What is child abduction?

Lubna Shah

In the UK child abduction is both a criminal and civil matter.

Child abduction falls under the following main headings:

- Abduction/wrongful removal: where a child has been taken abroad without the consent of the other parent. This is a criminal offence under the Child Abduction and Custody Act 1984.
- Wrongful retention: where a child has been retained in a foreign country without the consent of the other parent. This can happen, for example, following an agreed holiday.
- Threat of abduction: where there is a risk that a child will be abducted to a foreign country.
- International residence and contact disputes: where one parent is trying to exercise rights of residence or contact in a foreign country.

The legal steps taken in a child abduction case will depend upon which of the above categories applies, and also which country the child has been taken to. Child abduction is broadly divided into Hague Convention and non-Hague Convention cases.

The Hague Convention on the Civil Aspects of International Child Abduction (1980) is an international agreement which aims to return abducted children to their country of habitual residence (where they normally live), so that issues of residence and contact can be decided. Only courts in the country where the child is habitually resident can make decisions about residence and contact. All Hague Convention countries have a designated Central Authority which will instruct lawyers on your behalf to obtain an order that the child be returned to his/her country of habitual residence. The Central Authority for England and Wales is The International Child Abduction and Contact Unit (details on the iFLG links page). A list of the current signatories to the Hague Convention can be found on the iFLG website

Non-Hague Convention cases are generally more difficult as there are no international agreements on which to rely. Proceedings are usually dealt with under the Inherent Jurisdiction of the High Court or wardship.

Lubna Shah
www.iflg.uk.com
© March 2007

Copyright The International Family Law Group, unless as shown. This document must not be copied and reproduced for any commercial and/or profitable purposes without prior written permission. They can be copied for personal use and the personal use of others but then only on condition the copyright is observed and every document copied shows and acknowledges the practice and the web site details of www.iflg.uk.com