

ANSWERS TO QUESTIONNAIRE ON PREVENTIVE MEASURES

QUESTIONS

A) LEGISLATIONS AND COURT ORDERS

1) Most of the cases related to abduction of minors occur when the parent that has the custody of the child, leaves his usual country of residence to return to his country of origin or moves to another State, in this manner depriving the other parent from exercising his visitation rights. The Panamanian legislation establishes that when there is non-compliance in the custody agreement, the judge may change the Resolution, without prejudice of the criminal responsibility originated by the conduct herein mentioned. Likewise, those parents that in compliance with their visitation rights retain their children, without the previous consent of the parent that has custody, shall be in contempt of the Court, and the affected parent has the right to order the arrest of the non-complying parent, in the event that the children are not returned to the parent who has legal custody.

2) The parent suffering the aggravation may present a criminal action based on psychological or domestic violence, in the event that a previous child custody and visitation agreement exists. The affected parent may also denounce the abducting parent and declare that he is in contempt and requests his arrest.

3) Within the processes of custody, visitation rights, or divorce, the Judge, upon petition of one of the parties, may consider that there are risk factors indicating that one of the parties may take the minors out of the country, and therefore orders restrictions preventing the minors from leaving the country.

4) Does not exist in our legislation.

5) In reference to relocation orders, the primary interest of the child should have priority in these decisions, considering his age, maturity, also, asking the child what are his preferences.

6) It is important to point out that these measures are currently established in legislative provisions, and their effectiveness, and practices depends on each case. On many occasions, if one of the

parents intends to take the minor out of the country, he will do all that the can to avoid the authorities, or he will find a way out that has no migratory obstacle for leaving the country (for example, in our country, using the maritime route).

B. BORDER CONTROLS

1) In our legislation, it is illegal for a judicial authority to retain the passport of an individual, except when the individual is detained for investigation.

2) There are no rules or procedures in this regard.

3) There are no inconveniences.

4) No

5) The Panamanian immigration authorities do not allow the entrance of foreigners into the country without a passport

6) Once the judicial authority orders departure restriction, this action is immediately communicated to the National Immigration Directorate, who, in turn, issues the alert to the different airports, and borders of the country. It is important to point out that only the Attorney General Office and the Judiciary may issue orders to prevent a party from leaving the country.

7) There are no controls, because the minors may leave the country with only one of his parents.

8) No.

C. INFORMATION FOR PARENTS

1) In the web page of the Ministry of Foreign Affairs, www.mire.gob.pa, in the link "Legal Department and Treaties", you may find the topic of international abduction of minors, with the requirements, and applicable laws. Nevertheless, there are no preventive measures or advices on abduction.

2) The web page was updated on January 2003, thus the information is recent.

3) No.

D. TRAINING AND EDUCATION FOR PROFESSIONALS

- 1) We have given seminars to lawyers and judges dictated by personnel of the central authority, to assist them in obtaining a better understanding of the Agreement.
- 2) Personnel of the Central Authority of Panama.
- 3) Through seminars that started on 2,000 once the Agreement was approved.
- 4) NO.

E. PUBLICITY

- 1) Through the media and television programs presenting specific cases, through presentations prepared by personnel of the central authority explaining the requisites and procedures required for restitution requests.
- 2) Only those mentioned above.
- 3) The publicity has been effective, because the affected parent now appears before the central authority, once he is aware that the child has been removed, or he suspects that the other parent is retaining the child illegally.

F. CO-OPERATION

- 1) There are no formal agreements; they are based on co-operation among government institutions, such as the National Police, Immigration Office, and INTERPOL-Panama, among others.
- 2) No.
- 3) By Law, only the Central Authority may request support from other government institutions.
- 4) On the petitions for international restitution, the Panamanian central authority works in conjunction with other administrative or judicial agencies, based on co-operation for the purpose of defending the primary interest of the children.

F.OTHER INFORMATION

- 1) We do not have.
- 2) The judicial authority, through Children and Juvenile Courts, who are responsible of processing international restitution.
- 3) All the countries should unite, in order to draw a document of general consensus, whereby measures are given to prevent the international abduction. If this document is drawn, it should present the practical experiences of different countries, so that other countries may utilize them in their own legislations.