

## **FAQs regarding Child Abduction**

### **What constitutes international parental child abduction?**

This is when a parent of a child wrongfully removes that child from the country where they had been living previously or where a parent retains a child in another country and another individual, institution or other body possesses rights of custody (eg a court or local authority) in relation to that child.

### **What are rights of custody?**

This is entirely reliant on the law in the child's domestic country and how the courts interpret the law. This can have different definitions in different countries. A right to contact alone does not provide someone with rights of custody in relation that child. For example in the UK rights of custody can be obtained if a person has had no formally defined rights of custody, but has had de facto care and control of the child to the exclusion of others who hold parental responsibility.

### **What can I do if my child is abducted?**

If both countries are parties to the Hague Convention on Civil Aspects of International Child Abduction (there are currently 70 countries which have signed this Treaty), and your child has been abducted to or retained in the UK then you can contact a specialist child abduction firm of solicitors (such as ourselves) who will apply via the Central Authority for legal aid funding on your behalf to issue urgent proceedings in court to have the child returned to their country of origin.

If your child has been retained in /abducted from the UK to a county that is a signature to the Hague Convention we can potentially help you obtain an order from the UK Court requiring the parent to return the child and help put you in touch with the UK central authority who will liaise with the outgoing central authority. You may be entitled to public funding for this application depending on your means.

If the child has been abducted to a non Hague country we can help you ward the child, which means that the court will assume parental authority for the child and then this can help persuade the authorities/Courts to return the child to the UK.

### **I am concerned that my child(ren) will be abducted. What should I do?**

If the other party has told you they are leaving or you have evidence to support an imminent abduction, you can apply to court urgently to prevent the other party from removing the children. You can also obtain an order preventing passports from being issued and obtain a port alert by contacting the police, where all UK ports will be alerted to the risk of potential abduction.

### **What are the risks if I abduct my child(ren) to another country?**

International parental child abduction constitutes a criminal offence and there is a penalty of imprisonment. There are an increasing number of cases where the courts are now penalising the

abducting parent by imposing criminal sanctions against the, although the left behind parent can usually agree to not to pursue criminal proceedings against the offending party and to provide what is known as a 'soft landing' on the basis they return to the jurisdiction voluntarily.

### **Will the Court also consider transferring of the child(ren) custody to me?**

The courts in the outgoing country will make a determination based on whether there has been a wrongful removal or retention of the child(ren) but will not make any decision relating to the child(ren) on a welfare basis. Considerations of contact/residence and so on will be considered by the domestic court if a return order is made.

### **Can I get contact with my child under the Hague Convention?**

If you have a contact order/parental responsibility order in proceedings which commenced after 1 March 2005 you will be able to enforce those orders in the European Union country other than Denmark, in which your child is living, under the Revised Brussels II Regulation.