



### **E46 International Child Abduction Cases and Problems in the Turkish Legal System**

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After attending this presentation, attendees will understand the current situation on the child abduction cases and related international problems as well as the problems in Turkish Legal system.

This presentation will impact the forensic science community by alerting attendees to child abductions internationally, the Hague Convention, and the Turkish legal system in reflection to that.

Children are affected by the divorce of their parents. They threaten each other about doing their best so that one of them cannot be able to see and have the child. One day the child finds him/herself in an environment with a different language, people, food, clothes, etc. The child asks for his/her mother or father and the answer is sharp that there will not be the mother or father in the child's life anymore. The child is confused, lonely, and afraid afterwards. Each year, this drama happens in many parts of the world. Parents use children as a weapon, more powerful than atomic bombs and turn them into tools of war. In a globalizing world, the number of children whose parents are from different countries, increase each year. International child abduction came to the forefront at the end of the 1970s, and unfortunately the economic, cultural, technological changes and developments increase the number of the abducted child. The rising rate of divorce, changing patterns of child custody, and general societal concern about the welfare of missing children also have contributed to the recognition and criminalization of parental abduction of children. Parental abduction of children is estimated to occur 350,000 times a year or more depending in

part on the definition used. The Hague Convention on the Civil Aspects of International Child Abduction was enacted in 1980 and entered into enforcement for the United States on July 1, 1988. Since that time, the Convention has proven to be the most effective tool available for Left Behind Parents (LBPs) to potentially reunite with their abducted children. The Convention is an international treaty that provides a civil mechanism to bring about the prompt return of children who have been wrongfully removed from or wrongfully retained outside the country of their "habitual residence" in violation of the LBP's "rights of custody" under the law of the country of habitual residence. The United States accepted Turkey's entry to the Convention in 2000. Turkey was a non-compliant country in 2004. Although only nine cases have been submitted for return of children to the United States, the problems experienced in those cases indicate that Turkey is not fulfilling its responsibilities under the Convention. Applications for return of children to the U.S. are subject to long and repeated court delays, and courts allow consideration of issues unrelated to Convention criteria when adjudicating return applications. There have also been indications of the use of political influence over the courts and other government officials involved in case processing. Turkey has not implemented the Convention into its domestic law. In the 2004 compliance report, Turkey was cited as "noncompliant." Locating children continues to be problematic and Turkish law requires the prosecutor to locate the children before a court case can be opened in that geographic district. As part of a new criminal code passed for European Union entry that went into effect in June 2005, Turkey criminalized parental child abduction for the first time. Turkey has also consolidated abduction cases into new family courts, which are more familiar with all aspects of family law, including the Convention. During the reporting period the EU sponsored two training programs on Convention implementation for Turkish judges and prosecutors. Turkish attorneys and judges are becoming more familiar with the Convention and any efforts to expand judicial education would be encouraged. The USCA has upgraded Turkey's compliance rating from "noncompliant" to "not fully compliant." Despite the discouraging reports, there are serious developments and cases which will be discussed and presented in this study. Furthermore, it is a positive step that these cases caused positive results and the Turkish courts are dealing with the abduction cases more carefully and with a positive attitude. Some of the cases will be discussed in this presentation including the award winning International Child Abduction case by the U.S. State Department on November 2008 for the outstanding work.

#### **Child Abduction, Hague Convention, Turkish Legal System**