

QUESTIONNAIRE ON PREVENTIVE MEASURES

Below is information from the Icelandic Central Authority on matters concerning preventive measures, cf. the permanent bureau's questionnaire.

I would like to use this opportunity to mention that a new Children's Act, has been accepted in our Parliament, and will come into effect November 1. The provisions mentioned below are unchanged in the new act.

A. LEGISLATION AND COURT ORDERS

1. According to Art. 39, Paragraph. 2, of the Law in Respect of Children, no. 20/1992, (*Art. 28, Paragraph 8, of the new Act, no. 76/2003*), one parent is prohibited to leave Iceland with the child without the other parent's approval, if the parents have joint custody. If the parent does not give his or her permission for the child to leave Iceland, the other parent can request that the agreement on joint custody is cancelled. This could lead to a custody dispute in which the judge would decide who gets sole custody of the child, based on the child's best interests. The judge could however, not make a decision on whether the parent should be permitted to leave Iceland with the child.
2. According to Art. 193. gr. of the General Penal Code, No. 19/1940 a person who abducts a child from the care of it's parent or other person who has legal custody of the child, or aids in such an abduction, shall be fined, or subject to imprisonment for up to 16 years or life.
3. According to Art. 39, Paragraph. 1, of the Law in Respect of Children, (*Art. 35, Paragraph 4, of the new Act, no. 76/2003*), a court of law may upon the request of either parent order that the child may not leave Iceland, in case a custody dispute has not been brought to a conclusion.
4. There are no court orders that can be obtained in emergency situations but according to the Child Protection Act, no. 80/2002, the chairman of a Child Protection Committee has to power to make decisions in an emergency situation, which subsequently have to be confirmed by the committee within 14 days. The chairman can in an emergency situation decide to remove a child from the custody of it's parent. Of course the child has to be in real danger and it is therefor unlikely that a threat of a wrongful removal would make the chairman act. This could probably only happen if it was obvious that the removal would endanger the child.
5. There are no provisions in Icelandic law that limits a parent's right to relocate within the country and as mentioned in A1. a judge can not decide whether a child should be permitted to move abroad with its parent.
6. No information is available on how frequently the above mentioned Art. 193 is put into effect but cases are certainly rare and abductors in "classical" abduction cases are normally not be prosecuted. However, we do have one case pending, in which the public prosecutor has issued an indictment, (just a few days ago). Unfortunately it will be weeks or months until

the case is decided on by the court. Article 39, Paragraph 1 of the Law in Respect of Children, is of course mostly relevant in cases where at least one of the parents is foreign, but also if one parent has asked to leave Iceland with the child, cf. A1.

B. BORDER CONTROLS

1. The rules relating to Icelandic passports are found in Act. No. 136/1998 and Regulation no. 624/1999. When the applicant is a minor both legal guardians/parents must sign the application for a national passport, only in cases where one of the guardians/parents is sick, absent or for any other reasons can not sign the application, an exception is made (proof must be submitted). If a passport has already been issued to a child, the concerned parent/guardian must obtain a travel ban (restraining order), cf. A3., towards the child leaving Iceland and if the request is granted the passport can be revoked. (if a travel ban/restraining order is obtained then police authorities at airports and seaports are notified in case someone tries to leave with the child).
2. Visa is not issued to an unaccompanied minor, unless one or both legal guardians hold a valid residence permit in Iceland and the minor is coming to visit. Visa is only issued to a minor if both legal guardians apply on the minor's behalf and at least one of them is accompanying the minor on his/her journey. If a visa is obtained by false or forged documents, the visa is revoked.
3. No
4. According to the Nordic Countries Agreement from 12th July 1957, Icelandic citizens can travel to the other Nordic Countries without a passport and without going through border controls. According to the Schengen Agreement from 19th June 1990 (entered into force in Iceland on the 25. march 2001) no border control is between the Schengen States but Icelandic Nationals need a passport if they intend to travel. Customs control is in force.
5. According to the above-mentioned Nordic Countries Agreement citizens of Denmark, Finland, Norway and Sweden can travel to Iceland without a passport and without going through border controls. According to the Schengen Agreement no border control is between the Schengen States and citizens of specific Schengen States can travel under identity cards, see Supplement 2 to the Regulation No. 53/2003 on foreigners. Customs control is in force.
6. If a travel ban/restraining order is obtained then the following authorities are notified: Directorate of Immigration (issues passports), police authorities and border control officers. At the international airport in Iceland biometrics surveillance system has been installed. If a photograph of a child is provided along with travel ban from a court, the system will be activated if the child enters the departure area of the airport.

7. Children under 12 years must be accompanied by an adult or arranged for escort of crew members, when escort is provided custodial parent needs to be involved.
8. This has happened very seldom in Iceland, one case every 5-10 years, i.e. that a child is stopped at the airport. The deterrent factor has however not been measured.

C. INFORMATION FOR PARENTS

- 1.-3. Information for parents especially on preventive measures has not been made available. The Icelandic Central Authority is preparing general information on the 1980 Convention to be put on the Ministry's web page and hopefully it will be available this summer.

Act on the Recognition and Enforcement of Foreign Decisions on the Custody of Children and the Return of Abducted Children, etc. No. 160,1995 and the Law in Respect of Children, with explanatory reports, is available on the Icelandic Parliament's and the Ministry's web pages, (the laws in English) and is therefor easily accessible and it should be noted that Internet access in Iceland rates among the highest in the world.

It should also be added here that due to the small size of our population people can very easily get in contact with the staff at the Ministry and get help, guidance and information on matters regarding the Convention as well as other matters. One can say that it is general practice for the public to be in direct and personal contact with the Ministry's staff. (The public and lawyers, who need answers, simply pick up the telephone and most of the lawyers who handle Hague cases are acquainted with the lawyers in the Central Authority..)

D. TRAINING AND EDUCATION FOR PROFESSIONALS

- 1.-4. No special training and education has been provided so far for professionals regarding preventive measures.

E. PUBLICITY

- 1.-3. As mentioned before not much work has been done so far as to publicise the Convention or the work of the Central Authority, but when the new Law in Respect of Children comes into force next November a lot of information will be put on our web page for the public and professionals. The Central Authority will also give seminars for lawyers and judges and administrative bodies, and included will be coverage of issues regarding the Convention. As for publicity in general we will rely mostly on the Internet.

F. CO-OPERATION

- 1.-4. The Central Authority is not aware of co-operative agreements with regard to preventive measures.

G. OTHER INFORMATION

- 1.-3. Unfortunately the Central Authority can not provide for other information which may be relevant.