

lice, and organisations aimed at helping the victims of violence. You can then use this evidence at court during the return procedure.

Have you and your child already left the country of the child's habitual residence?

Have you done so without the consent of the second parent, or did you have the consent but only for a limited period of time and are you afraid of the consequences? In this case, the best solution to your situation is to come to an agreement with the other parent. Mediation is also an option. You can find the list of mediators on the website of the Ministry of Justice of the Slovak Republic. If it is not possible to reach an agreement, the competent court of the country where you are currently living with your child will decide on the child's return to the country of its habitual residence.

Has your child been wrongfully removed from Slovakia to a country which is not bound by The Hague Convention?

This situation is much more complicated. The countries which have not signed the Convention, such as Egypt, do not have a system of cooperating authorities in place, thus the procedure is governed solely by the law of the country where the child currently is. We therefore advise you to contact the Ministry of Foreign and European Affairs of the Slovak Republic or the embassy/consular office of the Slovak Republic in the country concerned. You can also contact the competent police department of the Slovak Republic and the Centre, whose workers will provide you with general assistance.

Important contacts:

The Centre for the International Legal Protection of Children and Youth

Špitálska 8 • P.O. Box 57 • 814 99 Bratislava
Tel: +421/2/2046 3208, +421/2/2046 3248
Fax: +421/2/2046 3258
E-mail: info@cipc.gov.sk • www.cipc.sk

Ministry of Justice of the Slovak Republic

Župné námestie 13 • 813 11 Bratislava
Tel.: +421/2/5935 3111
www.justice.gov.sk

Ministry of Foreign and European Affairs of the Slovak Republic

Hlboká cesta 2 • 833 36 Bratislava 37
Tel: +421/2/5978 1111
Fax: +421/2/5978 3333
E-mail: info@mzv.sk • www.mzv.sk

Národný projekt

Podpora Centra pre medzinárodnoprávnú ochranu detí a mládeže
(CIPC) I – 1.2. 2015 - - 30. 11. 2015

Tento projekt sa realizuje vďaka podpore z Európskeho sociálneho fondu v rámci
Operačného programu Zamestnanosť a sociálna inkluzia

PRIESTOR NA VAŠU PRÍLEŽITOSŤ



Centrum pre medzinárodnoprávnú ochranu detí a mládeže, Špitálska 8, 814 99 Bratislava

www.esf.gov.sk

www.employment.gov.sk

www.cipc.sk



Centrum pre medzinárodnoprávnú ochranu detí a mládeže *The Center for the International Legal Protection of Children and Youth*



THE RISKS OF PARENTAL CHILD ABDUCTION AND ADVICE ON HOW TO ACT IN THIS SITUATION

Open Europe without borders and the free movement of persons have brought numerous advantages, yet, unfortunately, also many pitfalls. During the idyllic beginning of a relationship or marriage, not many couples are aware of the impact their potential arguments may have on their child. The child often becomes the focal point and the victim of such disputes. Mutual tolerance and acceptance of cultural differences and/or parental methods are thus very important in terms of preventing conflicts and the possibly negative effects they might have on children. It is important to realise that children cannot be considered the property of their parents, but instead persons who possess certain rights and have certain needs. However, parents often fail to see another way out of their situation but leaving their partner and the country they live in while



taking their child along without the consent of the other parent. The child thus becomes the hostage of their conflict.

What is considered to be parental child abduction?

The international law, for example, The Hague Convention on the Civil Aspects of International Child Abduction, adopted on the 25th of October 1980 in The Hague (hereinafter referred to as “The Convention”, by which the Slovak Republic as well as many other EU member states are bound), describes such conduct as wrongful removal or retention of a child, i.e., international parental child abduction. As a consequence, the child is torn away from the country of its habitual residence and moved to a new, often unknown country. Such a sudden blow to the child’s stability evokes the feelings of insecurity caused by the necessity to adapt to an unknown environment, language, teachers, etc. Wrongful removal occurs when a child under 16 years of age is removed from the country of its habitual residence to another country in breach of one of the parent’s rights. The requests for the child’s return should be addressed to the Centre for the International Legal Protection of Children and Youth (hereinafter the “Centre”) no later than within one year of the child’s removal.

How is the habitual residence of a child determined?

The habitual residence is a term the exact definition of which does not exist in any legislative text. Put simply, the habitual residence can be understood as being the country which the child considers to be its home. It is where the child attends a preschool or school facility, doctor, free-time activity clubs, has friends and relatives, speaks the language of the country, and lives long-term. This means that the definition depends neither on the child’s citi-

zenship, nor on the child’s temporary or permanent residence. Only the court can determine the country which should be considered the child’s habitual residence.

Who commits child abduction?

Child abduction is committed by a parent or another relative of a child if they remove the child from the country of its habitual residence to another country in breach of the custody rights of one or both parents in whose care the child was prior to the abduction. The most frequent case is a situation in which the custody rights are not adjudicated by court (meaning that both parents have the same rights and obligations) and one of them “abducts” the child from the country of its habitual residence without the consent of the other parent. There are also cases when the custody of the child is adjudicated (e.g., mother has the sole personal custody of the child and father has the right of access), yet neither of the parents enjoys the right to determine the habitual residence of their child. If, in this case, the parent who has the sole personal custody of the child (e.g., mother) removes the child from the country of its habitual residence without the consent of the other parent, such a removal is tantamount to a civil-law child abduction.

What to do if your child has been wrongfully removed?

If you have found yourself in the difficult situation of your child being removed without your consent, or you have a justified concern that this may happen, contact the Centre as soon as possible and its lawyers will provide you with legal assistance and advice on the procedure that will follow. The most common procedure is to file a request for the return of your child to the country of its habitual residence. In such a case the return order shall be issued by the competent court of the country where the child is

currently residing. The objective of the return procedure is to reinstate the original status quo, that is the return of the child to the country of its habitual residence. The order of return is always issued by the competent court upon request by a parent. However, it is important to emphasise that, when ruling on the child’s return, the court does not adjudicate parental rights and duties, i.e., who will be granted personal custody of the child. This is always a matter for the court in the country of the child’s habitual residence to rule on.

How to prevent parental child abduction?

If you are planning to leave the country of your habitual residence with your child, do not rush things and, most importantly, do obtain a written consent with travel or, as the case may be, with the change of the child’s habitual residence from the second parent of your child. The consent is necessary even if you have been granted the sole custody of your child because both parents are equal in their right to decide the habitual residence of their child. If the second parent refuses to give such consent, you can turn to the court with a request to issue an order which substitutes the second parent’s consent. Many jurisdictions consider the wrongful removal or retention of a child a criminal offence. The consequences of committing a criminal offence entail, among other things, the issuing of an international arrest warrant.

Are you a victim of physical or mental abuse in your relationship? How can you prevent being accused of parental child abduction in such cases?

If the reason for your departure with your child from the country of its habitual residence is to escape physical or mental abuse, it is important to address the situation prior to your departure. You can ask for help from, for example, social services, po-