

## CHILD ABDUCTION RECENT CASE IN CHILD ABDUCTION

A recent decision of the UK Supreme Court provided strong authority for the notion that provisions of the Hague Convention are alive and well. A case of the International Court of Human Rights in *Neulinger and Shuruk –v- Switzerland* had caused some doubt on the whole issue of the return of children where they have been abducted from one jurisdiction.

In the UK case the mother had removed her two daughters to England from Norway without the permission of the father. The case came before the UK Supreme Court. The mother claimed that she should be allowed retain the children under article 13 by reason of the fact that there was a grave risk that her return would expose the children to physical or psychological harm. She also claimed that she had a mental disorder which would deteriorate if she was forced to return to Norway.

The Court held that any decision should be based on what was in the best interests of the children. They said that the best interests involved two aspects namely to be reunited with their parents as soon as possible so that one parent does not get an unfair advantage over the other in the upbringing of the children and secondly to be brought up in a “sound environment” where they are free from any risk of harm.

In the case itself they accepted that violence and abuse between parents may constitute a grave risk to the children. However they concluded that these were disputed allegations which could not be definitively determined. Instead they focused on the protective measures that needed to be put in place to reduce any possible risk. They decided that medical treatment would be available for the mother and that there were legal remedies to protect the children should they be needed.

The importance of the case is to copper fasten the importance of article 13 of the Hague Convention i.e. if one parent removes the children from their habitual residence without the consent of the other parent article 13 can be relied upon to force their return where is it in the best interests of the children.