



INTERNATIONAL SOCIAL SERVICE

International parental child abduction

Patterns, legal frameworks, services offered

What is International parental child abduction (IPCA)?

The term “child abduction” refers to a wrongful removal from, or a non-return to, a child’s country of “habitual residence” by one of the child’s parents. A relocation across borders is wrongful when the taking parent does not have, or does not have alone, the right to change the child’s place of residence. IPCA is different from extra-family child kidnapping. Research¹ and ISS casework demonstrates the following main forms of ICPA trends:

- Wrongful removal or non-return of the child in situations of **shared custody** (implying shared relocation rights)
- Flight of the custodial parent with the child in a context of alleged **family/domestic violence** (“protective abductions”)
- Wrongful return of the child with the custodial parent to that parent’s home country. Here, the child is **separated from the non-custodial parent**
- Removal or non-return of the child by a non-custodial parent. Here, the child is **separated from the custodial parent**

¹See: [http://www.europarl.europa.eu/ReqData/etudes/STUD/2015/510012/IPOL_STU\(2015\)510012_EN.pdf](http://www.europarl.europa.eu/ReqData/etudes/STUD/2015/510012/IPOL_STU(2015)510012_EN.pdf) (p. 17ss.)

Why do parents “abduct” their children?

There are as many reasons as there are individual situations. Most often we find one, or several, of the following motivations such as a parent:

- no longer seeing any realistic future with his/her child in the country of residence, and searching for support from family and friends in the country of origin
- not having had access to lawful and speedy relocation procedures
- fleeing a context of physical or psychological family violence
- not accepting a legal visiting/custody decision, and determining that they know better than the local judge what is in the best interest of the child
- feeling dishonoured and/or humiliated in a legal procedure and therefore making his/her “own justice”
- losing his/her residence permit and taking “his/her” children back with them
- fearing removal of his/her children by child protection authorities (e.g. foster care)

Guiding international standards and ISS internal documents:

- [Convention on the Rights of the Child](#)
- [1980 Hague Convention on the civil aspects of international child abduction](#)
- European [Directive 2008/52/EC on Mediation in Civil and Commercial Matters](#)
- [ISS-Guide to International Family Mediation](#)
- [Brussels IIbis](#)
- ISS Casework manual
- [HccH Guide to Good Practice - Mediation](#)
- [Principles for the Establishment of Mediation Structures in the Context of the Malta Process](#)
- [Charter for International Family Mediation Processes \(The Charter\)](#)

What makes IPCA harmful for the child?

The effects of IPCA on the child are different in each pattern, and vary greatly in each individual case. Some harmful effects are: **sudden separation** of the child from their main care-giver and/or other important **attachment figures** (including siblings); sudden and **unprepared change** of the child's social and family environment; **stressful legal proceedings** for the parents, with consecutive harmful effects for their child etc.

What responses to IPCA exist?

The first response is prevention. IPCA can be avoided through counselling and (voluntary or mandatory) family mediation services, as well as through easy access to speedy relocation procedures (→ **see separate fact-sheet**).

If IPCA has already occurred, the range of possible responses varies according to several factors, especially whether or not the two countries concerned are member states of **1980 Hague Convention**. In 98 countries, this convention provides an international legal remedy, albeit with some important challenges in practice. In the remaining 100+ countries of the world, only **very limited legal possibilities** exist, and the most effective response is **negotiation and mediation** to secure **meaningful parent-child contact** or – if possible – the **return** of the child.

What ISS advocates for in IPCA cases

- Systematic IPCA prevention programs, including legal counselling and mediation
- Setting up practical relocation rules and procedures, and allowing expeditious decision making
- Increased use of mediation before and after IPCA has occurred
- Regular contact and visits between the child and the left-behind parent and between parents during the conflict-resolution
- Giving each child a voice and a legal representative in IPCA procedures
- Adapting the interpretation of the 1980 Hague Convention to the vast variety of IPCA patterns, in particular in line with art. 13 (1) b (→ **see separate fact-sheet**)
- An interdisciplinary instead of a mainly legal approach to IPCA

ISS-Casework services include:

- Child-focused psycho-social and legal counselling of left-behind and/or taking parents
- Counselling parents about legal ways to relocate to another country
- Prevention of IPCA through counselling about the harmful effects of IPCA and possible remedies: legal (domestic and international); and through negotiation/mediation
- Home visits and assessments through ISS network members
- Facilitation of contact/visit between a child(ren) and the left-behind parent
- Follow-up after return of the child
- International family mediation
- Cooperation with Central Authorities in Hague member states
- Cooperation with diplomatic authorities in Non-Hague states

Advocacy and awareness raising include:

- Conferences on IPCA
- Training on IPCA for child-protection professionals, lawyers, mediators, social workers, universities etc.
- Publications and research on the causes and effects of IPCA
- Promotion of International family mediation to resolve IPCA cases
- Cooperation with the HCCH