

BOUNCING BACK THE WELLBEING OF CHILDREN IN CASES OF INTERNATIONAL CHILD ABDUCTION

FULL LIST OF RECOMMENDATIONS FROM THE RESEARCH REPORT

Communicating with children in general

- In all conversations with children, professionals should be careful to interact with the necessary attention and genuine interest so that children feel respected and taken seriously.
- Irrespective of who speaks to the child (the judge, a mediator, a court officer, a guardian *ad litem*, psychologist or social worker), it is important that this person is trained to hear children and can take enough time for the conversation. Engaging in age-appropriate methods to communicate with children, such as play and drawings could facilitate the process. Professionals should do this in a manner and at a place that is comfortable for the children. Judges, mediators and other professionals should get the support of trained psychologists to discuss the conversations had with the children.

Hearing children in legal procedures following a parental abduction

- Legislation should not contain age limits for hearing the child. All children capable of forming and expressing their views, should be given an opportunity to be heard. Such capacity should be interpreted widely.
- Judges should have the scope to assess the child's best interests in individual cases. While a checklist may be helpful, it should never limit judges to take other elements into account.
- In deciding the case, the judge should take into consideration the fears of the child (e.g. loyalty conflict, grave risk...) and what would be best for the healthy development of the child. Similar considerations should be made by other professionals who hear the child and report to the judge and mediators. The judge could indicate in the judgement to what extent he/she will meet the needs, wishes and/or fears of the child upon (non)return.
- The judgement should be accessible to the child. If it is written in legal language, the judge, a mediator, a court officer, a guardian *ad litem*, psychologist or social worker should explain its content and reasons to the child.
- Judges, mediators and other professionals hearing children should exchange information and good practices on hearing children. Such exchanges can take place at national and international levels (for example: workshops with real cases; video workshops based on filmed mediation or interviews by psychologists or judges, etc.).
- Judges, mediators and other professionals should choose their words carefully when speaking to children. The term 'abduction' may cause additional trauma, but on the other hand, professionals should not underestimate the gravity of the incident.
- Judges, mediators and other professionals hearing the child should pay attention to the way in which the child experiences his or her circumstances, rather than to simple facts.
- Adults should be careful not to convey their own insecurities on children by patronising them or deciding on their behalf that being heard (in court) would be traumatic for them. Judges, mediators and other professionals should not be overly cautious to hear children from a concern of protecting them.

Giving appropriate weight to the child's views

- Children should receive adequate support to prepare them for a hearing. It should be communicated to the child, in appropriate language, that while the child's view is important, children do not bear the responsibility of deciding the case. Transparency about the hearing procedure, the child's role, the weight that can be given to the child's views as well as the role of the person hearing the child, can avoid disappointment and unrealistic expectations which may be harmful for the child's wellbeing.
- When assessing maturity, judges and other professionals hearing the child should take into account personality differences between children. Children who are shy, not self-confident or not as persuasive in their speaking and behavior should get equal chances to express their views in their own way, and have their views considered.
- How much weight is given to the views of the child should be a question of maturity rather than age of the child. Capacity and maturity should be carefully assessed on a case-by-case basis.
- Judges should be transparent in their decision about the weight that they gave to the child's views and their reasons in this regard. Also, if children were not heard, reasons for this decision should be communicated transparently. Similar transparency is required of other professionals who hear the child and report to the judge about this hearing, as well as towards mediators.

Supporting victims of a parental abduction

- Professionals should encourage parents to reach an amicable solution in the best interests of the child.
- Professional support should be available to children during and upon return (e.g. through a psychologist, social worker...). The judge could suggest this in the judgment as a requirement for the return of the child. Nevertheless, given the long-term effects of child abduction, it is equally important that professional support is available for children and their families after return. Organising a peer group could further help children to deal with their experience by giving and receiving support to or from others who have been through a similar situation.
- Arrest of a parent should be used as a last resort only, as this is very traumatic for children. When the parent is being arrested, especially in the presence of the children, transparent communication about what is going on and what will happen in the future is necessary.

Other recommendations

- Concentrated jurisdiction may strengthen judges' experience and know-how about hearing children.
- Judgments should be made publically available in all jurisdictions.
- Further cross-disciplinary and large-scale research is necessary on the (long-term) effects of international child abduction on children and parents.