



**Report on Compliance
with the Hague Convention**

on the Civil Aspects of

**INTERNATIONAL
CHILD ABDUCTION**

April 2007



SUBMITTED PURSUANT TO
SECTION 2803 OF PUBLIC LAW 105-277,
(FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998),
AS AMENDED BY
SECTION 202 OF PUBLIC LAW 106-113
(THE ADMIRAL JAMES W. NANCE AND MEG DONOVAN
FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 2000 AND 2001),
AND SECTION 212 OF THE FOREIGN RELATIONS AUTHORIZATION ACT
FOR FISCAL YEAR 2003



DEPARTMENT OF STATE
ASSISTANT SECRETARY FOR CONSULAR AFFAIRS
WASHINGTON, DC

Dear Reader:

I am pleased to present the 2007 Compliance Report for the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The Convention is a valuable tool to help the United States work through the complicated issues raised by international parental child abduction.

The most important part of my job is the protection of American citizens abroad. This is particularly true for our youngest and most vulnerable citizens — our children. That is why the Convention is of particular significance to me. International parental child abduction can create lasting scars in a child and in a family that time is slow to heal.

Compliance with the Convention can be an ongoing challenge, as this report details. We at the Department pledge to continue to work with each of our Convention partners to quickly resolve abduction cases and improve understanding and implementation of the Convention. I refer you to our website www.travel.state.gov for additional information on our efforts to deter international parental child abduction.

Sincerely,

A handwritten signature in black ink, appearing to read "Maura Hart".

Maura Harty
Assistant Secretary for Consular Affairs

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INTRODUCTION

THE 2007 COMPLIANCE REPORT: ITS PURPOSE

Each year, the Department of State's Office of Children's Issues (CI) is required under Public Law (PL) 105-277, Section 2803 to submit to Congress a report on country compliance with the 1980 Hague Convention on the Civil Aspects of International Parental Child Abduction (Convention).

For the first time, this year the report includes information about international parental child abduction (IPCA) cases where children have been brought into the United States (incoming cases). Additionally, the report contains comments about notable issues that the United States has found to have an impact on compliance with the Convention, including undertakings, the UN Convention on the Rights of the Child, mediation, and Mexico's *amparo* appeal system. The compliance categories have also been altered this year to more precisely respond to the requirements of the above referenced law, and make more transparent the standards for placing countries in compliance categories.

In FY 2006, 65.8% of all returns of abducted children handled by the USCA came from U.S. Convention partners.

This report covers the period from October 1, 2005 through September 30, 2006. The information provided herein is that which was available to the United States Central Authority (USCA) within these dates. In some instances in which updates were available and relevant to this report, the report includes developments subsequent to September 30, 2006.

ABDUCTION STATISTICS

CASE NUMBER STATISTICS

- ▶ In Fiscal Year (FY) 2006, the USCA assisted left-behind parents in the United States to file 289 Convention applications involving 393 children.
- ▶ In FY 2006, the United States provided assistance in 346 Convention applications incoming to the United States, which involved 522 children.

RETURN STATISTICS

- ▶ In FY 2006, the Department assisted in the return to the United States of 260 children abducted to or wrongfully retained in other countries. Of these children, 171 children returned from countries that are Convention partners with the United States, accounting for 65.8 percent of the returns in FY 2006.
- ▶ In FY 2006, 183 children abducted to or wrongfully retained in the United States were returned to their country of origin under the Convention.
- ▶ Convention partners who accounted for the greatest number of returns of abducted children to the United States in FY 2006:

CONVENTION COUNTRY	NUMBER OF CHILDREN RETURNED IN FY 2006
MEXICO	38
UNITED KINGDOM	26
CANADA	16
AUSTRALIA	13
IRELAND	13



**METHODOLOGY
FOR THE COMPLIANCE
CATEGORY PLACEMENTS**

This report identifies the Department’s concerns about those countries in which implementation of the Convention is incomplete or in which a particular country’s executive, judicial, or law enforcement authorities do not properly apply the Convention’s requirements. The report breaks down such countries into two categories, “Countries Not Compliant with the Convention,” and “Countries Demonstrating Patterns of Noncompliance with the Convention.” Both of the categories derive directly from statutory language in PL 105-277, Section 2803.

The Department largely based its analysis of country compliance with the Convention on the standards and practices outlined in the Permanent Bureau of the Hague Conference on Private International Law’s *Guide to Good Practice*. Using the Guide, the Department conducted analyses of the following three compliance areas to reach its findings for this report:

- 1) Central Authority performance;
- 2) Judicial performance; and
- 3) Law Enforcement performance.

“Central Authority performance” involves the speed of processing applications; the existence of and adherence to procedures for assisting left-behind parents in obtaining knowledgeable, affordable legal assistance; the availability of judicial education or resource programs; and responsiveness to inquiries by the USCA and left-behind parents.

“Judicial performance” comprises the timeliness of a petition under the Convention, timeliness of subsequent appeals, correct application of the Convention, and the efforts by courts to enforce decisions for return or access.

“Law Enforcement performance” includes the success in promptly locating abducted children, and the prompt enforcement of court orders issued pursuant to applications under the Convention by administrative or law enforcement authorities.

NOT COMPLIANT

The designation of “Countries Not Compliant with the Convention,” derives from Section 2803 of PL 105-277, which requires a list of countries that have failed to comply with any of their Convention obligations. The Department considers that countries listed as “Not Compliant” are failing in all three performance areas for the reporting period.

PATTERNS OF NONCOMPLIANCE

The designation of “Countries Demonstrating Patterns of Noncompliance,” derives from Section 2803 (a)(3) of PL 105-77, which requires a list of countries that have “demonstrated a pattern of noncompliance” with the Convention. The Department considers countries that have a systemic failure to comply with the Convention in one of the three performance areas to be in this compliance category.

COUNTRY COMPLIANCE PLACEMENTS



COUNTRIES NOT COMPLIANT

HONDURAS

COUNTRIES DEMONSTRATING PATTERNS OF NONCOMPLIANCE

BRAZIL

CHILE

COLOMBIA

GERMANY

GREECE

MEXICO

POLAND

2006 U.S. CONVENTION PARTNERS

U.S. CONVENTION PARTNERS ■

COUNTRIES TO BE CONVENTION PARTNERS IN 2007 ■



COUNTRY NARRATIVES: NOT COMPLIANT

HONDURAS

DATE ACCEDED TO THE CONVENTION **12-20-1993**

DATE OF ENTRY INTO FORCE WITH U.S. **6-1-1994**

The United States finds Honduras to be not compliant with the Convention in FY 2006. First, Honduras does not have a functioning Central Authority, which severely limits its ability to meet Convention obligations. Although the Honduran Institute of Children and Family (IHFNA) is charged with handling Convention applications as the named Honduran Central Authority, the Department is not aware of any staff who perform the required functions. In addition, handling of cases in the Honduran courts is unreliable. This proved particularly disastrous in one abduction case during FY 2006. Although the courts ordered the return of the children, a second judge put the children in the care of the brother of the abducting father and began ordering psychological evaluations of the children. When the original judge returned to the case, the courts again ordered the return of the children to the left-behind mother. However, when the left-behind mother traveled to Honduras to pick them up at the courthouse, the taking father re-abducted the children at the courthouse, and their whereabouts are unknown. Since that time, the Honduran courts have refused to find the father in contempt of court.



PATTERNS OF NONCOMPLIANCE

BRAZIL

DATE ACCEDED TO THE CONVENTION	10-19-1999
DATE OF ENTRY INTO FORCE WITH U.S.	12-1-2003
PATTERN OF NONCOMPLIANCE	JUDICIAL PERFORMANCE

The United States considers Brazil to be demonstrating patterns of noncompliance with its Convention obligations in FY 2006. Obstacles in the Brazilian judicial system are preventing Brazil from regularly meeting its Convention responsibilities. There are an insufficient number of public prosecutors available to handle Convention cases, so applications are left pending for as long as six to twelve months before they are filed with the appropriate court. Once the applications reach the courts, more delays occur. Ordinarily, several months pass prior to the court conducting the first Convention hearing, and appeals usually take many more months. Moreover, the USCA continues to observe that the Brazilian judiciary often treats return cases under the Convention as custody determinations. The Courts were amenable to considering evidence that is not relevant to the criteria enumerated in the Convention (but would be relevant in a custody determination) in reaching their decisions, including considering a taking parent's U.S. immigration status and the best interests of the child. The USCA is not aware of any judicial training that took place during the reporting period to try to address these concerns. However, a seminar was held in December 2006, after the reporting period ended.



PATTERNS OF NONCOMPLIANCE

CHILE

DATE ACCEDED TO THE CONVENTION	2-23-1994
DATE OF ENTRY INTO FORCE WITH U.S.	7-1-1994
PATTERN OF NONCOMPLIANCE	JUDICIAL PERFORMANCE

The Department finds that Chile demonstrated patterns of noncompliance with the Convention in FY 2006. Like last year, Chile’s patterns of noncompliance fall in its judicial performance. Despite the efforts of the Chilean Central Authority to intervene, cases handled by the Chilean judiciary are most often treated as custody cases. In making these custody decisions, the courts continue to demonstrate clear bias toward Chilean mothers. Returns were denied to all five active cases involving children abducted to Chile by their Chilean mothers. The only case where the court ordered a child returned to the United States involved no Chilean nationals. In addition to these concerns, the Department also notes that the appeal process in Chile takes a significant amount of time. Cases in the Appellate and Supreme Court are met with lengthy delays. Finally, the USCA observes that the courts overly rely on Article 13(b) of the Convention. The well understood standard for the Article 13 (b) defense is that it is intended to be used in the rare case where no protection is available to the child in his/her country of habitual residence.

U.S. parents also encountered obstacles in obtaining access rights in Chile. The courts usually required the left-behind parent to cover all expenses of travel and of a psychologist, whom they required to be present during the initial visitation between the left-behind parent and the child. There is, additionally, no enforcement of visitation orders when the taking parent fails to comply.

Further complicating cases is the involvement of the Chilean child welfare agency, which routinely submits psychological reports on children, recommending that they remain with their Chilean parent, generally the mother.



PATTERNS OF NONCOMPLIANCE

COLOMBIA

DATE ACCEDED TO THE CONVENTION	12-13-1995
DATE OF ENTRY INTO FORCE WITH U.S.	6-1-1996
PATTERN OF NONCOMPLIANCE	CENTRAL AUTHORITY PERFORMANCE; JUDICIAL PERFORMANCE

The Department finds Colombia to have demonstrated patterns of noncompliance with the Convention in FY 2006. The Department reaches this conclusion despite passage of implementing legislation in Colombia during FY 2006 that clarified Colombian court jurisdiction over Convention cases.

Misunderstanding of the nature and purpose of the Convention in Colombia has led to faulty decisions in Colombian courts. Representatives from the Colombian Central Authority have stated that the Convention exists primarily to protect a child’s best interests, rather than to permit return of a child for a custody determination (and best interests analysis) in the courts of his or her habitual residence. They also have stated their belief that the Convention’s jurisdictional focus is outweighed by Colombian law and the UN Convention on Rights of the Child.

Central Authority requirements also hinder the proper application of the Convention. Social workers conduct home studies in every Convention case, which delays the initiation of judicial proceedings. These home studies tend to focus on traditional custody matters, giving judges the impression that they are to decide custodial issues rather than return a child for adjudication of custody in his or her habitual residence. In addition, the Central Authority has sometimes been reluctant to actively pursue a case, essentially pre-adjudicating the case by concluding that a child has already “adapted” to his or her new surroundings, even in cases where the taking parent has stalled the proceedings by going into hiding with the child.

There also remains a need in Colombia to educate judges about the Convention. Since the Convention went into effect in Colombia in 1996, the Department is unaware of any Convention case in which a child has been returned to the United States against the taking parent’s wishes. Some cases have been resolved, however, by a mediation program that is supported by the Colombian Central Authority. The Colombian Ministry of Foreign Affairs has indicated its intention to train judges on the Convention during FY 2007.



PATTERNS OF NONCOMPLIANCE

GERMANY

DATE RATIFIED THE CONVENTION	9-27-1990
DATE OF ENTRY INTO FORCE WITH U.S.	12-1-1990
PATTERN OF NONCOMPLIANCE	JUDICIAL PERFORMANCE

The Department finds that Germany demonstrated patterns of noncompliance in FY 2006. Specifically, Germany’s noncompliance relates to the unwillingness of some courts to enforce orders for the return of children, or access to children, under the Convention. Left-behind parents are unable to secure prompt enforcement of a final return or access order. Since physical force cannot be used to enforce court orders in Convention cases, taking parents can and do avoid allowing court-ordered returns and access. One particularly egregious example of this can be read about in the “Notable Cases” section of this report.

Enforcement of court-ordered returns and access remains a recurrent topic of discussion at the U.S.-German Bilateral Meetings, which are described in the “Efforts to Expand and Strengthen the Convention” section of this report.



PATTERNS OF NONCOMPLIANCE

GREECE	
DATE RATIFIED THE CONVENTION	3-19-1993
DATE OF ENTRY INTO FORCE WITH U.S.	6-1-1993
PATTERN OF NONCOMPLIANCE	LAW ENFORCEMENT PERFORMANCE; JUDICIAL PERFORMANCE

For the rating period to be covered by this report, Greece continues to demonstrate a pattern of noncompliance with the Convention. The Department sees patterns of noncompliance in both Greek judicial performance and law enforcement performance. Despite efforts by the Greek Central Authority to educate judges, Greek courts typically treated Convention cases as custody matters, basing cases on the best interests of the child or other criteria outside the boundaries of the Convention. Article 13(b) is used excessively to refuse returns. Moreover, the courts exhibited a bias in favor of Greek parents. There were also excessive delays between the court hearings and notification of the court’s decision. All of these delays further violated Article 11 of the Convention requiring that Convention cases be handled expeditiously.

The Department was encouraged that in June 2006, a five-judge Greek Court of Appeals overturned a trial court ruling that had ignored clear provisions of the Convention. The decision for return received significant publicity in Greece; however, as of the end of the reporting period, the decision for return still had not been enforced. As a whole, it appears that enforcement of court orders remains a challenge for the Greek police (although the Department notes that the return order in the case mentioned above was enforced in February 2007, after the end of the reporting period).



PATTERNS OF NONCOMPLIANCE

MEXICO	
DATE ACCEDED TO THE CONVENTION	6-20-1991
DATE OF ENTRY INTO FORCE WITH U.S.	10-1-1991
PATTERN OF NONCOMPLIANCE	LAW ENFORCEMENT PERFORMANCE; JUDICIAL PERFORMANCE

For FY 2006, the Department continued to see patterns of noncompliance with the Convention in Mexico. Many of the systemic problems mentioned in previous compliance reports persist. Locating children or taking parents in Mexico continues to be a serious impediment for Convention applicants, and often takes years. Of the USCA’s 30 unresolved cases, 24 remain unresolved because the taking parents and the children have not been located (see “Unresolved Cases” for more information).

An inability to locate abducted children taken to Mexico remains the single largest frustration that left-behind parents face. Often family members in Mexico help hide the taking parent and child and deny knowledge of their location when questioned by authorities. Taking parents also often disappear again when ordered to appear before a judge for a Convention hearing.

In addition to difficulty locating children, the Department also continues to note occasional abuses of the *amparo* system, as discussed in the “Notable Issues and Cases” section of this report.



PATTERNS OF NONCOMPLIANCE

POLAND	
DATE ACCEDED TO THE CONVENTION	8-10-1992
DATE OF ENTRY INTO FORCE WITH U.S.	11-1-1992
PATTERN OF NONCOMPLIANCE	LAW ENFORCEMENT PERFORMANCE

The Department finds that Poland demonstrated patterns of noncompliance in FY 2006. Specifically, Poland’s noncompliance falls in the performance of law enforcement in locating children and in enforcing the return of children or access to children under the Convention. Polish authorities continue to lack the ability to conduct nationwide searches for missing children, both prior to judicial filing and in relation to enforcement. This was at least partly because neither international parental child abduction nor willful noncompliance with return orders is a criminal offense in Poland but instead are merely civil offenses. Refusing to obey an order seems to carry few negative consequences for the taking parent. In some instances, the court rewarded the taking parent who refused to comply with a court order by ultimately ruling that, because so much time had elapsed, it was not in the child’s best interests to be returned after all.



NOTABLE ISSUES AND CASES

UNDERTAKINGS

The USCA continues to notice the usage of onerous undertakings in some Convention return orders. Undertakings are pre-conditions for a return laid out by a judge in order for the return to take place. Examples of such undertakings from courts in Australia, Israel, and South Africa have included pre-payment of fees for the abductor's U.S. attorney, a requirement that the left-behind parent vacate the family home, guaranteed visas for the returning abductor, and pre-payment of long-term financial support for the returning abductor. Such conditions necessarily cause significant delays in return of children and considerable hardship for all involved.

Recent undertakings have subverted the objective of prompt return of children and have effectively rewarded abductors, while punishing the already victimized left-behind parents. Of particular concern is the imposition by foreign courts of conditions that effectively usurp the function of the court of the habitual residence. Extensive financial conditions, particularly of spousal support, exceed what is contemplated by the Convention and contradict the understood purpose to restore the pre-abduction legal status quo. Such matters are properly addressed by the courts of the habitual residence, which are naturally better situated to determine appropriate support and custody arrangements. Extensive conditions on return also undermine cooperation among international courts and authorities by implying a lack of trust in a treaty partner's judicial and social welfare systems.

In order for the Convention to be effective, undertakings should be rare. Courts in the United States and elsewhere have noted that undertakings help promote returns where a respondent parent has demonstrated some risk of harm to the child in the return hearings. The USCA supports the limited use of

undertakings where they: (1) are appropriate in scope; (2) facilitate the Article 12 objective of return of the child "forthwith;" (3) help to minimize the issuance of non-return orders based on Article 13; and (4) respect the jurisdictional nature of the Convention by not encroaching on substantive issues relating to custody and maintenance properly left to the court of the habitual residence. This position is supported by the *Conclusions and Recommendations of the Fifth Meeting of the Special Commission*.

THE UN CONVENTION ON THE RIGHTS OF THE CHILD

The Department is concerned about the frequency with which Latin American courts apply the UN Convention on the Rights of the Child to Convention abduction cases in order to make determinations on the "best interests" of the child.

A court or other tribunal adjudicating a Convention return application concerning an abducted or wrongfully retained child is not authorized to reach a determination concerning a child's "best interests" in the context of a dispute over custody between parents. In accordance with the Convention, these are questions properly adjudicated by the courts in the child's country of habitual residence. The Preamble to the Convention itself declares that the interests of children are of paramount importance and the well-being of children is attained through their return to their country of habitual residence.

There is no contradiction between the two Conventions. The Hague Abduction Convention is in accordance with Article 11 of the UN Convention on the Rights of the Child in that it combats the illicit transfer and non-return of children. Article 11 includes as one of its fundamental principles that States shall promote the conclusion of multilateral agreements or



access existing agreements with regard to the illicit transfer or non-return of children.

Furthermore, by applying the Convention and facilitating the prompt return of abducted or wrongfully retained children, courts support the fundamental principles and rights of the child, including the child's right to maintain personal relations and direct contacts with both parents, as recognized in the UN Convention on the Rights of the Child.

At present, the Argentine Supreme Court is considering whether the return of three children to the United States under the Hague Abduction Convention would violate their rights under the UN Convention, which carries a constitutional status in Argentina. Likewise, recent decisions issued in both Argentina and Colombia cited the UN Convention in the courts' reasoning to not return the children to the United States.

The Department has raised these concerns directly with foreign Central Authorities and has also included this subject in judicial seminars.

In considering the question of compliance with the Convention and the treatment of court orders of custody, it should be noted that adjudications of return applications under the Convention are not custody proceedings. Rather, the basic obligation under the Convention to return a child arises if a child is removed to or retained in a country party to the Convention in violation of rights of custody existing and actually exercised in (and under the law of) the child's country of habitual residence.

MEXICO: THE AMPARO LEGAL SYSTEM

The United States has more outgoing IPCA cases to Mexico than to any other country. In the last decade, the USCA has opened more than

900 outgoing IPCA cases to Mexico, involving more than 1,300 children. The Department therefore sees this issue as an important one that affects such a large number of its cases.

Under the Mexican Constitution, there is a legal procedure available to defendants called an *amparo*. An *amparo*, which translates to "protection" or "help," is an appeal allowable in any case in which the defendant challenges the constitutionality of a local court decision.

Although the Department recognizes that *amparos* are an integral aspect of Mexican law designed to protect individuals' legal rights, the USCA is concerned that *amparo* appeals are being used excessively in Convention return cases, and that Mexico is allowing taking parents to use the *amparo* process to delay cases and influence the final outcome in ways that are not consistent with the principles of the Convention. The Department is encouraged by a recent decision by a Mexican federal judge, which overcame an *amparo* allowing a child to immediately return to the United States, and hopes this precedent will continue. By streamlining the *amparo* process in Convention cases, the Government of Mexico could better meet its treaty obligations.

MEDIATION

The USCA believes that mediation may be a good tool to reduce litigation in Convention cases, lowering the level of conflict between the parties and speeding up the resolution of the cases. Several intercountry mediation projects have shown that parents, with proper professional intervention, can come to a satisfactory arrangement for custody and visitation. The Department has seen encouraging results from mediated settlements in France, Germany, and the United Kingdom.

The *Conclusions and Recommendations of the Fifth Meeting of the Special Commission* on the operation of the Convention support the furtherance of mediation projects in Convention cases.

NOTABLE CASES

The Department is including a list of cases in this section of the report that it considers to be notable. The cases listed are precedent-setting, high-profile, egregious in their handling, or emblematic of larger concerns with the country involved. Three of the cases listed remain unresolved for at least 18 months after the filing of the Convention application for return. More about such cases can be found in the “Unresolved Cases” section of this report.

NOTABLE CASE 1: AUSTRIA

**SUBJECT: ENFORCEMENT OF RETURN ORDERS;
EUROPEAN COURT OF HUMAN RIGHTS
JUDGMENTS BEING IGNORED**

The notable case in Austria is one of the most notorious and long-standing cases dealt with by the USCA. For years, this case alone placed Austria as a not compliant country in this Compliance Report. It demonstrates clearly the importance of enforcement of court orders for successful application of the Convention and establishes that the resulting disregard for parental rights can rise to the level of a violation of human rights.

The child in this case was born in September 1994 in Michigan. Her mother abducted her from the United States to Austria in October 1995. The left-behind parent filed a Convention application for the return of the child, and he succeeded in obtaining a return order from an Austrian court, an order that was affirmed upon appeal to the highest court in Austria. When Austria failed to effectively enforce the order and the child was not returned to the United States, the left-behind parent took his case to the European Court of Human Rights (ECHR). On April 24, 2003 the ECHR found that the left-behind parent and his daughter’s fundamental right to a private family life had been violated by Austria’s failure to adequately enforce the return order. When the child was still not

returned as a result of this decision, the left-behind parent once again went to the ECHR. In its second ruling, the ECHR found that Austria had violated the Convention for the Protection of Human Rights and Fundamental Freedoms because Austria had not conducted hearings to determine whether the left-behind parent’s U.S. custodial order should be recognized.

The case remains unresolved. In light of his favorable rulings in the ECHR, and his strictly limited access to his daughter in Austria, in April 2005, the left-behind parent made the decision in April 2005 to file a Convention application for access to his child. The case for access is still pending in Austrian courts. In its consideration of access for the left-behind parent, the Austrian court has failed to acknowledge any obligation to restore his rights in light of the ECHR ruling. The left-behind parent has never had more than strictly supervised visits with his daughter in Austria who, now age 12, has never met her extended family in the United States.



NOTABLE CASES

NOTABLE CASE 2: GERMANY

SUBJECT: ENFORCEMENT OF ACCESS ORDERS

Similar to the Austrian case cited above, this notable access case in Germany has remained unresolved for many years due to failure to enforce a court order. Living in Germany, the mother of the two children has for nearly ten years defied valid German court orders permitting visitation by the U.S. father. Local authorities temporarily intervened in December 2004, placing the children with the youth authority and permitting their U.S. citizen father a few visits. However, the mother again defied German officials by removing the children from a court-ordered group home and taking them into hiding. In May 2005, the German court awarded legal custody of the children to the U.S. parent, with the exception of the right to decide where the children live—an exception that makes the custody ruling largely ineffectual.

The left-behind father currently has no access to his children. What little access he has had has been supervised and at times impeded by the court-appointed Youth Authority social worker. While the left-behind parent pursues another round of court hearings, the Department continues to press German authorities for a resolution.

NOTABLE CASE 3: ISRAEL

SUBJECT: ENFORCEMENT OF RETURN ORDERS;
CULTURAL FACTORS THAT MAY IMPEDE
THE CONVENTION

This case from Israel has persisted since 1998 and appears no closer to resolution today than it was at that time. The Department includes it in the Notable Cases section of the report because it demonstrates how cultural factors within a country can sometimes impede successful application of the Convention.

In April 1997, the mother in this case abducted her three children to Israel. In November 1998, the Israeli court ordered that the children be returned to the United States, in spite of the fact that the exact location of the mother and the children was never known. Unfortunately, efforts undertaken by the courts and by police to locate the children have failed since that time.

The exact location of the mother and the children remains unknown as the result of efforts by her local community, which appears to be harboring them, impeding any law enforcement efforts to return the children. The left-behind father has been unable to travel to Israel to search for the children himself, fearing harm from the community that has protected the taking parent over the years. Meanwhile, eight years have passed since the Israeli court ordered the return of the children.

The Department has worked many hours to try to resolve the case. It has had regular, ongoing contact with the left-behind parent, U.S. law enforcement, the Israeli Central Authority, and through the Israeli Central Authority, foreign law enforcement. At the request of the USCA, the Director of the Israeli Central Authority has had several meetings with law enforcement officials regarding their efforts to locate the children. The Israeli Central Authority informed the USCA that search efforts have been expanded, but the whereabouts of the children remain a mystery.

NOTABLE CASES

NOTABLE CASE 4: MAURITIUS

SUBJECT: MISINTERPRETATION OF CONVENTION OBLIGATIONS

This longstanding case is one of two cases in Mauritius in which the applications were filed after the country became a party to the Convention (October 1993) but before the country's implementing legislation had been passed by the legislature (October 2000). In clear violation of international treaty law, Mauritian courts have ruled that, in spite of Mauritius' accession to the Convention, the Convention does not apply to this case because it took place before Mauritius passed implementing legislation. The Supreme Court of Mauritius upheld this decision in February 2006. USCA protests to the government of Mauritius of this misapplication of the Convention fell on deaf ears.

With few remaining options, the left-behind parent applied to the courts for leave to take the case to the Privy Council in London. However, on October 3, 2006 (just after the end of the reporting period), the Supreme Court refused the leave. The case remains unresolved to the satisfaction of the USCA.

NOTABLE CASE 5: MEXICO

SUBJECT: PRECEDENT-SETTING

In a groundbreaking case, a Mexican judge ordered the return of a child to the United States under the Convention. The return marks the first time that the USCA has observed a Mexican judge order a child abducted by a Mexican mother be returned to a non-Mexican father in the United States.

The child was abducted by her mother to Mexico in November 2005. The Department helped the left-behind father file a Convention

application for return shortly thereafter.

When Mexican judicial officials went to serve a summons on the mother in September 2006, her family claimed the mother and the child lived somewhere in the United States. Suspecting otherwise, the left-behind father traveled to Mexico that month, and several days later, in a pre-dawn raid, officials returned to the mother's family home and took the child into custody. The subsequent, prompt judicial ruling returning the child to the United States occurred on October 13, 2006.

NOTABLE CASE 6: NEW ZEALAND

SUBJECT: NEW DEFENSE RAISED BY TAKING PARENT

This New Zealand case is notable because the taking parent invoked the rarely used Article 20 defense against return of the children for reasons of violation of "human rights and fundamental freedoms."

The children were abducted to New Zealand in August 2004. The left-behind parent first contacted the USCA in December 2004, and after assisting the left-behind parent in preparing the Convention application, the USCA filed the application with New Zealand's Central Authority. Because the left-behind parent and children are Native Americans and registered members of the Blackfoot Tribe, the taking parent, a former law student, based her defense to the return on Article 20 of the Convention, arguing that her fundamental rights would not be respected under tribal law and the Indian Child Welfare Act (ICWA) if the children were returned.

A final hearing was held on October 31, 2005. For that hearing, the Department sought an expert opinion from a Chief Tribal Court Judge who authored the ICWA handbook for

NOTABLE CASES

the American Bar Association, and submitted that opinion to court in New Zealand. The opinion stated that the ICWA did not apply in this case.

On December 23, 2005, the court indicated it would issue an order for return, provided the left-behind parent fulfilled certain conditions. In March 2006, the New Zealand court was informed those conditions had been met and in March 2007 (after the end of the reporting period), the children returned to the United States.

NOTABLE CASE 7: POLAND

SUBJECT: ENFORCEMENT OF COURT ORDERS

This case is yet another example of a court-ordered return that was not enforced. The Department is concerned that the case represents a trend for IPCA cases in Poland.

The taking parent abducted the children to Poland in November 1998. The left-behind parent filed a Convention application in August 1999, but on March 28, 2001, the local Court of Justice in Poland denied the return of the two children. The left-behind parent appealed the decision and on July 11, 2001, the Court of Appeals overturned the lower court decision and ordered the return of the children. On November 9, 2001, the taking parent was ordered to return the children to the left-behind parent within three days. At that time the taking parent disappeared with the children, and they have been missing ever since. The left-behind parent has traveled to Poland several times, employed the services of a private investigator, and worked with the Polish regional prosecutor to locate the children, all to no avail.

In September 2005, the USCA became aware that a Polish court, as part of a divorce case filed by the taking parent, ordered a stay of enforcement of the Convention order, citing that it may no longer be in the children's best interest to be returned because of the length of time that has elapsed. The court then ordered psychological evaluations, so that the court could make a child custody determination. In September 2006, the USCA learned that the Polish Supreme Court upheld the ruling of the lower court. The USCA views this as being in direct contravention to the Convention. The case remains unresolved today.



EFFORTS TO EXPAND AND STRENGTHEN THE CONVENTION

RECRUITING NEW CONVENTION COUNTRIES

Section 2803 (a)(5) of PL 105-277 requests “information on efforts by the Department of State to encourage other countries to become signatories to the Convention.”

Roughly half of the IPCA cases handled by the Department involve abductions to countries that have not yet joined the Convention. The Department instructs its embassies in non-Convention countries to approach the host governments and encourage them to sign the Convention. The Assistant Secretary for Consular Affairs Maura Harty consistently raises the Convention in talks with foreign officials. On her trips overseas during FY 2006, the Assistant Secretary encouraged government officials in Saudi Arabia, Japan, South Korea, Russia, Kazakhstan, Jordan, Cambodia, and Vietnam to join the Convention.

For the first time, non-Convention countries were invited by the Hague Permanent Bureau to attend *The Special Commission on the Hague Abduction Convention* in October 2006, held after the end of the reporting period. The Department used the Special Commission meetings to continue conversations with several non-Convention countries. More detailed information about the Special Commission will appear in next year’s Compliance Report.

ACCEPTING ACCESSIONS

The Department conducted reviews of six accession States in FY 2006, and decided to accept all six States. In FY 2007, the Convention will enter into force between the United States and the Dominican Republic, El Salvador, Estonia, Latvia, Lithuania, and Peru.



JUDICIAL TRAINING SEMINARS

As part of its mandate to promote the proper application and function of the Convention internationally, the Department presented at and participated in numerous conferences, judicial seminars, and training sessions on the topic of the Convention, its implementation, and the role of Central Authorities in relation to the Convention. Country officers in the USCA work with posts and other Central Authorities to develop educational programs that normally include at least one experienced U.S. judge, a USCA case officer, officials from the host country’s Central Authority, and local judges and attorneys. In FY 2006, the Department participated in training sessions and seminars in Chile, El Salvador, Israel, Mexico, Paraguay, and Spain. The Department also participated in several judicial conferences, as well as attorney and law-enforcement training programs within the United States.

The training has had a direct positive effect on proper application of the Convention. For example, two weeks after attending the June 9-10, 2006, U.S. and Mexico Bilateral Conference in Ensenada, Mexico, which brought together more than 250 officials from Mexico and the United States, a Mexican judge expedited a Convention hearing and ordered the return of a 10-month old child to his mother in the United States.

MALTA II CONFERENCE

In March 2006, Principal Deputy Assistant Secretary for Consular Affairs Wanda Nesbitt, a representative of the USCA, and two U.S. judges attended the Second Maltese Judicial Conference on Cross-Frontier Family Law Issues in St. Julian's, Malta. Attendees included judges and officials from Algeria, Egypt, Indonesia, Libya, Malaysia, Malta, Morocco, Tunisia, and Turkey, as well as other Hague member States, the European Union, International Centre for Missing and Exploited Children (ICMEC), and International Social Services (ISS). The conference concluded with a declaration that participating parties should:

- ▶ Create Central Authorities or other similar administrative bodies to assist in child access or abduction cases;
- ▶ Agree to the principle of a common rule for jurisdiction over such matters;
- ▶ Develop legal and judicial measures to prevent child abduction;
- ▶ Develop mediation services; and
- ▶ Designate liaison judges to cooperate with each other in international child custody disputes.

As a result of the discussion about liaison judges, the American judge participants agreed to a project to establish a national council of liaison judges at both the federal and state level to help judicial communication on IPCA.

BILATERAL EFFORTS WITH CONVENTION PARTNERS

BILATERAL WORKING GROUPS

During FY 2006, the United States continued bilateral efforts with Germany, Hungary, and Spain. Talks with Germany focused on the resolution of specific child custody cases and generally improving the application of the Convention. Dialogue with Hungary resulted in Hungary's development and distribution of training materials to its judiciary and others. Personnel from the USCA and the Spanish Central Authority also met on multiple occasions to discuss the Convention and the resolution of specific Convention cases.

The USCA participates in regular meetings with its Latin American partners to discuss topics such as the UN Convention on the



Rights of the Child, judicial training seminars, and generally improving application of the Convention.

ABDUCTIONS IN PROGRESS

Cooperation with U.S. Convention partners has been critical to stopping “abductions in progress.” If the Department becomes aware that a parent may be in the process of abducting a child from the United States to another country, the Department can work with U.S. law enforcement to stop the departure from the United States. Once an abductor is on the way to another country, the Department can work with Central Authorities and law enforcement in Convention partner countries to intercept the taking parent. For example, if a taking parent changes flights at an airport in a Convention country, foreign Central Authorities can step in to stop the abduction as it is in progress (as long as proper documentation is submitted by the left-behind parent). This was successful several times in FY 2006.

THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS

Section 2803 (a)(7) of PL 105-277 requests “[a] description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of non-governmental organizations within their countries that assist parents seeking the return of children under the Convention.”

The Department works with International Social Services (ISS) to facilitate contact with and the return of children. ISS currently has national branch offices or bureaus in 143 countries (including most of the United States’ Convention partners) to assist families who are separated, including separation resulting from child abduction. When appropriate, the Department and U.S. consular officials refer

parents to ISS for additional support or work directly with ISS. In some cases, ISS has been actively involved in arranging escorts for returning abducted children to the United States and in working to establish better communication between parents or between a parent and child.

In our diplomatic efforts, the Department of State has encouraged Convention parties to utilize the services and expertise of local NGOs, particularly in countries trying to develop or expand their capacity to more effectively implement the Convention. Some posts have developed lists of NGOs abroad that may be available to assist in the difficult circumstances surrounding child abductions.



UNRESOLVED RETURN APPLICATIONS

Section 2803 (a)(2) of PL 105-277 requests “a list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted, are being wrongfully retained in violation of the United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States.”

As has been the practice in previous reports, the Department is reporting as “resolved” cases that are determined by the USCA to be “closed” as Convention cases or that are “inactive.” This is a technical designation, and does not necessarily mean an end to the Department’s support of a left-behind parent’s efforts to resolve a dispute involving an abduction or wrongful retention. As in other countries party to the Convention, the USCA closes or inactivates Convention cases for a variety of reasons. These include: return of the child; parental reconciliation or agreement; a parent’s withdrawal of the request for assistance; inability to contact the requesting parent after numerous attempts over a two-year period; exhaustion of all judicial remedies available under the Convention; the child reaches 16 years of age; or (in appropriate cases) the granting and effective enforcement of access rights. In all such cases, regardless of the outcome, no further proceedings pursuant to the Convention are anticipated. Treating these cases as “resolved” and closing them as Convention cases is consistent with the practice of other Convention party countries. The USCA marks a case as “inactive” when, in the absence of such definitive circumstances, the facts of the case do not allow, or the applicant parent does not permit, a further reasonable pursuit of the case. One year after inactivation, and in the absence of additional requests for assistance by the left-behind

parent, the USCA closes inactive cases. Should a relevant change in material circumstances occur thereafter, the USCA would always consider reopening a case. Increasingly, the USCA does reopen inactive cases based on the request of the abducted child. As such children mature, they may seek U.S. Government assistance for obtaining greater access to the left-behind parent.

Under the Convention, return and access applications may also be filed either with the Central Authority of the country in which the child is located or directly with a properly empowered court in that country. Because of this, left-behind parents may (and frequently do) pursue the return of a child under the Convention without involving the USCA. In these circumstances, the USCA may never learn of such applications or their eventual disposition. This report therefore cannot give a complete picture of the outcome of all Convention applications for the return of children to the United States.

Taking into account the above clarifications, as of September 30, 2006, there were 49 applications for return in USCA records that remained open and active 18 months after the date of filing with the relevant foreign Central Authority. This total includes several cases that became known to the USCA through contacts with parents or local and State officials, but that were actually filed by California authorities directly with a foreign Central Authority.

The 49 applications identified above that remained unresolved 18 months after the date of filing, as of September 30, 2006, involved 13 countries: Australia, Brazil, Colombia, Germany, Honduras, Israel, Mauritius, Mexico, New Zealand, Poland, Romania, Turkey, and Venezuela. The extent to which these countries and others appear to present additional, systemic problems of compliance

with the Convention is discussed further in the passages concerning Sections 2803 (a)(3), (a)(4), and (a)(6) of PL 105-277 below.

The exhaustion of all judicial remedies available under the Convention may result in a case being “closed” that has been resolved in a way that is unsatisfactory to the applicant parent and the USCA. Even when a case for the return of a child under the Convention has been closed, however, the USCA continues to provide assistance to the left-behind parent by helping to facilitate access to a child (which may be sought under or independently of the Convention), reporting on the welfare of the child, or assisting the parent to achieve a more satisfactory solution through non-Convention remedies. In such instances, the USCA treats the case as an open “non-Convention” case for return or access, depending on the parent’s goals. When a foreign court decision on the Convention aspects of a case indicates a misunderstanding of, or a failure to properly apply, the Convention’s terms, the Department may register its concern and dissatisfaction with the decision through both the foreign Central Authority and diplomatic channels. The same is true in circumstances involving the failure by administrative or other executive officials to effectively enforce court or other relevant orders arising out of applications under the Convention. The Secretary of State, other senior Department officials, U.S. Ambassadors abroad, and U.S. Consuls frequently raise international parental child abduction issues and specific cases with appropriate foreign government officials.

AUSTRALIA: CASE 1

DATE OF ABDUCTION OR WRONGFUL RETENTION:	6-28-2002
DATE CONVENTION APPLICATION FILED:	2-10-2004
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Norway in June 2002. In October 2002, the left-father filed a Convention application for return in Norway, and a Norwegian court ordered the return of the child to the United States on February 3, 2003. Following the Norwegian Court’s decision, the taking parent and child disappeared. On January 30, 2004, Australian immigration authorities notified the USCA that the taking parent and child had entered Australia five months earlier and were considered visa overstays. The Australian authorities have been searching for the taking parent and child ever since with no results. A new Convention application package was submitted on February 10, 2004 to the Australian Central Authority and a “port stop” is in place. The left-behind father has had regular contact with the U.S. Consulate and has been very involved in the search.

AUSTRALIA: CASE 2

DATE OF ABDUCTION OR WRONGFUL RETENTION:	5-28-2004
DATE CONVENTION APPLICATION FILED:	5-4-2006
HAS CHILD BEEN LOCATED?	NO

The child’s mother abducted him to South Korea in May 2004. Father asked the USCA for assistance in June 2004. Since South Korea is not a Convention partner, the Department was limited in its options for return of the child. Post was able to locate the mother and child in South Korea and conduct a welfare visit with them in October 2004. The father obtained a sole custody order in Nevada, and

the state of Nevada brought criminal charges against the mother for child abduction. In December 2005, the USCA learned that the taking parent and child had left South Korea and entered Australia. A preliminary extradition package was prepared by the Department of Justice and submitted to the office of the Australian Attorney General in May 2006. Australia sent the package back several times for clarification and changes. After all appropriate changes were made, the complete package was sent to the office of the Australian Attorney General as a basis for arrest of the mother and return of the child to his father.

UPDATE AFTER THE REPORTING PERIOD: In March 2007, Australian officials arrested the mother for extradition to the United States, and the child was returned to his father.

BRAZIL: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	1-2004
DATE CONVENTION APPLICATION FILED:	6-7-2004
HAS CHILD BEEN LOCATED?	YES

The taking parent abducted the child to Brazil in January 2004. Brazilian courts granted custody to the taking parent on June 30, 2004, without notifying the left-behind parent of the hearing. The Convention application was sent to the Brazilian Federal Attorney's Office on September 15, 2004 and the Brazilian Central Authority scheduled a hearing for February 22, 2005, only notifying the left-behind parent's attorney on February 18. The judge hearing the case eventually suspended it through July until more information was available regarding the taking parent's ability to enter the United States to attend a custody hearing should a return be ordered. The USCA provided the Brazilian Central Authority with information on immigration laws, including the Significant

Public Benefit Parole available to the USCA to facilitate return to the United States for parents to attend custody proceedings after their child has been returned under the Convention. The court eventually denied the return in September 2005, and an appeal was subsequently filed with the Superior Court. In May 2006, the Brazilian Public Ministry submitted its recommendation to the Appeal Tribunal for consideration before it issues a final decision whether or not to uphold or overturn the lower court's order. As of the close of the reporting period, a decision on the appeal still had not been issued.

BRAZIL: CASE 2	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	7-18-2004
DATE CONVENTION APPLICATION FILED:	9-23-2004
HAS CHILD BEEN LOCATED?	YES

The taking parent abducted the child to Brazil in July 2004. The application for return was filed directly with the courts by the left-behind parent's private attorney, relieving the Brazilian Central Authority of any obligation to assist in his case. The case then languished for several months in the Brazilian courts, and the private attorney eventually sought the assistance of Brazil's Central Authority. The USCA, as well as the U.S. Consulate in Rio de Janeiro, contacted the Brazilian Central Authority, inquiring why the decision was delayed. In October 2005, the Brazilian Federal Court denied the return of the child by applying Article 12 of the Convention (which states that if a child is settled in their new environment, a return is at the discretion of the Court). The Consul General issued a demarche to the Brazilian Central Authority in November 2005, which expressed the U.S.'s concerns that Article 12 should not have been applied in this case because the delay in returning the



child was caused by the courts and not the left-behind parent. Nevertheless, the Appeals Court upheld the denial in April 2006. The left-behind parent is currently appealing to the Superior Justice Court in Brasilia.

BRAZIL: CASE 3	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	12-11-2004
DATE CONVENTION APPLICATION FILED:	2-16-2005
HAS CHILD BEEN LOCATED?	YES

The taking parent abducted the child to Brazil in December 2004. The left-behind parent filed an application for the return of the child with the Brazilian Central Authority in February 2005. In August 2005, Interpol-Brazil located the child at an address provided by the left-behind parent in April. On November 16, 2005, the Brazilian Central Authority sent the case to the Federal Attorney’s Office, and a hearing was eventually scheduled for May 16, 2006. After court proceedings began, evidence surfaced suggesting that the travel authorization papers the taking parent had presented in court to demonstrate the left-behind parent’s consent for the child’s travel to Brazil were false, delaying proceedings. A handwriting analysis was conducted, and, following the close of the reporting period, the court issued a decision, ruling that the papers were, in fact, forged. The case is still pending.

BRAZIL: CASE 4	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	6-2004
DATE CONVENTION APPLICATION FILED:	3-22-2005
HAS CHILD BEEN LOCATED?	YES

The child went with his aunt to visit his maternal grandparents in Brazil in May 2004 and was supposed to return in June 2004. Once he arrived in Brazil, the grandmother decided that she did not wish to return him to Florida as planned and filed for custody of the child. Although he had only been in Brazil for a few weeks, the Brazilian court awarded the grandmother custody of the child without notifying his parents in Florida. The left-behind parents learned of this decision through other family members and the mother traveled to Brazil to retrieve her son. She appealed the Brazilian custody decision and was granted custody of her son. Despite this order, the grandmother took the child into hiding and filed another appeal, precluding the child’s removal from Brazil. The mother remained in Brazil, continuing to try to work through the Brazilian court for permission to exit the country with her son to no avail. She submitted a Convention application on March 22, 2005, and the case was filed in court in September 2005. The Federal Court has taken no action on the case since then.

UPDATE AFTER THE REPORTING PERIOD: Following the end of the reporting period, a unanimous verdict was rendered by five judges in the State Court of Justice of Rio de Janeiro, awarding full custody to the left-behind parents. Convention proceedings were terminated, and the child returned to the United States with his mother on February 14, 2007.

COLOMBIA: CASE 1

DATE OF ABDUCTION OR WRONGFUL RETENTION:	1-5-2005
DATE CONVENTION APPLICATION FILED:	2-9-2005
HAS CHILD BEEN LOCATED?	YES

In January 2005, the mother abducted two children to Colombia in violation of a New Jersey court order prohibiting them from departing the state. The youngest child has special health needs and requires continuing medical care. In light of this, the left-behind parent asked for an urgent welfare/whereabouts visit, but the U.S. Embassy in Bogotá could not locate the children. The U.S. Embassy and the Colombian Central Authority met regularly and actively pressured Interpol to pursue the whereabouts of the children. Assistant Secretary Maura Harty also raised the case with Colombian officials on a 2006 visit to the country. Convention proceedings were delayed until the location of the children was finally confirmed in May 2006. A mediation hearing was scheduled for July 14, 2006, attended by the left-behind parent's attorney, but yielded no results. Since the close of the reporting period, U.S. Embassy personnel conducted a welfare/whereabouts visit with the children, and a hearing date will be scheduled in 2007.

GERMANY: CASE 1

DATE OF ABDUCTION OR WRONGFUL RETENTION:	9-25-2004
DATE CONVENTION APPLICATION FILED:	11-16-2004
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Germany on September 25, 2004. On November 16, 2004, the left-behind parent filed a Convention application for return, which was denied by the District Court in Celle in June 2005. The basis

of the Court's decision was that the left-behind parent had not seen his daughter on many occasions and had not paid child support, thus he never in fact exercised his custody rights. The left-behind parent appealed to the Higher Regional Court in Celle, which held two hearings on the matter. On February 27, 2006, the Higher Regional Court issued an order directing that the taking parent return the child immediately to the United States. The taking parent subsequently appealed to the Federal Constitutional Court leading the Higher Regional Court to announce that it would not enforce the return order until the Federal Constitutional Court decided whether it would accept the appeal. The case is still pending.

UPDATE AFTER THE REPORTING

PERIOD: In November 2006, after the close of the reporting period, both parents attended a mediation session during which they came to an interim agreement regarding visitation that would be valid until July 2007.

HONDURAS: CASE 1

DATE OF ABDUCTION OR WRONGFUL RETENTION:	9-1998
DATE CONVENTION APPLICATION FILED:	6-30-2003
HAS CHILD BEEN LOCATED?	YES

The taking parent abducted the child to Honduras in September 1998. After the left-behind parent filed a Convention application in June of 2003, the Honduran Central Authority refused to apply the Convention on the grounds that the Honduran legislature had not yet ratified it. Representatives from the U.S. Embassy then explained to Central Authority officials that, under Article 27 of the Vienna Convention on the Law of Treaties, Honduras could not invoke the provisions of its internal law (ratification requirement) as justification for its failure to perform its treaty obligations.

The Central Authority then requested that Honduran Congress define the applicability of the Convention in Honduras. The Embassy later concluded that the Central Authority was unwilling to apply the Convention without the express permission of the Honduran Congress, even though that permission was not required. The Embassy continued to actively pursue the resolution of the matter and to urge the Central Authority to move Convention cases through the process in a timely manner. Although it advised the U.S. Embassy in February 2006 that it would forward the Convention application to the local court, to date the Honduran Central Authority has not submitted this case for a hearing, reasoning that the child “is doing fine with his mother.”

Israel between the child and left-behind parent continues. The left-behind parent also telephones his child regularly.

The left-behind parent still wants his child returned to the United States. The Israeli Central Authority has informed the USCA that the judge told the left-behind parent’s attorney that a mutually agreed visitation arrangement was the best solution, adding no return would be ordered unless the taking parent refuses to cooperate on establishing a visitation agreement. To date, this case is still pending in court. The USCA has regular, ongoing contact with the left-behind parent, although the Israeli Central Authority considers the case resolved.

ISRAEL: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	6-2-1997
DATE CONVENTION APPLICATION FILED:	5-5-2002
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Israel in June 1997. The Israeli Central Authority accepted the Convention application for return in May 2002, when the location of the child and taking parent was confirmed. In August 2002, at the request of an Israeli judge, the left-behind parent traveled to Israel to allow social services to conduct an evaluation. In January 2003, the judge accepted the social worker’s recommendation that as part of the reunification process with the child, the left-behind parent should come to Israel for longer periods and each visit between the left-behind parent and child during this time would be extended. The social worker and the court would monitor the reunification process, before any decision was made concerning travel to the United States. Visitation in

ISRAEL: CASE 2	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	3-15-2004
DATE CONVENTION APPLICATION FILED:	7-16-2004
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Israel in March 2004. The left-behind father filed a Convention application in July 2004. The left-behind father claims in the application that the family traveled to Israel using round-trip



tickets, but that after he returned to the United States, his wife and child did not follow. The taking mother claims that the father acquiesced to the relocation.

The USCA has ongoing contact with the left-behind father and the Israeli Central Authority about the case. The court case has repeatedly been postponed while the parties are trying to negotiate; however, thus far, they have been unable to reach an agreement. The decision for return is still pending before the Israeli court.

ISRAEL: CASE 3	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	4-18-1997
DATE CONVENTION APPLICATION FILED:	10-6-1997
HAS CHILD BEEN LOCATED?	NO

Please see the "Notable Cases" section of this report for more information.

MAURITIUS: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	12-4-1998
DATE CONVENTION APPLICATION FILED:	2-3-1999
HAS CHILD BEEN LOCATED?	YES

Please see the "Notable Cases" section of this report for more information.

MEXICO: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	12-2-1997
DATE CONVENTION APPLICATION FILED:	1-31-1998
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Mexico in 1997. Although Mexican judges have ordered

the return of the child, the decision has not yet been enforced. Whenever Mexican authorities try to enforce the decision, the taking parent disappears with the child. Now the left-behind father is reluctant to ask authorities to act because he and the Ventura County, California District Attorney's Office believe that someone within the judicial or law enforcement establishment may be alerting the mother.

MEXICO: CASE 2	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	8-1-1996
DATE CONVENTION APPLICATION FILED:	7-30-1998
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Mexico in 1996, but despite numerous requests for assistance with the Convention application since the original filing in 1998, the Mexican Central Authority (MCA) has not pursued this case. The USCA obtained the address of the mother and child in August 2004, which it provided to the MCA. In March 2005, the MCA reported to the U.S. Embassy that the case had been assigned to a judge in Chihuahua and that they had asked the State Social Services Agency in Chihuahua for assistance. Since then, the USCA and the U.S. Embassy have made several requests for verification of this communication. The MCA has not been able to provide it. Subsequent to the reporting period, in February 2007, the USCA again asked the MCA for specific information on who at the Social Services Agency is handling the case. The MCA has not responded.

MEXICO: CASE 3	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	12-15-1998
DATE CONVENTION APPLICATION FILED:	3-8-1999
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Mexico in 1998. This case has dragged on because the authorities had difficulty locating the mother and child. Subsequent to the reporting period, after many postponements, a judge finally heard the Convention case in the State of Veracruz in October 2006. The ten-year-old child said she wanted to stay with her mother in Mexico and not return to the United States. The judge has not yet issued a ruling.

MEXICO: CASE 4	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	10-5-1999
DATE CONVENTION APPLICATION FILED:	10-21-1999
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Mexico in October 1999. Mother and child have never been located. The left-behind father has provided numerous possible addresses for the child in the State of Puebla. Interpol, at the USCA’s request, has checked out many addresses and public records but has not been able to locate the child. At the U.S. Embassy’s request in February 2006, Interpol broadened its search. In August 2006, Interpol reported that it had contacted the State education offices of 25 Mexican States; none reported the child as registered in school in their State.

MEXICO: CASE 5	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	5-10-2000
DATE CONVENTION APPLICATION FILED:	6-16-2000
HAS CHILD BEEN LOCATED?	NO

The father abducted the child to Mexico in May 2000. The taking parent and child have never been located. In October 2005, the U.S. Embassy provided Interpol–Mexico a lead on the possible whereabouts of the child and father. Interpol responded in August 2006 that it had not been able to locate the child.

MEXICO: CASE 6	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	3-31-2000
DATE CONVENTION APPLICATION FILED:	11-2-2000
HAS CHILD BEEN LOCATED?	NO

The mother abducted the children to Mexico in March 2000, yet they have never been located. In August 2006, Interpol–Mexico reported to the U.S. Embassy that it had checked with authorities in 17 States in Mexico but none reported having any information about the taking parent or the children. The left-behind parent has not responded to repeated attempts by USCA to contact him; efforts to locate the children (and the left-behind parent) are at a standstill.



MEXICO: CASE 7

DATE OF ABDUCTION OR WRONGFUL RETENTION:	8-2000
DATE CONVENTION APPLICATION FILED:	9-2001
HAS CHILD BEEN LOCATED?	NO

The taking parent abducted the child to Mexico in August 2000, but a Convention hearing has not taken place because the child cannot be located. While Interpol found the taking parent and the child in Xalapa in April 2005 and a hearing was initially scheduled on June 17, 2005, the court staff could not locate them to appear for the June hearing. Both the MCA and the U.S. Embassy have again requested Interpol's assistance in locating the child.

MEXICO: CASE 8

DATE OF ABDUCTION OR WRONGFUL RETENTION:	5-16-2001
DATE CONVENTION APPLICATION FILED:	10-4-2001
HAS CHILD BEEN LOCATED?	NO

The taking parent abducted the children to Mexico in May 2001. The children cannot be located, possibly because they may have moved following an earthquake that damaged their grandmother's home. Following a number of exchanges between the MCA and the court, the case has been assigned to a judge in the Civil and Family Court, but a hearing has not been scheduled.

MEXICO: CASE 9

DATE OF ABDUCTION OR WRONGFUL RETENTION:	10-1-2001
DATE CONVENTION APPLICATION FILED:	1-16-2002
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Mexico in October 2001. The child and mother have not been located. In August 2005, State of Guanajuato court officials went to an address provided by the left-behind father to summon the taking mother to court, but she was not found at that address. In January 2006, the MCA informed Interpol-Mexico of possible surnames under which the child might be enrolled in school in Guanajuato. In August 2006, Interpol informed the U.S. Embassy that it had located the child in the village of Acambaro, Guanajuato. Interpol says it cannot act to detain the mother without a specific request from the MCA. The Embassy asked the MCA to formally request that Interpol detain the mother. At the end of the reporting period, the USCA had no information as to whether the MCA has acted.

MEXICO: CASE 10

DATE OF ABDUCTION OR WRONGFUL RETENTION:	11-2-2001
DATE CONVENTION APPLICATION FILED:	2-6-2002
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Mexico in November 2001, yet the mother and child have not been located. The case has not progressed despite the issuance of U.S. and Mexican arrest warrants, a U.S. Department of Justice extradition request, and Interpol's involvement. Interpol has investigated school records and pursued tips provided by the U.S. Embassy's Legal Attaché office, but has not been able to locate the child. The maternal

grandmother is believed to be hiding the child, and the left-behind parent believes Mexican officials are protecting the taking parent's family. On January 23, 2007, after the reporting period, the MCA made another request for Interpol's assistance in locating the child.

MEXICO: CASE 11	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	2-2002
DATE CONVENTION APPLICATION FILED:	6-2002
HAS CHILD BEEN LOCATED?	NO

The child was abducted in February 2002. This case has not been scheduled for a hearing because the child cannot be located. In June 2005, the U.S. Embassy provided Interpol with various addresses where the child's relatives might be found. Mexico's investigation agency, the Agencia Federal de Investigacion (AFI), investigated and located the child's grandfather at the address provided. Education authorities informed Interpol that the child is not enrolled in the public school system; however, the MCA continues to request Interpol's assistance in locating the child.

The taking grandmother attempted to gain custody of the child by claiming that the left-behind parent had no interest in the child and would not come to Mexico for a hearing. However, the Mexican court denied the taking grandmother's custody claim. While the custody battle was ongoing, Mexican immigration officials determined that the child (an American citizen with no lawful immigration status in Mexico) was deportable and ordered her to be deported within 48 hours. The left-behind parent maintains that the taking parent overcame this order by obtaining a false Mexican birth certificate for the child and filed an *amparo* against the immigration office to prevent the child's deportation.

The Family Court has not rendered a decision on the issue of the validity of the birth certificate, though the left-behind parent's attorney submitted the child's original birth certificate to the court. The USCA, through the Embassy, has repeatedly raised the question of enforcement of the child's previously issued deportation order without success.

MEXICO: CASE 12	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	3-1-2002
DATE CONVENTION APPLICATION FILED:	6-19-2002
HAS CHILD BEEN LOCATED?	NO

The taking parent abducted the children to Mexico in March 2002, but they have never been located. In January 2006, the U.S. Embassy met with Interpol-Mexico. Interpol stated that their long-running investigation, beginning in July 2004, had produced nothing. The U.S. Embassy found a promising lead that it passed on to the U.S. Consulate in Guadalajara. The Consulate's Legal Attaché's office investigated the lead and asked for local law enforcement to assist. However, the children were not located. In August 2006, Interpol-Mexico said it was re-initiating its investigation.

MEXICO: CASE 13	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	10-2-2001
DATE CONVENTION APPLICATION FILED:	7-2002
HAS CHILD BEEN LOCATED?	NO

The child in this case, abducted in 2001, has not been located. Both Interpol and Mexico's investigation agency, AFI, are attempting to locate the child. The U.S. Embassy provided Interpol with the child's photograph on June

8, 2005, and asked them to investigate with the Education Department whether the child is enrolled in public school. At the left-behind parent's request, USCA has also asked the MCA to search voting records in an attempt to locate the taking parent and child. The MCA has provided the state tribunal with the file, but a judge has not yet been assigned to the case.

MEXICO: CASE 14	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	7-11-2001
DATE CONVENTION APPLICATION FILED:	11-18-2002
HAS CHILD BEEN LOCATED?	NO

The taking parent abducted the child to Mexico in 2001, but they have not been located. This case was submitted directly to the MCA by the San Diego, California District Attorney's Office. As of July 2005, when USCA last received information from the District Attorney, it had not received any information from the MCA about progress on the case.

MEXICO: CASE 15	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	11-26-2001
DATE CONVENTION APPLICATION FILED:	5-29-2003
HAS CHILD BEEN LOCATED?	NO

The father abducted the children to Mexico in 2001, but neither he nor the children have been located. The mother provided the home address of the father in the Mexican State of Guerrero, and court authorities went to the home in November 2005. Unable to find the children, the Mexican authorities were told by neighbors that the children had returned

to Dallas, Texas. Despite the possibility that the children were back in the United States, the MCA asked Interpol-Mexico in March 2006 for assistance in locating the children. In August 2006, Interpol reported to the U.S. Embassy that the children had been located and reported the information to the MCA. However, the MCA cannot confirm this report for the USCA. Subsequent to the reporting period, USCA contacted the FBI in Dallas to seek its assistance.

MEXICO: CASE 16	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	NOT AVAILABLE
DATE CONVENTION APPLICATION FILED:	7-21-2003
HAS CHILD BEEN LOCATED?	YES

The court ordered the taking parent to appear for the Convention hearing in December 2005, but she failed to appear. Instead, she filed a counter-suit seeking to deprive the left-behind parent of his parental rights. The court denied this demand but the mother filed an appeal. The mother has never appeared in court, but appears through the attorneys who represent her. The USCA's last contact with the left-behind father was in May 2006, despite repeated attempts to get in touch with him.



MEXICO: CASE 17

DATE OF ABDUCTION OR WRONGFUL RETENTION:	8-5-2003
DATE CONVENTION APPLICATION FILED:	8-28-2003
HAS CHILD BEEN LOCATED?	NO

This case was submitted to the MCA on September 17, 2003. The child had been under the guardianship of Los Angeles Department of Children and Family Services (DCFS) due to neglect by her mother. DCFS allowed the child's aunt to assume the role of foster mother. The foster mother took her on vacation to Mexico and apparently staged a kidnapping, claiming that on September 4, 2003, men with guns entered her house there and took the child. Despite the intervention of the Mexican Federal investigative police and the U.S. FBI (in Mexico), the child has not been located. After the period covered by this report, at the U.S. Embassy's insistence, the Mexican authorities submitted the case to Interpol-Mexico in October 2006 for assistance in locating the child.

MEXICO: CASE 18

DATE OF ABDUCTION OR WRONGFUL RETENTION:	8-1-2003
DATE CONVENTION APPLICATION FILED:	11-4-2003
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Mexico in August 2003, but the Mexican authorities have not been able to locate them. The judge to whom the case was assigned has issued a warrant for Federal police to detain the mother if found. In June 2006, Interpol-Mexico took on the case and is still searching for the mother and child.

MEXICO: CASE 19

DATE OF ABDUCTION OR WRONGFUL RETENTION:	2-17-2003
DATE CONVENTION APPLICATION FILED:	12-3-2003
HAS CHILD BEEN LOCATED?	NO

In this case, Convention hearings were scheduled on June 22, 2006 and September 19, 2006; however, the court notified the taking parent's sister of the date in advance of the September hearing. The left-behind parent believes that the taking parent did not appear as a result of the advance notice and is now hiding the children. The MCA will refer the case to Interpol to attempt to locate the children.

MEXICO: CASE 20

DATE OF ABDUCTION OR WRONGFUL RETENTION:	7-2000
DATE CONVENTION APPLICATION FILED:	3-2005
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child from Nevada in July 2000, in violation of a Nevada court order. The left-behind father filed a Convention application in March 2005, having attempted to secure the return of the child through other legal channels. The judge returned the case in April 2005, noting that the child had not been located at the address provided. The U.S. Embassy requested assistance from Interpol, as Mexican law enforcement did not proactively attempt to pursue the child at the specified location. In 2005, the left-behind father asked the embassy to conduct a welfare/whereabouts visit; however, the visit was unsuccessful because the family residing at the given location refused to acknowledge that the child lived there. Embassy officials raised the case in a number of meetings with the MCA. In March 2006,

the MCA requested that law enforcement enter the residence by force, yet they have refused to comply. Three arrest warrants have been issued for the taking parent, including an Unauthorized Flight to Avoid Prosecution (UFAP) warrant issued by the FBI. A Convention hearing cannot be scheduled until the child's location can be confirmed.

MEXICO: CASE 21	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	9-15-2003
DATE CONVENTION APPLICATION FILED:	2-11-2004
HAS CHILD BEEN LOCATED?	NO

The child in this case is under the legal guardianship of Los Angeles County social services. She was taken to Mexico by her biological parents in September 2003. The U.S. Embassy and the USCA have made repeated requests to the MCA and Interpol-Mexico for assistance in locating the child. After the reporting period, the USCA made another request in November 2006 to the MCA, which said it would ask Interpol-Mexico for more assistance.

MEXICO: CASE 22	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	NOT AVAILABLE
DATE CONVENTION APPLICATION FILED:	3-5-2004
HAS CHILD BEEN LOCATED?	NO

As of the end of the reporting period, the child in this case had not been located. The case was originally assigned to the Mexican State of Quintana Roo where the left-behind parent indicated the mother and child were living. The courts could not locate them to summon the mother for a hearing. In May 2005, the U.S. Embassy asked Interpol-Mexico

for assistance. In February 2006, NCMEC contacted USCA to inform it that the mother had traveled to the United States on several occasions to appear in court and challenge the father's custody of the child. In August 2006, Interpol informed the U.S. Embassy that they had not found the child in Quintana Roo, but would expand their investigation to another region of Mexico.

MEXICO: CASE 23	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	NOT AVAILABLE
DATE CONVENTION APPLICATION FILED:	7-26-2004
HAS CHILD BEEN LOCATED?	NO

The California District Attorney's office filed this case directly with the MCA. The Convention hearing has not taken place because the child cannot be located. The MCA has requested Interpol-Mexico's assistance in locating the child.

MEXICO: CASE 24	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	7-24-2004
DATE CONVENTION APPLICATION FILED:	7-26-2004
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Mexico in July 2004, yet they have not been located. In March 2006, the U.S. Embassy asked Interpol-Mexico for its assistance in investigating if the child is in the border State of Tamaulipas, birthplace of the taking mother. In August 2006, Interpol-Mexico reported that the Education Department in Tamaulipas did not find school records for the child.

MEXICO: CASE 25

DATE OF ABDUCTION OR WRONGFUL RETENTION:	5-3-2004
DATE CONVENTION APPLICATION FILED:	10-28-2004
HAS CHILD BEEN LOCATED?	YES

The taking parent abducted the child to Mexico in May 2004. After the Convention application was filed, the taking parent filed an *amparo* that was scheduled for a hearing on June 24, 2005. The Mexican court denied the *amparo* and the family court judge was directed to rule on the Convention claim. The family court judge ordered the child's return to the United States, but the taking parent appealed. The Court of Appeals denied the child's return based on documents the taking parent issued claiming that Mexico was the child's place of habitual residence. The left-behind parent filed an *amparo* to contest the decision of the Court of Appeals, but lost. The MCA suggests that the left-behind parent be advised to file an access case.

MEXICO: CASE 26

DATE OF ABDUCTION OR WRONGFUL RETENTION:	NOT AVAILABLE
DATE CONVENTION APPLICATION FILED:	10-29-2004
HAS CHILD BEEN LOCATED?	NO

The child in this case has not been located. The left-behind parent filed a Convention application directly with the MCA in March 2004. Mexican authorities could not find the child and informed the the USCA of the case. The USCA contacted the left-behind father asking for more precise information, which he could not provide. In November 2005, the U.S. Embassy formally requested Interpol-Mexico to investigate. In August 2006 Interpol reported that they have not successfully located

the child but that they had placed a nationwide alert with various Mexican education bureaus for information on the child.

MEXICO: CASE 27

DATE OF ABDUCTION OR WRONGFUL RETENTION:	11-5-2004
DATE CONVENTION APPLICATION FILED:	11-30-2004
HAS CHILD BEEN LOCATED?	NO

The father abducted the child to Mexico in November 2005. In an effort to locate her son, the left-behind mother went to the taking father's home in Oaxaca in early 2006. She did not find her son; nevertheless, she believes that the father and son are living with the father's parents. The USCA contacted the U.S. Consular Agent in Oaxaca. He made a cursory surveillance on the house but saw nothing. A private detective hired by the mother also was unsuccessful in locating the child. In August 2006, the U.S. Embassy asked for Interpol-Mexico's assistance. Interpol reported that it requested photos of the child from the MCA.

MEXICO: CASE 28

DATE OF ABDUCTION OR WRONGFUL RETENTION:	1-15-2002
DATE CONVENTION APPLICATION FILED:	12-14-2004
HAS CHILD BEEN LOCATED?	NO

The mother abducted the child to Mexico in January 2002. Despite several leads as to the taking mother and child's location, the court and police have been unable to locate them. The U.S. Consulate General in Ciudad Juarez believed it had located them in 2005 and placed active surveillance on the school that the child supposedly attended. However, her attendance there was not confirmed.



MEXICO: CASE 29

DATE OF ABDUCTION OR WRONGFUL RETENTION:	2-12-2005
DATE CONVENTION APPLICATION FILED:	2-18-2005
HAS CHILD BEEN LOCATED?	YES

The mother abducted the child to Mexico in February 2005. In September 2006, a Mexican court ordered that the child was to be returned to the left-behind father in the United States. The taking mother filed an appeal. Subsequent to events in this reporting period, the taking mother lost her appeal. She has now filed for an injunction to stay the return order.

MEXICO: CASE 30

DATE OF ABDUCTION OR WRONGFUL RETENTION:	4-18-2004
DATE CONVENTION APPLICATION FILED:	3-9-2005
HAS CHILD BEEN LOCATED?	NO

The mother abducted the children to Mexico in April 2004. The left-behind father filed a Convention application in March 2005. A hearing was initially scheduled for June 14, 2005, but it had to be postponed as the children and the taking parent could not be located. The left-behind father provided additional addresses to the U.S. Embassy, which forwarded them to the MCA and in turn to Interpol-Mexico. One of these addresses was found to be invalid, and the children were not located at the other. Embassy officials met with the MCA to discuss the case in October 2005, and again in February 2006, and coordinated efforts with Interpol to locate the children. Following the end of the reporting period, Interpol discovered the name of the school where the children are enrolled, and expects to find out the minors' address now that their school is known. Once the children's location can be

confirmed, a jurisdiction will be assigned and a Convention hearing scheduled.

NEW ZEALAND: CASE 1

DATE OF ABDUCTION OR WRONGFUL RETENTION:	8-1-2004
DATE CONVENTION APPLICATION FILED:	8-11-2005
HAS CHILD BEEN LOCATED?	YES

Please see the "Notable Cases" section of this report for more information.

POLAND: CASE 1

DATE OF ABDUCTION OR WRONGFUL RETENTION:	4-20-2004
DATE CONVENTION APPLICATION FILED:	11-22-2004
HAS CHILD BEEN LOCATED?	NO

In this case, the taking parent wrongfully retained her child in Poland in April 2004. The left-behind father filed a Convention application for return in November 2004, but it was denied on May 13, 2005. The court cited concerns over separating a young child from his mother. The left-behind father appealed, and on July 18, 2005, the Court of Appeals overturned the previous decision, and ordered the child returned. In August 2006, the mother appealed, stating that circumstances had changed, pointing to the time that the child had been out of the United States and had not had contact with the father. The U.S. Embassy in Warsaw attended the August 2006 hearing at which time the court rejected the mother's appeal.

Since then, the mother and the child have not been located. Although the father has worked with Polish authorities and even hired a private investigator, the whereabouts of the child and taking parent are not known; thus the return order is not enforced.

The U.S. Embassy in Warsaw discussed this case when they met with the PCA at the Ministry of Justice in October 2005, March 2006, April, 2006, May 2006, and attended many hearings during the case, including the latest in August 2006. Assistant Secretary Maura Harty also brought up this case with the Polish Undersecretary of State in January 2006.

POLAND: CASE 2	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	11-1998
DATE CONVENTION APPLICATION FILED:	8-1999
HAS CHILD BEEN LOCATED?	YES, NO

Please see the “Notable Cases” section of this report for more information.

ROMANIA: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	5-16-2003
DATE CONVENTION APPLICATION FILED:	4-13-2004
HAS CHILD BEEN LOCATED?	YES

The taking parent took the child to Romania in May 2003. On April 13, 2004, the USCA sent the left-behind father’s Convention application to the Romanian Central Authority. On May 16, 2005, the USCA received a fax from the Romanian Central Authority containing a court order dated March 10, 2005, which ordered that the child be returned to the United States. The taking mother filed an appeal. After Romania passed new legislation in 2004, the court in Dambovitza determined on December 13, 2005 that it was not the appropriate venue to hear the case, and the appeal was sent to the appeals court in Bucharest. After the reporting period, on November 14, 2006, the appeals court in Bucharest denied the child’s return to the United States. The left-behind father is appealing the denial.

TURKEY: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	6-12-2004
DATE CONVENTION APPLICATION FILED:	1-2005
HAS CHILD BEEN LOCATED?	YES, NO

In this case, a Turkish mother abducted her daughter to Turkey in June 2004. After failed negotiations, the left-behind father submitted a Convention application for return in January 2005. A March 2006 Convention ruling ordered the return of the child, but the taking parent subsequently took the child into hiding. The left-behind parent has informed USCA of plans to conduct the search himself, and he has refused police assistance.

VENEZUELA: CASE 1	
DATE OF ABDUCTION OR WRONGFUL RETENTION:	9-29-2001
DATE CONVENTION APPLICATION FILED:	8-13-2004
HAS CHILD BEEN LOCATED?	YES

In this case, the children’s father, who had just been released from jail on domestic violence charges, took the children for a scheduled visitation in September 2001 and never returned. The left-behind parent retained a private attorney and submitted a Convention application in August 2004, which was filed with a Public Prosecutor in September 2004. The case languished in the Venezuelan courts throughout 2005 and 2006, and the Venezuelan Central Authority consistently resisted requests by USCA and the U.S. Embassy in Caracas to urge the courts to proceed expeditiously. Since the end of the reporting period, the court has decided that it needs to start the case all over again, and has just sent a new summons to the left-behind parent requesting her attendance at a new hearing.

ADDITIONAL BACKGROUND INFORMATION

THE HUMAN AND SOCIAL COST OF INTERNATIONAL PARENTAL CHILD ABDUCTION

Parental child abduction is a tragedy because it affects some of society's most vulnerable individuals. When a child is abducted across international borders, the difficulties are compounded for everyone involved. Parental child abduction jeopardizes the child and has long-term consequences for both the abducted child and the left-behind parent.

CONSEQUENCES FOR THE CHILD

Children who are abducted by their parents are often taken from their familiar environment and suddenly isolated from their extended families, friends, and classmates. In an effort to evade law enforcement, the taking parents may relocate them frequently and/or take them out of school unexpectedly without time to say goodbye. They may miss months or years of school. They may be prevented from making close friends, and their only close relationship may be with the taking parent. They may even be separated from their siblings during the abduction. Taking parents sometimes change children's names, birthdates, and physical appearance in an effort to conceal the child's true identity. Abducted children may be told that their other parent is dead, does not want them, or has not tried to get them back.

An abducted child is at risk of serious emotional and psychological problems. Research shows that recovered children often experienced a range of problems including anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt, and fearfulness. Even as adults, individuals who were abducted as children may struggle with identity issues or with their own personal relationships and parenting.

If and when the child is reunited with the left-behind parent, they may find that they no longer have a relationship with that parent or even a language in common. They may be distrustful of the left-behind parent and question why that parent did not try harder to get them back. They may find that the left-behind parent has remarried and that they have a new, unfamiliar step-parent and siblings. Children who were abducted while very young may not even remember life with the left-behind parent.

CONSEQUENCES FOR THE LEFT-BEHIND PARENT

For left-behind parents, the trauma begins when they return home to find that the other parent has left and taken the children, or when they allow the children to travel abroad to visit the other parent, only to find that they do not return. Left-behind parents encounter substantial psychological, emotional, and financial problems. They may be paralyzed by helplessness and the sense that they have no idea where to start in the process of recovering their child. When the child has been abducted across international borders, the left-behind parent may face unfamiliar legal, cultural, and linguistic barriers.

Left-behind parents experience a wide range of emotions including betrayal, the loss of their child and/or their marriage, anger against the other parent, anxiety, sleeplessness, and severe depression. The emotional stress does not necessarily end when the child is returned, because parents may worry about re-abduction and their personal security. The financial pressures of fighting abduction only add to the anxiety.

The financial costs to left-behind parents can be substantial. Left-behind parents may lack



the financial resources to travel abroad and to visit their child overseas, even if the taking parent permits access. They may lack sufficient funds to hire an attorney in the United States or abroad, especially an English-speaking attorney who is familiar with the legal issues pertaining to international parental child abduction. Left-behind parents may lack the funds to hire translators and interpreters or to seek professional counseling. The protracted legal battle to recover an abducted child can devastate a family financially.

Although international parental child abduction has far-reaching consequences, its significance is not widely understood. Left-behind parents may have difficulty finding the support that they need and getting legal assistance.

THE PREFERRED SOLUTION: THE CONVENTION

One of the most effective solutions for left-behind parents to reunite their families is the Convention. The Convention is an international treaty that provides a civil mechanism to bring about the prompt return of children who have been wrongfully removed or retained outside the country of their habitual residence in violation of rights of custody existing and actually exercised by the other parent. The United States was a major force in preparing and negotiating the Convention, which was finalized in 1980 and entered into force for the United States on July 1, 1988. Since then, the Convention has been an important tool for reuniting families across international borders and in deterring potential abductions. Currently, 76 countries are party to the Convention.

Today, the United States has a treaty relationship under the Convention with

55 other countries, with six new countries joining the United States as treaty partners by June 1, 2007. When a new country accedes to the Convention, the Department of State undertakes an extensive review of that country's accession to determine whether the necessary legal and institutional mechanisms are in place to fully implement the Convention. Once the Department concludes that a country has the capability to be an effective treaty partner, its accession is recognized and the Convention comes into force between the United States and that country.

The Convention applies to the wrongful removal or retention of a child that occurred on or after the date the Convention came into force between the United States and the other country concerned. The date on which the United States entered into a treaty relationship with its many Convention partner countries varies, and more countries become parties to the Convention. The United States has actively encouraged countries to accede to the Convention, recognizing its potential effectiveness not only in resolving cases of international parental child abduction, but also in deterring future abductions.

The Department of State places the highest priority on the protection of U.S. citizens abroad, and especially on the welfare of our country's children. When children become the victims of international parental child abduction, the Department takes seriously its responsibility to help parents seeking the return of, or access to, their children through lawful means. For many parents, the Convention is a viable remedy to the trauma of an abduction.

PREVENTING INTERNATIONAL PARENTAL CHILD ABDUCTION

In 2003, the USCA established a new unit that specializes in preventing international parental child abductions. On a daily basis, the USCA receives dozens of calls and written requests for assistance and information from parents, attorneys, other government agencies, and private organizations in the United States seeking to prevent international parental child abductions. The USCA serves as the information disseminator for strategies and approaches to keep children safe from international parental child abductions. The USCA staff responds to inquiries by providing information about on-line resources and discussing issues such as dual nationality and passport concerns, and the role of law enforcement and the courts in preventing an abduction.

THE CHILDREN'S PASSPORT ISSUANCE ALERT PROGRAM

The Children's Passport Issuance Alert Program (CPIAP) is one of the USCA's most important tools for preventing IPCA. The program allows parents to request the registration of their U.S. citizen children in the Department's Passport Lookout System, enabling them to be contacted and informed should anyone apply for a new or replacement U.S. passport for their child. The Passport Lookout System gives all national passport agencies as well as U.S. embassies and consulates abroad an alert on a child's name if a parent or guardian registers an objection to passport issuance for his/her child. Although there is no legal authority for CPIAP to track the use of a passport once it has been issued, or cancel a previously issued passport, it can provide parents advanced warning of possible plans for international travel that require issuance of a new passport.

Since the program has been incorporated into the USCA, more than 10,000 cases have been opened through CPIAP. The daily requests for assistance and lookouts on children's passports continue to require extensive customer service. In FY 2006, the USCA entered more than 2,500 cases into the Passport Lookout System. Applying both the two-parent signature law and the federal regulation permitting parents to object to issuance of a passport to their children under age 18, the USCA is able to assure parents who fear the abduction of their children that the Department will not issue passports without their knowledge or, in certain cases, without their permission.

Note: The inability to obtain a U.S. passport through the Children's Passport Issuance Alert Program does not prevent a dual-national child from obtaining and traveling on a foreign passport. There is no requirement that foreign embassies adhere to U.S. regulations regarding issuance and denial of their passports to U.S. citizen minors who have dual nationality.



GLOSSARY OF ACRONYMS

AFI	AGENCIA FEDERAL DE INVESTIGACION
CI	THE U.S. DEPARTMENT OF STATE, OFFICE OF CHILDREN'S ISSUES
CONVENTION	THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION
CPIAP	THE CHILDREN'S PASSPORT ISSUANCE ALERT PROGRAM
DCFS SERVICES	LOS ANGELES DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DEPARTMENT	THE U.S. DEPARTMENT OF STATE
ECHR	THE EUROPEAN COURT OF HUMAN RIGHTS
ICARA	INTERNATIONAL CHILD ABDUCTION REMEDIES ACT
IMCD	THE INTERNATIONAL MISSING CHILDREN'S DIVISION OF THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN
INCOMING CASES	PARENTAL CHILD ABDUCTIONS FROM ANOTHER COUNTRY TO THE UNITED STATES
IPCA	INTERNATIONAL PARENTAL CHILD ABDUCTION
ISS	INTERNATIONAL SOCIAL SERVICES
MCA	MEXICAN CENTRAL AUTHORITY
NCMEC	NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN
NGO	NON-GOVERNMENTAL ORGANIZATION
OUTGOING CASES	PARENTAL CHILD ABDUCTIONS FROM THE UNITED STATES TO ANOTHER COUNTRY
UFAP	UNAUTHORIZED FLIGHT TO AVOID PROSECUTION
USCA	UNITED STATES CENTRAL AUTHORITY