



Report of the INCLUDE Conference: Child-friendly procedures in cases of international child abduction

„We are not just supporting actors in this story“

Brussels, 2021





Speakers:

Rafaella Georgiou

'Hope for Children' CRC Policy Center, Cyprus

Rafaella Georgiou is a Lawyer working at ['Hope for Children' CRC Policy Center](#) as a Project Officer of the Justice & Fundamental Rights Unit.

Barbara Németh

Hintalovon Child Rights Foundation, Hungary

Barbara Németh is the head of Child Participation Program at [Hintalovon Foundation](#) and a PhD student at [Eotvos Lorand University](#). She is a psychologist, working with and for children. Since 2012, she has facilitated and promoted the participation of children in research, public decision making and child rights advocacy. In the INCLUDE project, she was responsible for developing the research methodology and the involvement of children in Hungary.

Thalia Kruger

Antwerp University

Thalia Kruger is professor of private international law and international family law at the [University of Antwerp](#). She is participating in several European research projects in these fields, has participated in an expert group of the European Commission and worked on reports for the European Parliament. She has published on international child abduction and international childcare.

Sara Lembrechts

Ghent University

Sara Lembrechts has been involved as a researcher at [University of Antwerp](#) in various projects on international child abduction. Under supervision of Thalia Kruger and Wouter Vandenhole, she contributed to [EWELL](#), [VOICE](#) and now [INCLUDE](#) since 2016. She has a multidisciplinary background in international law, children's rights and childhood studies and has been professionally active in these fields for about 10 years. Since September 2020, Sara pursues a PhD in migration law at [Ghent University](#).

Wouter Vandenhole

Antwerp University

Wouter Vandenhole is a human rights and law-and-development scholar. He holds the human rights chair at the Law Faculty of the [University of Antwerp](#) and is a member of the [Law and Development Research Group](#). Between 2007 and 2018, he held the [UNICEF Chair in Children's Rights](#). Between 2013 and 2018, he directed the Law and Development research group. He is now vice-dean of research at the Faculty of Law at the University of Antwerp.





Aagje leven

Missing Children Europe

Aagje leven is a Secretary General at [Missing Children Europe](#), where she is responsible for the strategic development and day-to-day management of the organization.

She has a background in Health (Bachelor, Leuven 1998) and Political Philosophy (Master, Leuven, and Nijmegen, 2002). For over 10 years she has worked for several EU civil society organisations as a policy analyst and advocate for the rights and wellbeing of children and their families. She used to coordinate advocacy campaigns for the rights of children in vulnerable situations and manage a European membership network supporting families affected by mental health issues.

Panel speakers

Tijana Kokic

Judge for more than 20 years, over last 10 years working only on family cases, last 2 years Head of the Family department at the Municipal civil court in Zagreb. Croatian Judicial Academy trainer, EJM and IHNJ Croatian Judge for family cases, member of EUFAM's I and II project and lot of similar projects.

Hilde Melotte

Lawyer and (cross border) Mediator in Leuven.

Fanni Murányi

Hungarian Ombudsman's Office

Legal advisor at the Department of Children's Rights in the Hungarian Ombudsman's Office. She is also a PhD researcher – her research aims at providing a legal analysis of children's rights in parental child abduction, highlighting the involvement of children in the court and during cross-border mediation proceedings from a comparative perspective (The Netherlands, Hungary).

Anneke van Teijlingen

Guardian ad litem, CBFM Mediator.





About INCLUDE

International child abductions (ICA) confront children with several challenges: conflict, separation, exclusion from significant decisions, confrontation with the justice system and the necessity to (re)integrate in a new environment. To minimise harm and maximise the wellbeing of children and their families throughout all phases of an ICA process, rights-respecting responses from professionals and authorities are crucial.

The aim of the conference was to present the Guide to Good Practice - the result of research conducted during a two-year long project in partnership with children and young people on what they consider to be 'good practice' in the context of ICA. The results of their research and the Guide to Good Practice formed the basis for further discussion in workshops during the conference and in the expert panel consisting of different professions (including a Judge, Lawyer, Guardian ad litem and national authority involved in ICA proceedings). Thanks to research the children's needs and expectations were revealed. The next step is to answer the question on how to implement children's rights in ICA-proceedings.



Opening by Aagje Ieven

The INCLUDE project aims to show the results of research in the form of a set of good practices, conducted by children and young persons. In former projects of Missing Children Europe, a large-scale study on the wellbeing of children and families was carried out. The results of those projects showed that it is important not only to hear children in ICA-proceedings, but also to focus on "how" it is done, namely how adults communicate with children and how young people are being treated by the professionals. The young researchers in the INCLUDE project put an extreme effort to answer these questions. The result of their work is the Guide to good practice. During this conference we hope to familiarise the audience with the Guide: present you how to use it and invite you to share it with your networks.



Presentations

Speaker: Rafaella Georgiou, Hope for Children (CRC Policy Center)

It is extremely important to involve children in the research on good practices in international child abductions for a better and more child-friendly case-handling, proceeding and enforcement of decisions in cross-border family disputes. Within the INCLUDE project children were recognised as experts on their matters. With their view and opinions, they became a fundamental part of the research team. Therefore, the project was divided in two phases:

1. Development of the literature study (conducted by the University of Antwerp) which was focused on an overview of the already existing measures and practices on this topic.

2. Designing of a methodology to enrol child participation as a tool to create the good practice guide (conducted by Hintalovon).

The children's participation has been arranged in two forms:

- 1) Drama groups which used simplified scenarios that had a resemblance in nature to international child abduction but were less unsettling. The sessions allowed children to reckon on specific elements of their wellbeing and made it possible to narrow the focus necessary to formulate examples of good practices.
- 2) Child ambassadors' sessions in which children and young people participated in different drama sessions to discuss the findings of the drama groups. The participants shared their impressions and recommendations regarding ICA-cases that were conducted by a parent and how professionals could better involve and safeguard children and young persons involved.



The outcome of the focus groups led to a set of ideas and recommendations that have been presented to the Steering Committee - a team of legal professionals who deal with ICA-cases in their daily practice. Thanks to the joint effort of the children and the Steering Committee, the University of Antwerp had a chance to develop the Guide to Good Practice for professionals, with the aim of improving the situation of children involved in ICA cases conducted by a parent and guaranteeing a more child-friendly enforcement on return decisions.

Children's Perspective on the wellbeing of abducted children

Speakers: Barbara Németh, Hintalovon and Child Ambassadors

The child rights' Ambassadors from Hintalovon, Rebeka Kerék, Elza Parti-Nagy, Dóra Klinger were a part of the main participant groups of the project. As observers and advisors, the young researchers participated in more than 20 sessions. The aim of their research was to gain a better understanding of children's positions and needs in the case of ICA and to focus on issues that are crucial to their wellbeing. It provided the answer to the question, what the need of children and young persons are, when experiencing ICA.

The researchers identified the following risks for children and young persons in ICA-cases:

- Unexpected experience or sudden information about significant decisions
- No possibility to be part of the decisions
- Separation from one of the parents and relatives
- Difficulties in adjusting to the new situation
- Feeling of being betrayed, damaging the trust to parents or adults in general
- Difficulties to understand, what is happening, remaining alone with their questions
- Hesitation about speaking up
- Facing vulnerable situations, where a child's future depends on others



Core message that the researchers shared: Child participation should be supported at all levels and not only through words, but also by action. Children should have the right to express their views in ICA-cases and their views should be taken into consideration. Sharing



information and discussing the situation with children should be fundamental. It is also important to have in mind that professionals are seen differently by children than parents and children's behaviour with authority figures is shaped by their earlier experience. Furthermore, emphasis should be made on the underlying themes of ICA and primary prevention should be also supported. Finally, the children's need for their parents to control the situation and take responsibility should not be underestimated.

A Guide to Good Practice for Professionals involved in International Child Abductions

Speaker: Sara Lembrechts, University of Antwerp, Belgium

The main thematic areas of the Guide focus on Interaction style, Information and dialogue, Relationships of trust and affection, Supporting adults and Rights-respecting return. The paper is based on the views of 44 children and young people from Hungary, Cyprus, and Belgium, who participated in the INCLUDE project. The findings for each topic area provided guidance for adults in working with children.



Main conclusions: While dealing with children and young persons **it is necessary to adopt a high-quality communication style, to be clear about the degree of influence children and young people can have, to acknowledge the adults' own mistakes, to ensure that children and young people can benefit from a safe and secure network of professionals involved in the process, and to inform children about the decision on their matters in a respectful and secure way.** Furthermore, it is important to keep in mind that adults need to be clear about the degree of influence children can have on their case. The same goes for the role of the professionals. Proper information must be also provided at the right time and in the right form.

Q&A session

The presentation was followed by the Q&A session

Q: One of the recommendations that emphasis should be made on the underlying mechanism of ICA is extremely broad. What mechanisms are they?

A: Child Rights Ambassadors: Official bodies and Judges should be open and listen to me, mentors would also be helpful.

Q: One of the conclusions was "not only to support young adults and children by words, but also by acting". Can you give an idea of what kind of support would be needed?

A: Barbara Németh: In the Guide you will find examples of concrete actions. The reason it is not easy to answer is that it depends on so many issues. Children arrive at these situations with prejudices and preconceptions about authorities which makes it more difficult to establish a relationship of trust. Verbal expression of respect is easy but not enough. Professionals need to work also outside of the courtroom.





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Q: How professionals can ensure continuity in their conversation with children if they are only involved in small part of the proceeding. Is it possible?

A: Sara Lembrechts: We noticed this as one of the procedural gaps that indeed many professionals feel like they are “disconnected islands.” A safety net or consolidation of cooperation would be a recommendation for policy makers. In addition, it can add up to trust issues.

Q: In ICA-cases there are lots of children younger than ten. Have age-sensitive practices been considered in the Guide?

A: Sara Lembrechts: All recommendations are based on the views of children over 10 years old and the Guide does not address the issue of age differentiation. From the point of view of child rights, we should also involve all children. We can make a distinction between children who read or write but the rest is up to individual assessment. Every single professional involved with the child should be making this assessment.

Q: Siblings should not be separated but you must consider the specific situation of the child. This is a problem not only in child abduction but also in any other proceedings concerning children.

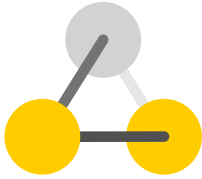
A: Sara Lembrechts: The issue reappears in the Guide in the way in which the family unity should be addressed: keeping children together is one aspect of best interest of the child but hearing children is another one. In some cases, being separate might be better for them – individual, context dependant assessment.

Q: Could you specify the advice about building a national structure to meet the needs of children?

A: Sara and Thalía: It is more of a policy recommendation. Especially if the child returns, there is the question, how to ensure follow up in the country? We need a network to ensure such cooperation and safeguarding.



Break-out sessions:



For the break-out sessions the audience was divided into small groups of 5-6 people. The objective was to briefly discuss one of the following recommendations from the Guide to Good Practice.

1. Interaction style – Be clear about the degree of influence children and young people can have.
2. Interaction style – Accept and accommodate children and young people’s emotions and behaviour.
3. Information and dialogue - Adopt a high-quality communication style when informing children and young people.
4. Information and dialogue – Ensure continuity and ongoing conversation throughout the abduction.
5. Relationships of trust and affection – Acknowledge mistakes.
6. Relationships of trust and affection – Ensure enough stability for children and young people in challenging circumstances.
7. Supporting adults – Give children and young people a voice concerning the type and details of support.
8. Supporting adults – Carefully manage children and young people’s expectations about the role, limitations, and possibilities of professional support.
9. Rights-respecting return – Formulate return orders timely, as detailed as possible and in a child-friendly manner.
10. Rights-respecting return – Inform children and young people about the decision in a respectful and secure way.

The participants were asked to consider the following questions concerning their topics:

- What does this recommendation imply for your professional context?
- What obstacles do you see in implementing this recommendation?
- What works well in your experience?

The discussion served as a preparation for the workshop session on “Getting started with the Guide to Good Practice” by Sara Lambrechts.



Parallel Workshops

For the parallel workshops, the audience was divided into three groups. To make the groups smaller and more convenient for the participants and the speakers, especially the young researchers from Hintalovon, all three workshops were repeated the following day. The following sections include a compiled summary and conclusions from day one and two.



Workshop 1

Children's perspectives – Barbara Németh, Hinalovon Hungary

During the workshop, the audience discussed the first meeting with a child in international child abduction cases. The questions for the participants concerned the description of the situation at the first meeting with a child in an ICA-case, sharing good practices and challenging experiences, and describing children's attitudes towards professionals.

The participants shared their experience and discussed single cases, they encountered. Some shared positive stories, others claimed it could be incredibly stressful and awkward to face a child in a process. As it turned out, children are not the only ones who struggle during those confrontations. For the professionals it may also be challenging as they bear a great responsibility to make the child feel being an important player in an ICA-case.

The attitudes of children during first meeting differ – some are shy and hesitant, others are open. The participants shared that a lot depends on the professionals. To overcome those difficulties, they need to be as friendly as possible, patient, they need to listen, speak clearly, and mind that the child is in an inconvenient situation. The discussion led to the question, if it is possible to approach children without psychological background or training. There is no clear answer to this question - it is something that can be learnt, and any dedicated training is useful.

However, regardless having psychological background or training, it is necessary to show empathy and to be authentic when confronting a child. Professionals should also be aware that it is perfectly normal that at first children may not want to talk and the process of disclosure may be longer than expected.

As ICA-victims undergo several stressful situations, it is crucial to understand their feelings using a child-centric perspective. Due to the high number of people involved, children are far more vulnerable than, by comparison, in national divorce cases.

Another interesting finding from the drama research was that when children were asked to confront the parents, they refused and kept the parents' side. The conclusion is that it is hard for children to understand that the abducting parent is doing something wrong and illegal. Even if parents do something against the child, they remain the most important people in the child's life.

It should be remembered that the guidelines provided within the INCLUDE-project are only a first step to build something that will change the approach when dealing with victims of international child abduction in future. The research emphasized the need to take care about the children as they are subjects to law and the most important persons to consider during an ICA.

Summarizing the workshops, the following conclusion emerged: in ICA-cases it is not only children who are in a demanding situation, but also professionals: it is challenging to take children's views into consideration. Also, for professionals, those confrontations can be frustrating. It is their





responsibility to express their curiosity towards the children not only with words; they must engage beyond that. The project and the applied research methodology of involving children in the research and in the interpretation of its results is a fantastic opportunity for professionals to change their approach in future. The corresponding country report and the methodology description are available on the [INCLUDE](#) website.

Workshop 2

Getting started on the Guide to Good Practice – Sara Lembrechts & Thalia Kruger, University of Antwerp, Belgium

The following issue was addressed during the workshop: In ICA-cases children are in the very centre of the procedures but they are not parties – the parents are. This makes it difficult for children and for the professionals; young people do not want to receive information only via their parents, they want to be addressed directly by the person who decides about their matters. On the other hand, Judges are not legally obliged to confront nor address the child. It is not the Lawyer's role to ensure a bridge towards the child requires another party. Also, it is not the Judge's role – they write a judgement for the parties which are the parents, not for the children. Writing something "for the child" would be additional work and without legal obligation it will be difficult to encourage Judges to do that. Therefore, there is a lot of work needed to find a "bridge" between the needs of the child and the legal regulations.

One of the participants shared her approach in ICA-cases: In Germany mediators try their best to talk to parents to ask them and understand from the child's perspective. Some parents can though some cannot. Another helpful approach is to try to encourage parents, to put themselves in the child's shoes and imagine how their child will look back at this situation in future.

There is a need for training but not so much training in legal procedures as they are trained Lawyers. Lawyers need to be trained on how to understand young people's feelings and be empathetic to their situations.

The discussion brought up the reflection, that it is important to listen to children, but there is also a downside on it: children may expect, that now that somebody listens to them, the outcome should be as they expect. It may also be difficult to find out what the wishes of the children in ICA-cases are as often they do not know it themselves. For a child friendly way of receiving this information it may be helpful to talk to children about their daily lives, what is important to them on daily bases and make your conclusions there. As professionals need to be careful when hearing children, the Guide will be immensely helpful there.

Another important question was how to ensure continuity and how to keep contact with the children/inform them sufficiently. It might be helpful to have somebody who guides the child from the beginning till the end (first and second instance), to give feedback on the outcome of the hearings and explain the relevant parts. It would also be preferable, if for example a child should return – that the follow up should be the responsibility of the following country after returning. But





then there is the question regarding the communication afterwards – how to ensure it? As it is the responsibility of the parent, a possibility would be to even force the parents to go into mediation to plan in the interest of the child for the future, and how the child could be informed in a proper way on what is happening. Then again – who should take this obligation?

Workshop 3

Policy recommendations – Aagje leven, Missing Children Europe

While developing the Guide for Good Practice, children and researchers produced some recommendations that would not be possible for practitioners to apply - six such areas were identified. The conference was an opportunity to discuss the priorities, what the next steps in advocacy efforts should be: Training of professionals, Awareness raising, Child participation, Cross border networks, Family support and Research.

After the brief introduction, the participants shared their opinion on the recommendations. The answers differed from being helpful and making a lot of sense, to being ambitious and difficult to put into practice. The participants identified diverse barriers, like Judges lacking training in listening to children, difficulties to get all professionals working in the best interest of children, missing trainings for mediators, lack of resources, lack of horizontal practice, etc.

The topic of the workshop was the policy recommendation “Child participation”, which states that all judgement concerning children and young persons should be made accessible to them. The main Barriers to the implementation of the recommendation is the openness of legal system and of Judges. In many countries (Croatia, Italy, Poland, USA) Judges are not trained in a proper way to deal with cases involving children. Judges mere focus is to apply law, but they do not receive multidisciplinary training. Much depends on the sensitivity of the Judge. Moreover, the judgements are not written in a child friendly language, therefore, it is not understandable to the children. Sometimes it is not clear, who will inform the child about the judgement: sometimes it is the Judge, another time a social worker, the parents, sometimes – nobody. These are the main problems.



How to overcome the challenges?

As a solution multidisciplinary training for Judges were discussed. Children should be informed in a child-friendly way about separate phases of the proceedings (they are aware and capable of understanding), should be written in a plain and child friendly way (mandatory): using drawings, involving hotlines in translations, importance of psychological support for children, children must be represented in court and seen as important actors in the story (e.g., Guardian ad litem in the NL as best practice).

The extra work for the Judges needs to be made mandatory and children need to be made parties in these conflicts, they need to be represented as a party sui generis and in court.





In terms of training – we discussed how to speak to children who are younger than 12, the role of hotlines and the need to support children. How to make family support sustainable across borders (one person who can follow up the case, or two people working together in two countries). The participants shared ideas on how to develop a network that can stimulate the cross-border support.

The audience extensively discussed another topic of child participation – it is not only about the Judge communicating to children, but also being aware of their rights. It is particularly important to give children the information on how to act when in contact with the law in any kind of way. The 116 000 hotlines could play a crucial role here – a notable example of one of the hotlines goes to schools and talks to children. A reflection on that is that this kind of education should be part of basic citizenship education. As a citizen you need to be aware of your rights and who to turn to when you for example conflict with the law.

Finally – the participants discussed the awareness of the impact of child abduction: public awareness, awareness amongst Judges and the parents, what a life-long trauma it is. This ties also to the recommendation on further research: more research should be done on the lifelong impact – research with children and with adults, who experienced ICA.



Implementing children's rights in international child abduction procedures - Panel facilitated by Wouter Vandenhole, University of Antwerp, Belgium



Question 1: how can this right of children to be adequately informed be realised in your daily practice?

Tijana Kokić, Judge at the Municipal civil court in Zagreb, Croatia, Head of the Family department

In Croatia from 2019 my court is the only centralised court for child abduction cases. In Croatia's family law there is an obligation, that a child is sui generis a party in all cases regarding children. In that way the child is always represented in court by parents or a special guardian (like Guardian ad litem), who is independent of other parties in the procedures. Those persons are Lawyers, who do not have any special multidisciplinary trainings, so they need more trainings on talking to children. This is still a barrier today, which is not functioning very well.

Another legal obligation is to inform children about the case. Children have the right to openly say what they have to say – secure from other participants (informal talk in a separate room with the Judge, Psychologist, and a special guardian of the child. If the child is older than 14 – without a psychologist). A note on hearing a child is put in the case files, but no details are written down and therefore revealed.





Problem: We cannot choose the way in which we talk with the children, the child needs to be heard. Most of my colleagues choose the – social workers, special guardian and not the Judge. It is beneficial when the child speaks with the Judge (know the person and not just the name). From my experience children tend to be open with the Judge and want to talk. Croatia has good legal solutions prescribed – a child always must be informed and heard, to be represented by a guardian. But unfortunately, the child is not involved in the mediation process before or during the court procedure – which is not a helpful solution. Even if both parents take part in the mediation process, the child does not participate.

Anneke van Teijlingen Guardian ad litem, CBFM Mediator

Since July 2017 in the Netherlands children are heard by Guardians ad litem and by Judges. It is good for children, as they can see, who is going to make those important decisions. On the other hand, it is exceedingly difficult and complicated for them to understand, what is happening. In my first ICA case I learnt, how important it is for the child to have somebody next to them who explains what is happening. I assist the child with their conversations with the Judge (95% of cases children want me to be there). The voice of the child has been heard without giving the child responsibility for anything in this case.

Fanni Murányi, legal advisor at the Department of Children's Rights in the Hungarian Ombudsman's Office

Year by year the Ombudsman's Office receives a growing number of complaints related to child abduction cases, so we initiated a comprehensive investigation into parental child abduction cases (the report was published in February 2018, giving an overview about the legal and practical situation). The court may appoint Guardian ad litem but it is part of the discretionary power of the Judge. The Guardian ad litem may ask questions during the hearing. In 2019 I conducted interviews with Hungarian Judges – appointing of such guardians is quite rare. However, the Guardian ad litem would be responsible for informing children on what is happening to them. He or she is a third, independent person able to establish trustful relationship with the child to represent their best interest during the proceedings. The negative side and the missing point in Hungary are, that the child does not get any feedback on how the court decision was made – it is the biggest problem in the whole procedure, as it would be essential to have this information explained in a very understandable way, according to the maturity level of the child. My recommendation would be, that the Guardian ad litem was more involved (supporting both - the child and the judge in a child friendly communication). The Guardian ad litem could be the bridge between the child and the engaged institution in ICA-cases.

Hilde Melotte Lawyer and (cross border) mediator in Leuven

Every child is entitled to be heard and to receive an explanation, what is happening to them. The decision needs to be written in plain language. The child should be supported by somebody during the entire process (in Belgium we have specialised Lawyers). You need to be creative – use drawings to explain things to children. In the end, if the conflict is strong the child should be





represented before court as in some cases parents are not able to see the interest of their children anymore.



Question 2: relationship of trust with adults that they do not know – how to enhance children’s trust in legal procedures and authorities?

Fanni Murányi: I would put more emphasis on the hearing procedure: Judges have the crucial role during the hearing, therefore training and techniques to reduce the pressure on children is necessary. Children experience a lot of pressure during the time before, during and after the abduction. Interprofessional cooperation is necessary, network of stakeholders (Judges, Social workers, Mediators etc.) should be strengthened to improve the exchange of knowledge and experiences. Training would be of significant importance if it is about developing children’s trust towards the professional actors involved.

Anneke: From my point of view accessibility is especially important. I always give children my phone number and I have lots of conversations with children via WhatsApp. The child needs to feel that you are not judging one of the parents but are focused on what is good for the child. You need to be there just for the child – that is how you help to build trust.

Hilde: For stress reduction children need to have the feeling, they are considered. They will be heard in a proper way and entitled to feedback. Feeling of loss of control should be taken seriously.

Tijana: Training is necessary – not only for Judges, but for everybody involved in the process of child abduction cases.

To make a child feel safe and ready to speak freely it is necessary to build confidentiality. The child needs to know that the conversation is confidential. This confidentiality cannot be built in the court by the Judge. It is crucial to prepare the child for the confrontation by the person connecting the child with the Judge or the authority. Furthermore, the Judge him- or herself needs to be open and listen to the child. So, there are two major points for a good result: preparation and training.



Questions 3 and 4: What are the key elements in constructing this abstract notion of “best interest of the child” and what role does the hearing of the child play in defining the best interest of the child?

Anneke: We can only determine it in retrospective, but we must make these decisions. Sometimes I would like to have the sentence taken out of the pleas - I have to assume that all parents and their Lawyers want the best interest of the child. I can give the Judge a picture: this is what the child wants now, what seems to be best now. Some ground rules: the child needs to be heard, to





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be taken seriously, should not be made responsible, should be allowed to be sad or mad about the situation.

Hilde: The danger is, that the child is not able to continue your relationship with parents in an equal way. I think, that in this kind of cases the most important consideration is the hope to help children have that life with both parents. The point of view of the child makes the story more complete and can help the Judges and other professionals to find the best solution, that fits everyone.

Tijana: “The best interest of the child” is a nightmare for Judges, because it is not a legal category. Best interest of the child can be different for two children in the same family – we need to deal with each case individually. In complex cases the child’s voice is particularly important as they can explain the entire situation – children do not make the choice though. The burden of choice lays on the parents and their agreement, or on the court. Children should not bear the burden of making that important choice. Advice for better finding the best interest of the child is to search for openness in the parents: which one is more open and focused on the child? But in parental abductions we do not decide on parental responsibility.

Fanni: We use the concept of “best interest of the child” in everyday language, but we do not really know what it means. It is not a general context, because we are talking about unique children, thus we cannot generalise. I was asking Hungarian Judges about the relation between best interest of the child and the hearing procedure and there was no consensus on the topic. In my view: it is about the possibility to exercise the right of the child to be heard by the Judge (without making it mandatory) – in some cases the child does not wish to be heard, sometimes only by the Judge, sometimes only by the Guardian ad litem. We need also to mention the time limits: in my experience it is difficult to reach the decision within six weeks. Therefore, a very well organised procedure of the hearing is necessary.

Voice from the audience:

Ilaria Prete:

I just wanted to add, that it is difficult to understand the situation of an ICA, as usually both parents are blamed for the high conflict divorce, therefore the legal time frames are short. It is difficult to understand, if there is manipulation on one side and where the truth lies. Sometimes Lawyers are not helping – they tend to overprotect the interest of their client, fuelling the conflict. Based on your experience are indeed both parents to blame equally for the conflict? Maybe we should abandon the neutral approach” towards the parents.

Hilde: we must not underestimate the stress caused by divorce for parents. It is often a reason, why they are not able to understand see things clear anymore, to see what is in best interest of their child. Lawyers can have a key role to explain these things to the parents and to search with them for the best solution.





Anneke: regarding the question, who is to blame – we should look for the guilty one. There are very few cases, where only one of the parents gets the blame. We do not help children by telling them, who is guilty of the situation. Instead, we need to focus on making things less hard for children.

Fanni: Asking the child to choose between the parents is a question that gets the child in an impossible situation to decide. For Judges, it is a banned question - they should not ask children which parent or in which country would they prefer to live.

Tijana: Not every child abduction case is due to a divorce. On the example of Croatians leaving for Western Europe: there are cases, when one of the parents due to economic reasons, decides to go back and take children with them (even if the children are already socialized in the new country). From case to case the circumstances are quite different, and it is not always about the conflict between the parents. It is extremely hard to find out the reason and to decide. The recommendations from the Guide to good practice is another step forward.



Final conclusions by Thalia Kruger

Working with children is like reading and drafting a book - there are no “blank pages”: neither the participants nor professionals have an objective view on things. Young people, based on their previous experiences, might distrust authorities, or have difficulties talking to them. Therefore, it is important to allocate time to listen to children and keep an open mind even during time-sensitive cases. Furthermore, it is necessary to be clear towards children about what they can or cannot do. It should be avoided to give children the idea that the choice in their case is in their hands. There is a great need for interdisciplinary training and seeing other perspectives, empathy and feeling. Lawyers tend to generalise and make it all about law. It is important to stay conscious of all dimensions and nuances as we continuously keep learning.

