SC 1980 ABDUCTION & 1996 CHILD PROTECTION

OCTOBER 2023

INFO. DOC. NO 6

Title	"A mistake waiting to happen: the failure to correct the Guide to Good Practice on Article 13(1)(b)" – Article by Professor Rhona Schuz and Professor Merle Weiner
Document	Info. Doc. No 6 of October 2023
Author	PB
Agenda Item	VII.3
Mandate(s)	N/A
Objective	To share the article "A mistake waiting to happen: the failure to correct the Guide to Good Practice on Article 13(1)(b)" written by Professor Rhona Schuz and Professor Merle Weiner, published in 2020.
Action to be Taken	For Decision ☐ For Approval ☐ For Discussion ☐ For Action / Completion ☐ For Information ☒
Annexes	N/A
Related Documents	N/A

A mistake waiting to happen: the failure to correct the *Guide to Good Practice on Article 13(1)(b)*

Rhona Schuz, *Professor of Law and Co-Director, Center for the Rights of the Child and the Family, The Academic College for Law and Science, Israel; Adjunct Professor, Faculty of Law, Bar Ilan University, Israel*
Merle Weiner, *Philip H Knight Professor of Law, University of Oregon, USA*

Introduction

After 8 years in the making, the *Guide to Good Practice on Article 13(1)(b)* of the 1980 Hague Convention on the Civil Aspects of International Child Abduction[1] has now been officially released.[2] The *Guide* provides guidance on the interpretation and application of article 13(1)(b) of the Convention, which contains one of the exceptions to Art 12's remedy of mandatory return, and is commonly known as the 'grave risk' exception. Article 13(1)(b) allows a court to refuse return of the child if 'there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.'

The *Guide* is intended to help both judges adjudicating Convention cases and Central Authorities dealing with incoming and outgoing Convention applications. However, as explained below, the addition of a new misleading sentence at a late stage of drafting the *Guide* may lead to a result that was not intended, defeat the purpose which the *Guide* was intended to serve, and be contrary to the intentions of the Working Group appointed to craft it. We hope that by bringing this issue to the attention of the international legal community who are involved in the operation of the Convention, we can avoid this sentence being misunderstood. Indeed, a lawyer in New Zealand informed us that he has already relied on a shorter version of this article, previously published online,[3] in his successful appellate submissions in a case involving domestic violence.[4]

Background to the *Guide*

For many years, concern has been expressed by experts about the application of the Abduction Convention in situations where the parent requesting return of the child had been violent towards the taking parent and therefore a return order might result in the taking parent and the child being exposed to further harm.[5] Much of this concern was focused on the unwillingness of many courts

1 Convention on the Civil Aspects of International Child Abduction, Oct 25, 1980, T.I.A.S. No. 11670, 1343 UNTS 89 [hereafter 'Abduction Convention'].
2 For announcement and link to the *Guide*, see https://www.hcch.net/en/news-archive/details/?varevent=725
3 R Schuz and M Weiner, A Small Change that Matters: The Article 13(1)(b) Guide to Good Practice, Lexis-Nexis, 21 January 2020
4 *LRR v COL* [2020] NZCA 89 (judgment of 3.4.20), The New Zealand Court of Appeal has not yet handed down its reasons. Appellant lawyer's submissions ,kindly provided by Counsel Ben Keith, are on file with the authors.
5 See, eg C Bruch, 'The Unmet Needs of Domestic Violence Victims and their Children in Hague Child Abduction Convention Cases' (2004) 38 *Family Law Quarterly* 529; M Kaye, 'The Hague Convention and the Flight from Domestic Violence: How Women and Children are Being Returned by Coach and Four' (1999) 13 *International Journal of Law, Policy and the Family* 191; M Weiner, 'International Child Abduction and the Escape from Domestic Violence' (2000) 69 *Fordham Law Review* 593; R Hoegger, 'What If She Leaves? Domestic Violence Cases under the Hague Convention and the Insufficiency of the Undertakings Remedy' (2003) 18 *Berkeley Women's Law Journal* 181, 187–88; K Brown Williams, 'Fleeing Domestic Violence: A Proposal to Change the Inadequacies of the Hague Convention on the Civil Aspects of International Child Abduction in Domestic Violence Cases' (2011) 4 John *Marshall Law Journal* 39, 42–45.

to use the exception in Art 13(1)(b) to deny return, unless there was also proven violence against the child.[6] Commentators argued that this approach is inconsistent with the intention of the drafters of the Convention, as evidenced in the travaux preparatoires,[7] and that it does not accord with modern research literature.[8] The latter shows that there is a correlation between child abuse and spousal violence and provides evidence that long-term damage is caused to children who are exposed to violence between their parents.[9]

In 2011, the Permanent Bureau of the Hague Conference on International Law, which is responsible for monitoring implementation of the Convention, published a Reflection Paper examining the case-law and literature on Hague cases involving domestic violence.[10] Analysis of these sources revealed considerable divergence between the approaches of the courts to Art 13(1)(b) in domestic violence cases, including in relation to the question of whether the exception can be established in cases where there is no proven violence directly against the children.[11] The Paper concluded that there was a need for further discussion and study, including with respect to the harm caused to children by family violence. The Paper recommended that the Permanent Bureau develop a Guide to Good Practice that would address the Art 13(1)(b) exception in the context of domestic abuse, in order to promote greater clarity and consistency.[12] It also recommended the appointment of a Working Group to assist, to be comprised of judges, representatives from Central Authorities, and cross-disciplinary experts in the dynamics of domestic violence.[13]

Process of preparing the *Guide*

At its 2012 meeting, the Sixth Special Commission on the Practical Operation of the 1980 Child Abduction Convention largely adopted the recommendation in the Reflection Paper, but requested that the *Guide* address a broader range of scenarios that implicate the Art 13(1)(b) 'grave risk' exception.[14] Accordingly, in April 2012, the Council on General Affairs and Policy ['CGAP'] decided to establish the Working Group with the mandate to develop a Guide to Good Practice on the interpretation and application of Art 13(1)(b) more generally. It should be noted that whilst the decision states that the Working Group should be comprised of a broad range of experts, including inter-disciplinary experts, all but one of the 38 members of the Working Group appear to be lawyers, with half being government officials and more than a third judges.[15]

A first draft of the *Guide* prepared by the Working Group was published in September

6 See, eg, *B v B* [1994] NZFLR 497; CA (SC) 4391/96 *Ro v Ro*, 50(5) PD 338 (Isr) [INCADAT cite: HC/E/IL 832; *Antonio v Bello* 2004 US Dist LEXIS 17254 (ND Ga, 7 June 2004); *Dallemagne v Dallemagne* 440 F Supp 2d 1283, 1299 (MD Fla 2006);

7 R Schuz, *The Hague Child Abduction Convention: A Critical Analysis* (Hart, 2013) at p. 300–301.

8 See, eg, T Lindhorst and JL *Edleson, Battered Women, Their Children and International Law* (Northeastern Press, 2012) , chapter 6

9 For details of the relevant social science literature, *see id.* and Permanent Bureau, 'Domestic and Family Violence and the Article 13 'Grave Risk' Exception in the Operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*: A Reflection Paper', Preliminary Document No. 9 of 2011, www.hcch.net/index_en.php?act=progress.listing&ca ['Reflection Paper,'] paras 19–22 and sources cited there

10 Reflection Paper, *id.*

11 *Id.* at para 61.

12 *Id.* at paras 148–149

13 *Id.* at para 151.

14 Conclusions and Recommendations (Part II) of the Sixth Meeting of the Special Commission to Review the Practical Operation of the 1980 and 1996 Hague Conventions paras 81, 82 (25–31 January 2012). At the first part of the Sixth meeting, Member States agreed that 'regard should be given to the impact on a child of violence committed by one parent against the other' when considering 'the protection of the child.' Conclusions and Recommendations (Part I) of the Sixth Meeting of the Special Commission to Review the Practical Operation of the 1980 and 1996 Hague Conventions para 42 (1–10 June 2011).

15 *Draft Guide to Good Practice on Art 13(1)(b)*, Prel. Doc. 3 of 2017 Special Commission Meeting (https://assets.hcch.net/docs/0a0532b7-d580-4e53-8c25-7edab2a94284.pdf,) at p. 6. The one interdisciplinary expert was Dr. Heidi Simoni, a psychologist from Switzerland.

2017.[16] It included a helpful annex III, summarising the research literature on the dynamics and impact of domestic violence.[17] In the light of comments from States and at the Seventh Special Commission meeting in October 2017, a revised shorter version of the *Guide* was published in February 2019, which omitted annex III.[18] In March 2019, CGAP decided that there should be a further opportunity for States to comment and additional amendments should be made by the Working Group, in the light of those comments.[19] However, rather than members of the Working Group being involved in this revision process, amendments were in fact made via correspondence between the Member States, the Chair of the Working Group, and the Permanent Bureau.[20]

The finalised version was circulated to States on November 12, 2019. It was not published and so interested academics, professionals, and others did not have an opportunity to comment on it. Since no objections were received from States within a month, this version was taken as approved on December 12, 2019, in accordance with the procedure designated by the CGAP.[21] Following the recent meeting of the CGAP at the beginning of March 2020,[22] this version has now been officially released.[23]

Paragraph 58 of the *Guide*

During the course of the final revisions of the *Guide*, a new sentence was inserted into para 58 of the *Guide*, which had not appeared in either of the prior two published drafts. The last sentence of para 58 now states:

> 'Evidence of the existence of a situation of domestic violence, in and of itself, is therefore not sufficient to establish the existence of a grave risk to the child.'

The accompanying footnote number 73 reads:

> 'See also *Souratgar v Fair*, 720 F.3d 96 (2nd Cir. 2013), 13 June 2013, United States Court of Appeals for the Second Circuit, (the US) [INCADAT Reference: HC/E/US 1240] at pp. 12 and 16, in which the taking parent's allegations of spousal abuse on the part of the left-behind parent were considered by the Court to be "only relevant under Article 13(b) if it seriously endangers the child. The Article 13(b) inquiry is not whether repatriation would place the [taking parent's] safety at grave risk, but whether so doing would subject the child to a grave risk of physical or psychological harm." In that case, the Court affirmed the finding of the district court that, while there were instances of domestic abuse, "at no time was [the child] harmed or targeted", and that "in this case, the evidence […] does not establish that the child faces a grave risk of physical or psychological harm upon repatriation." '

The categorical language in the new sentence might be misinterpreted as meaning that domestic violence against the taking parent will not be sufficient to establish the exception, irrespective of the impact that it might have on the child. The accompanying footnote significantly increases the

16 *Draft Guide to Good Practice on Article 13(1)(b) of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, Prel. Doc. No. 3 of June 2017, for the Seventh Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, Oct. 2017, at https://assets.hcch.net/docs/0a0532b7-d580-4e53-8c25-7edab2a94284.pdf [hereafter '2017 Draft Guide'].

17 Id., Annex III

18 *Revised Draft Guide to Good Practice on Article 13(1)(b) of the 1980 Convention*, Prel. Doc. No. 7, Council on General Affairs and Policy of the Conference para 56 (Mar. 2019) (hereinafter 2019 Draft Guide), available at https://assets.hcch.net/docs/1e6f828a-4120-47b7-83ac-a11852f77128.pdf For a comparison between the two versions, see Merle H. Weiner, *The Article 13(b) Guide to Good Practice*, DOMESTIC VIOLENCE REPORT 7, 21 (Oct./Nov 2019).

19 para 24 of Conclusions and Recommendations of CGAP March 2019, available at https://assets.hcch.net/docs/c4af61a8-d8bf-400e-9deb-afcd87ab4a56.pdf,

20 Personal communication from members of the Working Group

21 Id.

22 CGAP thanked the Working Group, noted the approval of the *Guide* and welcomed the forthcoming publication thereof. *See* Conclusions and Recommendations of CGAP, March 2020, available at https://assets.hcch.net/docs/70458042-f771–4e94–9c56-df3257a1e5ff.pdf. at para 16.

23 *See supra* note 2

likelihood that the sentence will be so understood; the unhelpful quote from the case of *Souratgar v Fair*[24] suggests that the exception will only be made out when it can be shown that the child has already been directly harmed or targeted. In fact, *Souratgar* has already been cited by courts in the US for the proposition that the absence of direct violence against the children can be determinative.[25]

Nonetheless, such a reading would clearly be erroneous and would involve taking the last sentence of para 58 and the quote in the footnote out of context.[26] First, contrary to what the footnote implies, *Souratgar v Fair* said the opposite:

> 'In distinguishing the foregoing cases, we do not mean to suggest that only evidence of past parental abuse of the child, past parental threats to the child or the child's fear of a parent can establish a successful Art 13(b) defense.'[27]

In fact, another panel of the Second Circuit, in a case decided after *Souratgar*, recognised that a grave risk existed in a case involving domestic violence but no direct abuse of the child.[28] Second, in para 57, the *Guide* expressly states that the exception might be successfully invoked not only when the taking parent alleges direct physical or sexual abuse of the child, but also when the taking parent alleges that the child is exposed to domestic violence or that the violence might significantly impair the ability of the taking parent to care for the child upon return.[29] Indeed, the footnotes to para 57, numbered 70 and 71, give examples of cases in which the grave risk exception was established based on the effect of the abuse of the taking parent, without evidence of direct harm to the child. Third, the *Guide* specifically states that the application of the Convention, and the Art 13(1)(b) exception in particular, should be 'fact-specific.'[30] The beginning of para 58 provides that the 'specific focus of the analysis in these instances is the effect of the domestic violence on the child upon his or her return to the State of habitual residence.' The categorical statement that certain evidence is insufficient to establish the exception is at odds with a fact-specific approach.

Accordingly, it can be seen that the last sentence in para 58 is misleading and, if taken out of context, liable to be completely misunderstood.

Attempts to get para 58 amended

When one of the current authors saw the new sentence, she and others who were concerned asked the US State Department to seek a change. They suggested either going

24 720 F.3d 96 (2nd Cir. 2013).

25 See, eg, *Hart v Anderson*, 2019 WL 6253248 *19–20 (S.D. Md. Nov 22, 2019); Gil-Leyva v Leslie, 780 Fed. Appx. 580, 590–91 (10th Cir. 2019). *Souratgar* is problematic for other reasons, too. For example, some may cite it for the proposition that the level of violence must be exceptional or that the parties must cohabit after the child's return in order for a risk to exist to the taking parent and child. After all, while the article 13(1)(b) defence was not successful in *Souratgar*, the trial court had found that the petitioner committed spousal abuse, including instances of physical abuse in which the petitioner 'kicked, slapped, grabbed, and hit' the respondent, *see Souratgar v Fair*, No. 12 CV 7797(PKC), 2012 WL 6700214 *11 (S.D.N.Y. Dec. 26, 2012), some of which the child witnessed, *see id.* at 7–8, 11, and destroyed property, *id.* at 8, engaged in 'shouting and offensive name-calling,' *id.* at 11, and exhibited other behavior that led the expert to claim the respondent was in 'extreme danger.' *Id.* at 10. The respondent also alleged sexual abuse and coercive control, both of which the trial court had dismissed for reasons that were criticised by the Second Circuit. *See Souratgar v Fair*, 720 F.3d at 100 n. 3 & 105 n.6. Nevertheless, all of this violence was insufficient to establish the article 13(b) defence for a number of reasons, including because the district court emphasised there was no evidence that the parties would ever cohabit again, *id.* at *11, and because the child was not directly targeted.

26 Some of this analysis comes from Merle H. Weiner, *Addendum to Weiner's Commentary about the Article 13(b) Guide to Good Practice, Domestic Violence Report (2020) (forthcoming).*

27 *Souratgar v Fair*, 720 F.3d 96, 105 (2nd Cir 2013)

28 *See, eg, Saada v Golan*, 930 F.3d 533, 540–43 (2d Cir. 2019) (affirming trial court's finding of grave risk to the child from spousal violence despite the absence of direct abuse to the child, reversing trial court's reliance on unenforceable undertakings, and remanding to see if alternative ameliorative measures exist).

29 See *Guide*, *supra* note 2, at para 57.

30 See id. at para 55

back to the language in the prior draft,[31] or using the words 'may not be sufficient' instead of 'is therefore not sufficient.' The text would then have read: 'Evidence of the existence of a situation of domestic violence, in and of itself, may not be sufficient to establish the existence of a grave risk to the child.' They also requested the elimination of the reference to *Souratgar*. However, the State Department decided, in the name of comity, that it would not object to the draft unless other State Parties did so, even though it acknowledged that the document is not 'the document we would have written ourselves.'[32] This response is difficult to understand since the goal of the Convention is the protection of children, not international relations, and the revision would not have been controversial.

Subsequently, the other current author wrote to some members of the Working Group, suggesting the simple amendment of using the word 'may,' which would avoid risk of the sentence being misunderstood. In their replies, these members of the Working Group supported the change because they agreed that the suggested formulation was more felicitous and better reflects the discussions in the Working Group. However, the Permanent Bureau's view was that it was too late to make the change, since the period of silent approval had already passed.[33]

Accordingly the current authors crafted and circulated a petition requesting the CGAP to make the suggested change. As scholars who have monitored the *Guide*'s progress over the years,[34] we felt that this language would decrease the risk of judicial rulings inconsistent with the *Guide*'s purpose. The purpose of the petition was to demonstrate that many academics and family justice professionals shared the above concerns about the current wording of para 58. This petition was signed by approximately 250 people, the vast majority of whom are academics and family justice professionals. The signatories include respected academics at leading academic institutions around the world. The petition was sent to CGAP together with a list of signatories and a cover letter expressing the authors' view that the proposed amendment is not just a question of improved drafting, but goes to the very heart of the raison-d'etre of the *Guide*. Nonetheless, whilst the letter and attachments were circulated to members of CGAP,[35] no discussion of them appears to have occurred at the meeting and the Conclusions simply state that CGAP noted the approval of the *Guide* and welcomed its forthcoming publication.[36]

Looking ahead

Unfortunately, the misleading sentence at the end of para 58 is liable to provide support for the approach taken by some judges that the grave risk exception cannot be established in cases of domestic violence in the absence of evidence of violence against the child or unless direct harm has already been caused to him or her, and so lead to a perpetuation of the inconsistencies in the application of Art 13(1(b), demonstrated in the Reflection Paper. The need for a clear and unambiguous statement in this regard is well illustrated by the reference to the issue of domestic violence in the recent decision of the US Supreme Court in *Monasky v Taglieri*.[37] The court stated that even though the district court had credited Monasky's allegations of the child's exposure to Taglieri's physical abuse of her, it had 'found no evidence that Taglieri ever abused AMT.

31 The previous language read: 'The focus of the grave risk analysis is not limited, therefore, to whether the person opposing the return has demonstrated the existence of a situation of domestic violence.' It did not include a footnote.
32 Email to Lynn Hecht Schafran from Sharla Draemel, Attorney-Adviser, Office of Private International Law, Department of State, Dec. 11, 2019 (on file with authors)
33 Correspondence on file with authors
34 One or both of the authors were observers on behalf of the International Society of Family Law at the last three Special Commission meetings to review the operation of the Abduction Convention.
35 E-mail of 10.2.20 from Secratariat of Permanent Bureau to authors
36 Conclusions and Decisions adopted by CGAP, 3–6 March, 2020 para16, available at https://assets.hcch.net/docs/70458042-f771–4e94–9c56-df3257a1e5ff.pdf
37 Monasky v Taglieri, 140 S.Ct. 719 (2020).

or otherwise disregarded her well-being.'[38] These words might be seen as endorsing the approach that the test of grave risk is the petitioner's behaviour towards the child and not the effect on the child of the violence against the respondent.[39]

There is a clear danger that petitioners will rely expressly on the last sentence of para 58 of the *Guide* to support their claim that Art 13(1)(b) cannot be established in the absence of evidence of violence against the children or unless direct harm has already been caused to them. In response, respondents should argue that such an interpretation is erroneous and does not accord with the intention of the drafters, as explained above. They should point out that when the sentence is read in context and in light of the purpose for which the *Guide* was prepared, it is clear that it was not meant to indicate that evidence of a situation of domestic violence could not be sufficient to establish the exception, but that it would not necessarily be sufficient. As pointed out above, our suggested wording ('may not be sufficient') would have expressed this intention more clearly. We would emphasise that we are not aware of any substantive objections to this wording and that the only reason given for the refusal to make the change was a technical one, viz. that it was too late because the time for silent approval had passed. Finally, respondents might also remind courts that the *Guide* is not binding,[40] and might even suggest that the way in which the final changes were made to the *Guide*, without the involvement of the Working Group and without public scrutiny, raises doubts about their legitimacy.

We hope that courts throughout the world will remember that the *Guide* represents a response by States to concerns about the application of the Convention to cases involving parents who flee transnationally with their children for safety. As explained by Lady Hale, former President of the Supreme Court of England and Wales, '[o]ne of the principal reasons' the *Guide* was drafted was 'to protect victims of domestic violence and abuse from the hard choice of returning to a place where they do not feel safe and losing their children.'[41] If the last sentence of para 58 is misunderstood, the original purposes behind the commissioning of the *Guide*, including promotion of consistency and recognition of the harm caused to children by violence between their parents, will be defeated. It is also to be hoped that courts will take on board the recommendation of the Sixth Special Commission that allegations of domestic or family violence and the possible risk to children should be 'adequately' examined,[42] which unfortunately is not addressed expressly in the *Guide*, other than in the context of protective measures.[43] Moreover, we suggest that advocates representing

38 *Id.* at 729.

39 It is unfortunate that the Supreme Court did not repeat the clarification made by the Court of Appeals for the Sixth Circuit, that the fact that there was no physical violence against a child did not necessarily mean that there was not a grave risk that return would expose the child to harm or place him in an intolerable situation. *See* Taglieri v Monasky, 876 F.3d 868, 878 (2017), vacated en banc, 907 F.3d 404 (Oct 17, 2018) ('This is not to say that a child who is not herself subject to physical abuse is never in grave risk of psychological harm or of being placed in an 'intolerable situation.'). Such a statement would have been consistent with the Supreme Court's language in prior cases, for the Court had always left open the potential that article 13(1)(b) would have a scope sufficient to address adequately domestic violence fact patterns. *See, eg,* Abbott v Abbott, 130 S.Ct. 1983, 1997 (2010) ('If, for example, Ms. Abbott could demonstrate that returning to Chile would put her own safety at grave risk, the court could consider whether this is sufficient to show that the child too would suffer 'psychological harm' or be placed 'in an intolerable situation.' See, eg, *Baran* v *Beaty*, 526 F. 3d 1340, 1352–1353 (CA11 2008); *Walsh* v *Walsh*, 221 F. 3d 204, 220–221 (CA1 2000).'); Lozono v, Montoya Alverez, 134 S.Ct. 1224, 1235 (2014) ('We agree, of course, that the Convention reflects a design to discourage child abduction. But the Convention does not pursue that goal at any cost. The child's interest in choosing to remain, Art. 13, or in avoiding physical or psychological harm, Art. 13(b), may overcome the return remedy.').

40 *Guide, supra* note 2 at 17 ('it is important to emphasize that nothing in this Guide may be construed to be binding on the Contracting Parties to the 1980 Convention . . .and their judicial or other authorities').

41 Brenda Hale, *Taking Flight —Domestic Violence and Child Abduction*, CURRENT LEGAL PROBLEMS, Aug. 13, 2017, at https://doi.org10.1093/clp/cux001 It should be noted that Lady Hale was a member of the Working Group.

42 As noted in the Conclusions and Recommendations of Part I of the Special Commission on the Practical Operation of the 1980 and 1996 Hague Conventions para36 (June 1–10, 2011). Available at https://assets.hcch.net/upload/wop/concl28sc6_e.pdf

43 See Guide, supra note 2, at para 45

respondents make use of the summary of the scientific research relating to the dynamics and impact of domestic violence on the victim and her children, in Appendix III to the 2017 draft of the *Guide*.[44] These research findings are highly relevant in assessing the evidence of violence brought by the respondent,[45] the degree of risk involved in ordering return,[46] and the likelihood that protective measures will be able effectively to mitigate such risk.[47]

Finally, we understand that there are plans to monitor application of the *Guide*. Whilst monitoring is to be welcomed, it is difficult to see that there is any mechanism for effective monitoring. Many decisions are not reported and there is very limited access to decisions from most non-English speaking states. Moreover, it seems likely that judges and others will be influenced by the *Guide*, even if they don't expressly refer to it. This is why, in our view, it is so unfortunate that the last sentence in para 58 is open to a fundamental misunderstanding, which is liable to undermine the original purpose of the *Guide*. We end by reiterating the hope that this article will help to reduce the risk of such misunderstanding and increase the chance that the *Guide* will promote the objectives and fulfill the purpose for which it was intended.

44 *Supra* note 15, Annex III.
45 *E.g.* psycho-sociological effects of abuse which may impair the credibility of the victim. *Id.* at para20.
46 *Id.* at paras 23–27.
47 For example, the research suggesting that victims might be most at risk after having made a step to leave the relationship, viz following return, in the abduction scenario (*id.* at para19 and that it may be difficult to predict the volatility of an intimate relationship (*id.* at para 37)).