

The Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters

In June 1985, the Commission published its Report on [*The Hague Convention on the Civil Aspects of International Child Abduction and Some Related Matters*](#) (LRC 12–1985).

The Report recommended that legislation should be enacted giving the Convention the force of law in Ireland and that Ireland should subsequently become Party to the Convention.

The Convention is designed to deal with situations where children are removed from their country of habitual residence against the will of one of their parents or whoever has custody of them. The purpose of the Convention is to ensure that the child is returned to the country where it was habitually resident prior to the abduction. Under the Convention an Irish Court retains the right to decline to order the return of a child where this would be unconstitutional or otherwise clearly undesirable.

The Report recommended that the legislation giving effect to the Convention should provide that, in deciding on applications for the return of children to another jurisdiction in cases where that return is not required by the Convention, the court shall have regard to the welfare of the child as the first and paramount consideration.

The Commission recommended that the Department of Justice should continue its consideration of the European Convention on Recognition and Enforcement of the Decisions concerning Custody of Children and on Restoration of Custody of Children with a view to its ratification by Ireland but this process should not be allowed to delay the recommended adherence to the Convention on the Civil Aspects of International Child Abduction.

The Report also contained a number of recommendations designed to prevent the abduction of children out of the jurisdiction.

The Report also recommended the repeal of section 40 of the *Adoption Act, 1952* dealing with the removal of very young children out of the jurisdiction and a provision enacted in its place prohibiting the removal of a child under one year of age out of the State unless the removal is made with the approval of the parents or guardians for the purpose of residing with a parent or relative outside the State or unless the removal is approved by the court on the ground that it would be in the best interests of the child.

The Report recommended that legislation should be enacted compatible with Protocol No. 4 of the European Convention on Human Rights stating the grounds upon which the Minister for Foreign Affairs may refuse to issue a passport to an applicant.

Draft Legislation in Report

Not applicable.

Information on Implementation

Recommendations of the Commission were implemented by the *Child Abduction and Enforcement of Custody Orders Act 1991*.