering the whereabouts of the child and sending a letter requesting a voluntary return to the parent who removed or retained the child. It also provides the applicant and the foreign Central Authority with general information about Korean law and its procedures.

Accordingly, if the other party does not return the child voluntarily, the applicant must file a petition seeking the return of the child with the Seoul Family Court and obtain a return order. However, applicants residing abroad may face difficulties identifying an attorney in Korea who can handle the case. Where an application for assistance has been received by the Ministry of Justice, the Ministry provides, at the applicant's request, a list of attorneys who are available to handle the relevant proceedings.

Even after the court issues the return order, the Ministry of Justice does not immediately end its assistance. It communicates the status of the judicial proceedings and enforcement to the applicant and the foreign Central Authority, attempts to facilitate voluntary return, and where necessary, continues to provide assistance available under the applicable laws, including discovering the whereabouts of the child and requesting cooperation from relevant agencies.

Q: *We understand that, in child abduction cases, the Central Authority provides applicants with assistance in various forms. In practice, what is the most essential and practical assistance that an applicant can expect from the Central Authority, and how should the scope and limits of the Central Authority's powers be understood?*

As mentioned earlier, the Ministry of Justice does not directly determine whether a child should be returned, nor does it conduct return proceedings or compulsory enforcement on behalf of the applicant. The Central Authority's most fundamental role is to provide

the information and administrative assistance necessary for the applicant to make effective use of the return procedure under the Convention and to facilitate cooperation among the relevant authorities in Korea and abroad. More specifically, the Ministry of Justice requests necessary cooperation from relevant agencies to discover the whereabouts of the child and provides the applicant and the foreign Central Authority with general information concerning the Convention, the domestic implementing Act, judicial and enforcement procedures, and other relevant Korean laws and systems. It also encourages the parent who removed or retained the child to return the child voluntarily, and explores the possibility of an amicable resolution between the parties. Where an applicant has difficulties retaining an attorney in Korea, the Ministry supports access to the return procedure by providing a list of attorneys who are available to handle such cases.

For applicants residing abroad, just identifying which authority to approach and which procedure to follow in Korea can itself be a substantial difficulty. In this respect, I believe that the most practical assistance applicants can expect is for the Central Authority to provide guidance on Korean law and procedure and to serve as the official channel of communication with the foreign Central Authority and relevant Korean agencies.

The Central Authority's assistance is, however, subject to the limits of its statutory powers. The Ministry of Justice is not vested with coercive investigative powers comparable to those of an investigative authority, nor may it intervene in the court's determination as to whether return should be ordered or influence the manner in which an enforcement authority executes a return order. The proper understanding, therefore, is that the Central Authority does not guarantee a particular outcome; rather, within the scope permitted by law, it seeks to facilitate voluntary return and an amicable resolution and provides the fullest possible assistance so that the applicant may make effective use of the court procedure.

Q: *What are some common examples of applications for which assistance cannot be provided because the requirements for application of the Convention were not met? Could you also explain what an applicant should confirm or prepare in advance in order to receive assistance under the Convention without difficulty?*

Upon receipt of an application, the Central Authority reviews matters such as the child's age and habitual residence, whether the applicant

holds rights to custody or rights of access, and the circumstances of the child's removal or retention to determine whether the application is eligible for assistance under the Convention and implementing Act. Where it is obvious that the requirements are not fulfilled or that the application is otherwise not well founded, the Central Authority may refuse to accept the application for assistance.

Although I cannot refer to particular individual cases, assistance under the Convention may, for example, be limited where the applicant does not hold rights of custody protected under the Convention, or where it is difficult to find that the applicant's rights of custody were breached by the child's removal or retention, including where the applicant consented to or subsequently acquiesced in the removal.

These circumstances do not result in an immediate determination that the Central Authority stage as to whether the child should be returned. The Central Authority reviews eligibility for assistance on the basis of the application and the materials submitted.

To facilitate the provision of assistance, it is important for the applicant to submit comprehensive material establishing matters such as the applicant's rights of custody, the child's former habitual residence, and the circumstances of the child's removal or retention. The Ministry of Justice website provides the relevant application form and checklist of documents required for an application for assistance in securing the return of a child. Preparing all relevant materials and translations by reference to that checklist helps the Central Authority determine eligibility for assistance more promptly.

Q: We understand that Hague Convention cases require cooperation not only with foreign Central Authorities but also with Korean courts and various other relevant agencies. In practice, how do you communicate and cooperate with these institutions, and what difficulties arise from differences among national legal systems or institutional working methods?

We communicate with foreign Central Authorities primarily by email and official correspondence, transmitting applications and related materials and continuously following up on requests for supplementary materials and progress of cases. Where prompt consultation is required, we may also use telephone calls or video conferences. Domestically, while respecting the respective powers of the courts and relevant administrative agencies, we provide materials necessary for the child-return procedure or request cooperation to the extent permitted by law.

One practical difficulty is that States differ in how they understand and handle Hague Convention cases. In particular, the treatment of an international removal or retention of a child from the perspectives of civil and criminal procedures varies according to each State's legal system. In some States, the removal or retention of a child may, depending on the circumstances, lead to criminal proceedings. Consequently, a foreign Central Authority or applicant may sometimes expect that criminal punishment will necessarily follow in Korea as well merely because the matter falls within the scope of the Convention.

The Convention, however, concerns the civil aspects of international child abduction. Its central purpose is not to determine which parent is the more suitable custodian, but to secure the prompt return of a child who has been wrongfully removed or retained to the State of the child's former habitual residence, so that questions on the merits of rights of custody and other family relations may, in principle, be determined in the State of habitual residence.

Therefore the mere fact that a case constitutes a wrongful removal or retention under the Convention does not establish the offense of kidnapping or abduction of minors under the Criminal Act in Korea. Whether criminal liability arises is determined separately from the requirements for return under the Convention. The investigative authorities and courts assess in each case whether the specific conduct satisfies the constituent elements of kidnapping or abduction of a minor under the Criminal Act.

Thus, even in the same case, States may understand the relationship between civil return proceedings and criminal proceedings differently. The Central Authority explains these institutional differences fully to the foreign Central Authority and the applicant, verifies whether the measures expected by the other State are available under the Korean legal system, and seeks an appropriate means of cooperation within the scope of each institution's power.

Q: The Convention protects not only the return of children but also the exercise of rights of access. However, the remedies available for violations of rights of access appear to be relatively less developed than those for violations of rights of custody. How frequently does the Central Authority receive applications for assistance with rights of access, and are there any particular reasons why providing assistance in access cases is especially difficult compared with return cases?

It would be difficult to conclude that the procedures for remedies concerning rights of access are less developed than child return procedures. However, the Convention sets out a relatively clear objective with respect to child return: the prompt return of the child. By contrast, with regard to rights of access, it provides that Central Authorities shall assist in securing the peaceful enjoyment of those rights and take steps to remove obstacles to their exercise.

In practice, applications for assistance in exercising rights of access continue to be received. In particular, there are many cases in which an applicant residing in the Republic of Korea wishes to have access to a child located overseas and requests assistance from the Central Authority of the other State.

In such cases, the Ministry of Justice reviews the application and relevant materials, forwards them to the Central Authority of the State where the child is located, and monitors the necessary procedures and progress so that access can take place in that State.

One difficulty that often arises in access cases is that the parent who is directly caring for the child may believe that, because he or she holds parental authority or custody, there is no need to respond to the non-custodial parent's request for access. In some cases, the respondent parent refuses access altogether, citing conflicts that arose during the divorce process or alleged fault on the parent requesting access.

However, rights of access are not rights held only by the non-custodial parent; they are also rights held by the child. The Korean Civil Act also provides that a parent who does not take care of children and his or her children shall have the visitation right. The Supreme Court has likewise taken the view that, in principle, access between parents and children should be permitted unless there are special circumstances in which such access would harm the welfare of the child.

Therefore, rather than uniformly refusing access solely on the basis of past conflicts between the parents or the existence of custody, it is necessary to determine whether and how access should take place by focusing on the welfare of the child.

The Central Authority is not an institution that directly determines or enforces the specific arrangements or methods of access. The Ministry of Justice supports applicants in using the relevant procedures of the requested State and cooperates with foreign Central Authorities so that the rights of access of parents and children may be exercised effectively.

Q: *Without referring to any specific individual case, what types of cases since Korea's accession to the Convention would you say demonstrate that the current system has operated effectively? Conversely, what types of cases have most clearly revealed the institutional limitations of the current system? Based on these experiences, what areas do you believe should be improved as a matter of priority?*

One type of case in which the current system has operated relatively effectively is where the Ministry of Justice has served as a neutral channel of communication between the applicant and the parent who removed or retained the child, thereby facilitating the voluntary return of the child. Even in situations where the conflict is so severe that direct communication is difficult, if the Central Authority conveys each party's position, explains the purpose of the Convention and the relevant domestic procedures, and maintains continuous communication with the parties, there are cases in which the child is returned by agreement between the parties before the matter proceeds to litigation or compulsory enforcement.

Such voluntary resolution is important not only because it shortens the procedure, but also because it can reduce the psychological burden that the child may experience.

However, the Ministry of Justice's communication with the parties is carried out in its capacity as the Central Authority, for the purpose of explaining the objectives and procedures of the Convention and confirming the possibility of a voluntary resolution. This is different from a formal mediation procedure in which a professional mediator, acting from a neutral position, actively assists the parties in reaching an agreement. In some countries, mediators with expertise in international child abduction cases become involved at an early stage and help the parties reach agreement not only on whether the child should be returned, but also on matters such as the method of the child's return, future custody arrangements, and rights of access, thereby bringing the case to a swift conclusion.

Accordingly, Korea also recognizes the need to introduce a specialized mediation system that takes into account the characteristics of international child abduction cases, and is currently working toward the introduction of such a system. If such a mediation system is established, it is expected to help the parties move beyond reliance solely on communication and recommendations from the Central Authority, and to find more practical and sustainable solutions through a specialized and neutral mediation procedure.

Q: *From the perspective of the United Nations Convention on the Rights of the Child, the Convention on the Civil Aspects of International Child Abduction may be understood as a procedural mechanism that gives concrete effect to the principles of best interests of the child and the protection of family relations. How are these principles reflected in the implementation of the Convention and in the process of cooperation under it?*

The Convention is based on the principle of preventing a child's living environment from being suddenly changed by the unilateral decision of one parent, and of promptly returning the child to the State of his or her habitual residence so that matters concerning family relations, such as custody, may be determined in that State.

In implementing the Convention, the Central Authority also gives priority to the safety and welfare of the child, and seeks to prevent the child from being exposed to parental conflict for a prolonged period by encouraging voluntary return and amicable resolution between the parties.

Q: *Finally, do you have any closing remarks you would like to share with our readers?*

International child abduction cases are disputes between parents, but at the same time, they are matters that directly affect the child's life and family relationships. It is therefore important, above all, to place the safety and welfare of the child at the center and to make efforts to resolve cases as promptly and amicably as possible.

As the Central Authority of the Republic of Korea, the Ministry of Justice is making every effort, within the scope of its authority and duties under the law, to facilitate cooperation among applicants, foreign Central Authorities, and relevant domestic institutions. Going forward, we will continue to carefully examine the difficulties identified in individual cases and to improve the relevant systems and cooperation framework so that the Convention can be implemented more effectively.

Now a State Responsibility: Korea's New International Adoption System and the Rights of the Child

A Child's Future Is No Longer Left to a Private Agency

Korea has long been one of the world's leading countries of origin for intercountry adoption. For over seventy years following the Korean War, South Korea sent more than 170,000 children abroad for adoption according to official records; investigative reporting has suggested that the total may be closer to 250,000 when unofficial cases are included.¹⁾

When people around the world picture "international adoption," they often imagine something arranged quietly between a private agency and a hopeful family abroad — paperwork exchanged, a photo attached, and a match made behind closed doors.

Until recently, the system behind these closed doors was rarely checked step by step to determine whether the placement was truly in the child's best interests. In many countries, this gap between private agencies and public accountability has left adoptees without reliable records of who decided their fate, how, and why.

In Korea, the process was carried out almost entirely by private adoption agencies. That has now fundamentally changed. As of July 19, 2025, Korea shifted to a "public adoption system" in which the state and local governments assumed full responsibility for the entire adoption process.

²⁾ This is not a minor administrative change, but a full structural reversal of who holds authority over one of the most consequential decisions on a child's behalf.

From Private Agencies to the State: The Legal Foundation

The reform rests on two pieces of legislation enacted together in July 2023, and brought into force on July 19, 2025: the Special Act on Domestic Adoption and the Act on Intercountry Adoption.

Replacing the former unified framework under the Act on Special Cases Concerning Adoption, the two laws separately govern domestic and intercountry adoption. Together, they dismantle the previous framework under which private agencies decided who could adopt and which child would go where.

① Special Act on Domestic Adoption

The Special Act on Domestic Adoption governs domestic adoptions involving children in need of protection. It places core decisions in public hands: local governments determine whether a child is eligible for adoption and remain responsible for the child's protection; the Domestic Adoption Subcommittee of the Adoption Policy Committee reviews prospective parents' qualifications and the appropriateness of the proposed match; and the Family Court decides whether to approve the adoption. Although certain practical functions, such as counseling, education, and home studies, may be performed by external institutions, responsibility for eligibility determinations, matching decisions, and final approval remains with public authorities.³⁾ The law therefore treats domestic adoption not as a private arrangement, but as a matter of state responsibility for child protection.

1) Reuters, "South Korea Committed Rights Violations during Overseas Adoptions," Mar. 26, 2025.

2) 보건복지부, "아동이 최우선인 입양' 위한 공적 입양체계 개편 본격 시행," 보도자료, 2025. 7. 19.

3) Special Act on Domestic Adoption, arts. 18–21; Enforcement Decree of the Special Act on Domestic Adoption, art. 8.

② The Act on Intercountry Adoption: A Cross-Border Framework

The newly enacted Act on Intercountry Adoption places both outbound adoptions of Korean children and inbound adoptions of foreign children under public oversight. The Act provides the domestic legal framework for implementing the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (the “Hague Adoption Convention”). As a Contracting State, the Republic of Korea acts as the State of origin in outbound adoptions and as the receiving State in inbound adoptions. Under Article 5 of the Act, the Ministry of Health and Welfare serves as Korea’s Central Authority and oversees the relevant procedures.⁴⁾

Intercountry adoption may proceed only where suitable adoptive parents cannot be found domestically and where it is in the child’s best interests. A child may be designated for intercountry adoption only after deliberation and resolution by the Adoption Policy Committee. If a permanent family becomes available domestically while the procedure is pending, the procedure must be discontinued.⁵⁾

The Role of the Central Authority under the Hague Adoption Convention: Public Responsibility and Child Protection

In 2025, Korea’s adoption system shifted to a public framework in which the State assumes responsibility for the entire adoption process. This is because the Special Act on Domestic Adoption and the Act on Intercountry Adoption entered into force in July 2025, and the Hague Adoption Convention entered into force for the Republic of Korea in October 2025. This reform is significant in that it seeks to ensure the safety of adopted children, promote their rights, and implement the Hague Adoption Convention.

To ensure the smooth implementation of the adoption system reorganized around the State and local governments, the Ministry of Health and Welfare and the National Center for the Rights of the Child have spent the past two years preparing for the reform. Their preparations included enacting and amending subordinate legislation and developing practical manuals in cooperation with institutions responsible for carrying out adoption procedures under the new system.

Under the Act on Intercountry Adoption, the restructured intercountry adoption procedures are broadly divided into two categories: adoption from Korea to a foreign country and adoption from a foreign country to Korea.⁶⁾

① Adoption from Korea to a foreign country

Adoption abroad may proceed only when no suitable family can be found domestically and when such adoption is in the best interests of the child. Through deliberation by a subcommittee of the Adoption Policy Committee, the Ministry of Health and Welfare decides whether to pursue intercountry adoption for the child, confirms the eligibility of prospective adoptive parents abroad, and matches the child with the prospective adoptive parents. The intercountry adoption procedure is then carried out carefully, in consultation with the receiving State. Once the Family Court’s approval of the adoption becomes final and the adopted child departs from Korea with the adoptive parents, the Ministry of Health and Welfare receives post-adoption adjustment reports from the receiving State for one year in order to closely monitor the child’s adjustment.

② Adoption from a foreign country to Korea

When prospective adoptive parents apply for adoption through the National Center for the Rights of the Child, the Ministry of Health and Welfare conducts a home study through an entrusted institution and confirms the eligibility of the prospective adoptive parents following deliberation by a subcommittee of the Adoption Policy Committee. The Ministry then exchanges information on the child to be adopted and the prospective adoptive parents with the child’s State of origin and consults with that State on the progress of the adoption procedure. After approval is granted by a Korean Family Court or by the competent authority of the child’s State of origin, the Ministry of Health and Welfare monitors and supports the child’s adjustment in Korea for one year through an entrusted institution.

The transition to a public adoption system has also raised concerns about delays and prolonged waiting periods, as stronger safeguards and additional administrative procedures have been introduced. In response, the Ministry of Health and Welfare announced measures to improve procedural efficiency, including the digitalization of adoption applications, more frequent committee meetings, and improvements to home study procedures. Accordingly, the effective implementation of the Convention will depend on whether Korea can maintain rigorous child-protection safeguards while ensuring that children receive stable family care without unnecessary administrative delay.

4) Ministry of Health and Welfare, “Legal Framework Completed for the Implementation of a Public Adoption System Centered on the State and Local Governments,” press release, May 13, 2025

5) Act on Intercountry Adoption, Act No. 19553, July 18, 2023, arts. 3(1), 7(2), 11(5)(1).

6) Ministry of Health and Welfare, [Full Implementation of the Public Adoption System Reform for ‘Adoption That Puts Children First’], press release, July 17, 2025, https://www.mohw.go.kr/board.es?mid=a10503010100&bid=0027&tag=&act=view&list_no=1486886&cg_code= (last visited July 16, 2026).

Conclusion

Korea's adoption reform marks a fundamental shift in the legal understanding of adoption. In the Republic of Korea, adoption has now been redefined as a matter of public responsibility grounded in the rights, best interests, and long-term welfare of the child. Domestic adoption and intercountry adoption have been separated into distinct legal frameworks, and the Ministry of Health and Welfare, as the Central Authority under the Hague Adoption Convention, is now responsible for oversight and international cooperation regarding the child's placement and protection, as well as key decisions with significant implications for the child's future.

However, the reform remains in its early stages, and the task ahead is to ensure that stronger safeguards do not result in unnecessary delay for children in need of protection. To this end, the Ministry of Health and Welfare as the Central Authority, the National Center for the Rights of the Child, the Adoption Policy Committee, local governments, courts, and entrusted institutions must operate as an interconnected child-protection system.

The practical significance of the reform can be realized only when accurate recordkeeping, respect for the child's origins and identity, careful review of each individual adoption, and continuous support before and after adoption are all secured together. Ultimately, Korea's new adoption system reflects the principle that decisions shaping a child's life must not be left solely to private discretion, but must always be made under State responsibility and with the child's best interests at the center.



Reflecting on the Values of Human Rights and the Rule of Law: The 63rd Law Day Ceremony and the 2026 Law Festival



The Ministry of Justice (MOJ), led by Minister JUNG, Sung-ho, hosted the 63rd Law Day ceremony jointly with the Korean Bar Association at EL Tower in Seoul on April 24. Some 340 people attended, including the Chief Justice of the Supreme Court, the President of the Constitutional Court, and members of the public.

Held under the theme “Constitutional Order Protected by the People, Achieving Human Rights and the Rule of Law,” the ceremony honored the courage and devotion of the citizens who defended Korea’s constitutional order in the face of the past declaration of martial law, and reaffirmed the importance of human rights and the rule of law.

Toward a Legal Spirit of Protecting the Weak and Rectifying Wrongs

In his commemorative address, Minister JUNG highlighted two traditional principles as the core spirit of the law: eokgang-buyak, restraining the powerful and wiping away the tears of the weak, and pasa-hyeonjeong, righting the wrongs of the past. Bringing to full flower, through human rights and the rule of law, the constitutional values that the sovereign people have safeguarded is a solemn mandate for the Ministry, he said, pledging to build a Korea of respect and inclusion in which justice and human rights reach into the daily lives of all.

The ceremony also featured the presentation of government awards to 14 legal professionals and citizens who have contributed to legal aid for underprivileged groups and to the realization of social justice.

Engaging with the Law in Daily Life: The 2026 Law Festival

The following day, April 25, the MOJ hosted the 2026 Law Festival at the Solomon Law Parks in Daejeon, Busan, and Gwangju. Designed for families, the festival set out to counter the common perception that the law is difficult and rigid, offering performances and hands-on activities through which visitors could experience legal culture in an accessible way.

As Korea's only law-themed educational parks, the Solomon Law Parks offer year-round experiential programs—including mock National Assembly sessions, mock trials, and forensic investigation simulations—to raise public legal awareness.

Diverse Programs and Multi-Agency Collaboration

The festival featured a rich lineup of activities for children and families, including a constitution quiz show, a true-or-false quiz on everyday law, an environmental puppet show, and a musical on preventing child abduction. In addition, 43 partner organizations—among them local police and fire stations, child protection agencies, and the Korea

Association Against Drug Abuse—ran interactive booths providing visitors with practical legal and safety information for daily life.

The MOJ's Crime Prevention Policy Bureau expressed hope that the festival would help younger generations feel closer to the law and give adults an occasion to reflect on the value of the rule of law, adding that the Ministry will continue to expand legal education content that reaches citizens where they are.



Growing Together Through Inclusion and Diversity: MOJ Hosts the 19th Together Day Ceremony

The Ministry of Justice (MOJ), led by Minister JUNG, Sung-ho, successfully hosted the 19th Together Day ceremony at Yongsan Art Hall in Seoul on May 20, under the slogan “A Korea Broadened by Inclusion, Growing Together Through Diversity.” Established as a statutory memorial day in 2007, Together Day aims to foster a social environment in which Korean citizens, overseas Koreans, and foreign residents respect one another’s cultures and traditions and coexist harmoniously.

The ceremony brought together around 700 domestic and international guests, including SEO Young-kyo, Chair of the National Assembly’s Legislation and Judiciary Committee, diplomatic envoys from 32 nations, and the heads of the Korea offices of the International Organization for Migration (IOM) and the UN Refugee Agency (UNHCR).





Honoring Dedication to Social Integration and Heroic Acts

The ceremony featured the presentation of 27 government awards to individuals and organizations recognized for their long-standing dedication to supporting immigrant settlement and promoting social integration.

Notably, the presidential citation in the individual category, the World Citizen Award of the Year, was presented to Sister Margarita of Colombia, while the Ansan City Koryoin Cultural Center and the Korea Multicultural Family Support Association each received a presidential citation in the group category.

A letter of appreciation from the Air Force Chief of Staff was also presented to three Sri Lankan migrant workers—Ruwan, Chathuranga, and Dileep—who courageously rescued an Air Force pilot after a fighter jet crashed due to an engine fire near Jebu Island in August 2022.

A Vibrant Festival of Harmony and Cultural Exchange

The ceremony served as a joyous occasion for cultural harmony, blending indoor performances with outdoor interactive booths. It commenced with a special performance by American vocalist Terris Brown, a recipient of the Minister of Justice citation, followed by stages featuring the “Areumduri” multicultural youth choir, the fusion

traditional Korean music band “Granada,” and the multinational K-pop group “AHOF”.

In the outdoor plaza, the embassies of Laos, Mongolia, and Thailand, alongside the MOJ’s Central Council for Social Integration and the Immigrant Network of the metropolitan-area immigration offices, operated booths offering global cultural and traditional costume experiences, fingerprint keychain making, and free traditional rice cake tasting.

Shaping the Future of Social Integration for Sustainable Growth

In his commemorative address, Minister JUNG emphasized that fostering mutual understanding and social integration among citizens, overseas Koreans, and foreign residents is more critical than ever if Korea is to achieve sustainable development. In line with Together Week (May 20–26), regional immigration offices nationwide, in collaboration with local governments, successfully hosted a range of cultural festivals and academic forums, including the Busan Global Gathering and specialized immigration policy seminars. For those unable to attend in person, the main ceremony was broadcast live online, allowing a broader global audience to share in the moments of harmony in real time.

Enhancing Global Legal Competitiveness and Risk Management for Overseas Businesses

Enhancing Global Legal Competitiveness and Risk Management for Overseas Businesses

Amid volatile global trade conditions, escalating geopolitical instability, and increasingly stringent regulations worldwide, the legal risks facing Korean companies operating abroad have grown significantly. In response, the Ministry of Justice (MOJ) is expanding a multi-faceted support framework—encompassing customized seminars, one-on-one consultations, and jurisdiction-specific guidebooks—to help firms navigate complex legal landscapes and mitigate overseas operational risks.

Supporting Enterprise Legal Readiness Amid Shifting Global Trade Conditions

As global protectionism intensifies and regulatory environments shift, the MOJ hosted a joint legal seminar with the Korea Chamber of Commerce and Industry (KCCI) and the World Bank on May 14, 2026. The event focused on field-ready strategies that companies can apply immediately, covering key provisions of the U.S. Foreign Corrupt Practices Act (FCPA), recent changes in U.S. tariff and trade policy, and global compliance standards. One-on-one legal consultations held alongside the seminar supported companies in building voluntary compliance systems and preventing risks before they arise.

Navigating Complex Legal Frameworks: A Practical Guide to Entry into Australia

To support stable market entry into Australia—a key investment destination for Korean enterprises—the MOJ published the Legal Guide for Overseas Business Expansion: Australia Edition. Designed to help companies understand Australia's common law system and regulatory environment, which differ from Korea's civil law tradition, the guide covers essential operational areas, including Foreign Investment Review Board (FIRB) procedures, company formation and corporate governance, labor and employment law, taxation, and real estate development regulations. It also addresses emerging issues such as directors' duties relating to ESG and climate risk. Following earlier editions on Germany, the UAE, and Japan, the publication reflects the MOJ's ongoing commitment to providing practical legal guides for major overseas markets.

Proactive Legal Defense Against Geopolitical Instability and Wartime Risks

To assist businesses affected by ongoing instability in the Middle East and the prolonged Russia–Ukraine war, the MOJ held back-to-back international legal seminars on June 17 and 18, 2026. The first, Seminar on Legal Risk Analysis and Countermeasures for the Middle East Situation, co-hosted with the Korea International Trade Association (KITA), examined practical responses to geopolitical risk, contractual liability relating to the Strait of Hormuz, payment settlement, and dispute resolution. The second, Legal Support Seminar for Korean Companies Entering Ukraine, organized with the Embassy of the Republic of Korea in Ukraine, was conducted in a hybrid format connecting participants in Korea, Ukraine, and Poland. It provided operational roadmaps for managing wartime legal risk, securing compensation for damaged assets, and entering the Ukrainian market, complemented by one-on-one tailored consultations.

Building on cooperation with partner institutions and overseas missions, the MOJ will continue to strengthen practical international legal support so that Korean companies can operate on the global stage with confidence and stability.



Strengthening Korea–Cambodia Legal Cooperation: From Criminal to Civil and Commercial Affairs



Bilateral judicial cooperation between Korea and Cambodia reached a new milestone on July 1, 2026. A 15-member delegation of Cambodian legal professionals—led by SON, Sokhalida, General Director of the General Department of Prosecution and Criminal Affairs at the Cambodian Ministry of Justice—visited Korea and held a meeting with the Ministry of Justice’s International Legal Affairs Department, headed by Deputy Minister KANG, Junha, and its International Criminal Affairs Division. The meeting was convened to review achievements across criminal, civil, and commercial legal affairs and to chart concrete strategies for deepening future cooperation.

Multifaceted Cooperation: From Anti-Money Laundering to ISDS Expertise

The visit was arranged as part of the international training program Strengthening Anti-Money Laundering Capacity through Digital Forensics, jointly organized by the Institute of Justice (IOJ) and the Korea International Cooperation Agency (KOICA).

Over the course of the two-hour meeting, presentations spanned four specialized areas:

① **Extradition and Mutual Legal Assistance in Criminal Matters:** Prosecutor CHOI, Sun Hee of the International Criminal Affairs Division reported on the current status and achievements of cooperation between the two countries in these areas.

② **Legal Reform Support for Civil and Commercial Matters:** Deputy Director CHOI, Seungeun of the International Legal Policy Division introduced the Legislative Reform Project on the Mediation System in Cambodia, a joint undertaking of the two justice ministries.

③ **Enterprise Support and Youth Legal Fellowship:** Deputy Director AHN, Yoojin of the International Legal Advisory Division highlighted achievements in legal support for companies expanding overseas and in

the Global Fellowship for Young Legal Professionals.

④ **Sharing Investor–State Dispute Settlement (ISDS) Know-How:** Director CHO, Ara and Deputy Director PARK, Soyeon of the International Dispute Settlement Division explained the whole-of-government case management system behind Korea’s recent ISDS victories, illustrating their points with ISDS cases involving Cambodia.

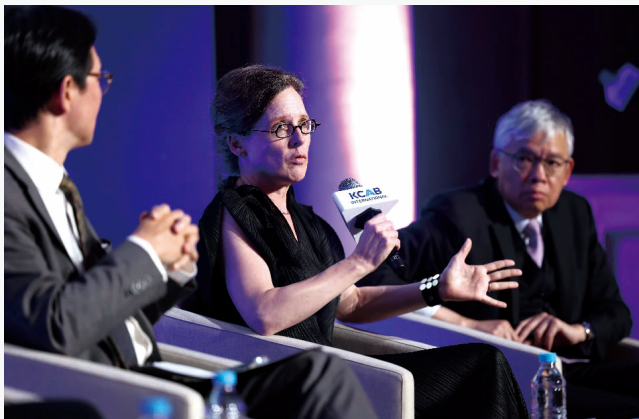
Twenty-Nine Years of Global Legal Cooperation

Empowering legal professionals abroad has become a core pillar of Korea’s legal diplomacy. Since 1997, the Institute of Justice has run international training programs for legal professionals from developing countries in cooperation with KOICA. As of June 2026, the Institute has delivered 147 programs and trained 2,329 participants from 91 countries. These programs have been overseen since October 2015 by the IOJ’s International Legal and Cultural Exchange Center. The current Cambodia program focuses on equipping prosecutors and judges with practical skills in digital evidence analysis and in tracing illicit cross-border financial flows.

Minister of Justice JUNG, Sung-ho noted that the administration of justice has entered an era of “legal diplomacy,” in which exchange and cooperation with countries around the world have become essential. Building on networks cultivated over many years, he said, the Ministry is delivering tangible results, including the repatriation of fugitives who have fled abroad and the recovery of illicit assets. He added that sharing best practices with leading Cambodian legal professionals—not only in criminal matters but also in civil and commercial legal affairs—had raised bilateral cooperation to a new level. General Director SON, who led the delegation, said the visit had been a valuable opportunity to learn from Korea’s accumulated expertise and practical experience, and expressed her hope for continued cooperation between the two countries.



The 15th Asia-Pacific ADR Conference: The Present and Future of ADR in the Asia-Pacific Region



The Asia-Pacific ADR Conference is an annual international event co-hosted by the Ministry of Justice, the United Nations Commission on International Trade Law (UNCITRAL), the International Chamber of Commerce (ICC), and the Korean Commercial Arbitration Board (KCAB).

It brings together arbitration experts from Korea and abroad, along with officials from governments and international organizations, to discuss the latest trends and future direction of alternative dispute resolution (ADR)—that is, procedures for resolving disputes outside the courts, such as arbitration and mediation.

Since its inaugural session in 2012, the conference has established itself as a leading platform for advancing arbitration and mediation practice across the Asia-Pacific region. It has also come to reflect Korea's ongoing efforts to build the infrastructure, expertise, and legal framework needed to strengthen the country's capacity for international dispute resolution.

This year's 15th Asia-Pacific ADR Conference is scheduled to take place during the Seoul ADR Festival 2026 (October 26–30). It will bring together legal experts and policymakers from around the world to explore ways to advance ADR in the Asia-Pacific region amid a rapidly changing global landscape.

The conference stands as more than a forum for academic and professional exchange—it is a key milestone reflecting Korea's commitment to becoming a hub for international dispute resolution. In line with this goal, the Ministry of Justice will continue to strengthen the institutional foundation for ADR, including efforts to enact legislation implementing the Singapore Convention on Mediation and to expand training programs for arbitration professionals.

The date, venue, and detailed program of the 15th Asia-Pacific ADR Conference will be announced in due course on the Ministry of Justice website.



The 19th Crime Victims' Human Rights Convention: Walking Together with Crime Victims

The Crime Victims' Human Rights Convention is an annual event hosted by the Ministry of Justice that brings together crime victims, their families, and those who have supported them.

Held since its inaugural session in 2008, it has become an occasion to give victims opportunities for participation and dialogue, and to recognize the dedication of those working in victim protection and support.

The convention takes place alongside Crime Victims' Human Rights Week, newly established under the Crime Victims Protection Act. Designated as the week that includes November 29 each year, the period commemorates the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the United Nations in 1985, and aims to raise nationwide awareness of and interest in crime victims.

Co-hosted by the Ministry of Justice and the Korea Association of Crime Victims Support Centers, and sponsored by the Korean Association of Victimology and the Dong-A Ilbo, the event has drawn hundreds of attendees each year, including the Minister of Justice, officials from related organizations, victims and their families, and victim protection and support workers.

Government awards and Minister of Justice citations are presented to individuals and organizations dedicated to the protection and support of crime victims. The program also features cultural performances—such as samulnori, music, and sand art—by victims, their families, and support center staff, offering a moment to share in the pain victims have endured and to honor those who stand beside them.

Continuing in this spirit, the 19th convention will bring together victims, families, support workers, and government officials to renew their commitment to victim-centered human rights administration.

The Ministry of Justice will continue to work closely with related organizations to provide comprehensive and systematic protection and support tailored to the needs of crime victims.



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<http://www.acrc.go.kr/eng/index.do>
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Constitutional Court of Korea

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Fair Trade Commission

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82-43-880-5500

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<http://english.customs.go.kr/>
82-1577-8577

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<http://www.mfds.go.kr/eng/index.do>
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82-42-481-5008

Korea Law Service Center

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(Ministry of Government Legislation)/
82-2-2100-2600
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82-182

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110 (from Korea) / 82-2-6196-9110 (from overseas)

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82-44-202-7156 (Foreign Workforce Division)

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Supreme Prosecutors' Office

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The Board of Audit and Inspection of Korea

<http://english.bai.go.kr>
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The Supreme Court of Korea

<http://eng.scourt.go.kr/eng/main/Main.work>
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The National Assembly of the Republic of Korea

<http://korea.assembly.go.kr/index.jsp>
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Ministry of Justice

The Rule of Law for Fairness and Compassion

Emblem The Republic of Korea government has changed its official "government identity." The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea's national flag *Taegeukgi* with the *taegeuk* circular swirl and the blank canvas embodies in white. The

typeface was inspired by the font used in the "*Hunminjeongeum*" (1446), the original *Hangeul* text, in consideration of the harmony embodied in the *taegeuk* circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.



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