

Practical case 2 in workshop three: Enforcement of judgments for the return of children. Relations between the press and the judiciary in abduction cases with media exposure: Practical guide. Good practice guide: Central authorities, application measures. Preventive measures and cross-border visitation rights.

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On 5th May 2007 Mr J Peak left the United Kingdom with his 9 year-old daughter for holidays in Spain, where he had lived since the beginning of 2007. The mother gave her consent to the trip, also taking into account that it was done during the visitation period that the judge had granted to the father in the judgment.

After the agreed time (one month) the father did not return the daughter, for which reason Mrs M Peak contacted her ex-husband who told her that he did not intend to return her as he noticed signs of psychological abuse in the child because Mrs Peak had become a member of a religious sect and was living with someone one would not recommend.

Mrs Peak contacted the Spanish central authority and commenced the proceedings to have her daughter returned.

After the trial, 6 months after the proceedings commenced, the Spanish judge announced a judgment in which the order was not to return the child as the psychologist from the Court and the judge considered that indeed the daughter had been subject to maybe not abuse but a traumatic situation related to the events that led to the father being suspicious.

The mother requested that an English judge review the case. After examining the appropriate proof the English judge ordered the child's return. The father approached the media and explained the case; he appealed to people's common sense to avoid the return of his daughter to a damaging environment.

Matters for discussion:

Can judges order preventive measures to prevent the father from retaining the daughter?

Is the reason given by the father justification for retaining the child?

Can the central authority say if it is in favour or against the return?

What kind of procedural document is necessary to apply for the return? What kind of procedural document will the court use for its response?

Can the Spanish judge refuse to return the child alleging that it is in the interest of the child?

What procedural instrument must be used to order the return of the child ordered by the English judge?

If the daughter does not return, what mechanisms can be used by the English judge to demand her return to the United Kingdom?

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