

Abstract

Diploma Thesis: International Child Abduction and Private International Law

The purpose of my thesis is to analyse the issue of international child abductions through the lenses of private international law. The paper focuses mainly on the international documents regulating this area. These are, above all, The Hague Convention on International Child Abduction 1980 and the Council Regulation (EC) No 2201/2003 (new Brussels II Regulation). The research endeavours to answer the question whether the current legislation comply with the needs of the parties concerned.

The thesis is composed of eight Chapters. All the Chapters are supplemented by relevant case law. Chapter One is introductory and presents the most important pieces of legislation in the area of international child abduction. Their mutual relationship and application is explained. Moreover, the causes of the cases of international child abduction are described in this Chapter.

Chapter Two represents the core part of the whole thesis. It deals with The Hague Convention. Chapter is subdivided into five Parts. First two Parts concentrate on the formation of the Convention and its aims. Part Three provides definitions of the four main concepts of the Convention, namely wrongful removal or retention of a child, habitual residence of a child, rights of custody and central authorities. Part Four considers the obligation to return wrongfully removed or retained children and Part Five is concerned with exceptions to that obligation. Because these exceptions constitute the most significant provisions of the Convention, Part Five occupies a large proportion of this Chapter.

On the other hand, following chapters are relatively short ones. Chapter Three aims at the new Brussels II Regulation and primarily deals with the differences between the Regulation and the Convention. Subsequently, Chapter Four mentions the abductions to or from non-Convention countries. Chapters Five and Six are provided to make the issue complete. The mutual relationship between The Hague Convention and the Convention on the Rights of a Child and the European Convention on Human Rights, respectively, is outlined. Chapter Seven examines relevant Czech procedural legislation relating to international child abductions.

Conclusions are drawn in Chapter Eight. The appropriateness of the Convention's concepts is evaluated and the significance of the Regulation is assessed. Finally, I suggest that the current legislation suits present-day needs, however the courts in contracting states should apply it in a more consistent and speedy manner.