

Conclusions of the summary report
on the proceedings related to the return of children abducted to Hungary

In January 2013 the President of the Curia of Hungary set up a jurisprudence-analysing working group for examining whether the proceedings related to the return of children abducted to Hungary were conducted in conformity with the relevant international instruments and the Curia's guidelines of principle. The examination covered cases in which final judgments were given between 1 January 2010 and 31 December 2012. The jurisprudence-analysing working group drafted a summary report on the findings, which was adopted by the Civil Department of the Curia at its meeting on 17 June 2013.

Judgments were analysed by the jurisprudence-analysing working group according to pre-determined aspects, namely: whether the interest of the child prevailed in the proceedings; conditions to be met for issuing a return order; determining the unlawfulness of a removal or retention; circumstances constituting a ground for rejecting a child return claim; means of proof and the extent of evidence-taking; the possibilities of mediation during the proceedings; problems related to enforcement.

The summary report contains the following conclusions and recommendations:

1. Hungarian jurisprudence in the proceedings having formed the subject-matter of the analysis can be considered to have been uniform and stable; the jurisprudence was in accordance with the relevant rules of the 1980 Hague Convention and the Brussels II a Regulation and was consistent with the principles set out in the Curia's decisions. This consistency was, to a great extent, due to the fact that in Hungary such cases fell, and fall, under the exclusive competence of the Pest Central District Court and, at second instance, the Budapest High Court, which fact facilitates the uniform application of law.
2. In the current legal framework, practice in substantial matters needs no change; the emerging new elements (e. g. the increasing importance of the direct, personal hearing of the child or the determination of a visitation schedule as a temporary measure) are in line with the international trends. The priority treatment of the cases should, however, be ensured at each stage of the proceedings (including appeal proceedings and the implementation phase), because at present it is not always the case.
3. The working group has found it necessary that legislative changes be initiated with a view to regulating child return procedure at an appropriate level in the hierarchy of sources of law (i.e. by an Act of Parliament instead of a ministerial decree) and to enacting certain new procedural means called for by practice. The latter may include providing detailed information to the parties already in the summons to the hearing, ensuring the possibility of taking a temporary measure, regulating deadlines and time limits in a manner appropriate to the nature of the proceedings, and introducing special coercive measures (e. g. designation of place of residence, ordering the deposition of travel documents).
4. In order to meet the expectations of the European Union and the Council of Europe, the staff and equipment resources needed for recourse to international mediation must, as soon as possible, be ensured at the court vested with exclusive competence, as this is the most effective currently known means for the protection of both the child and the family.
5. In order to enforce the return order as soon as possible, it is essential that all the authorities

involved in the proceedings (central authority, enforcement court, bailiff, police forces, guardianship authority) should cooperate in the proceedings and should take such firm and swift measures which have the least possible negative impacts on the child.

6. The jurisprudence-analysing working group has recommended special training for judges, attorneys and public servants involved in proceedings related to the return of children abducted to Hungary. It has also deemed it important that on such cases appropriate, objective and well-balanced information be provided to the public and that provision of information by the courts to the media be strengthened.