

CELIS AGUILAR, María Mayela, *Sustracción Internacional de menores. Estudio jurisprudencial, doctrinal y crítico del Convenio de La Haya de 1980. Aspectos clave y soluciones a los problemas de aplicación*, (Dykinson, Madrid, 2023, 604 pp.)

The purpose of the book is to carry out a case-law and critical study of the interpretation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction (hereinafter 1980 Hague Convention).

International child abduction is a paradigmatic example of the complexity of family disputes with a cross-border element, as it has been widely stated by the diverse and excellent doctrinal works on the subject. In this context, this research presents an original and rigorous analysis of the 1980 Hague Convention based on two premises.

The first refers to the criticisms made by a sector of the doctrine according to which the 1980 Hague Convention is outdated today. Therefore, it no longer provides an adequate response to the phenomenon of international child abduction. Mainly due to legal modifications in family law; as well as sociological changes with respect to the primary cares, usually mothers, who are nowadays the main protagonists in the abduction of their children; or the growing awareness of society of violence in the family context.

The second factor is the absence of a supranational court to harmonize the interpretation of the key concepts of the 1980 Hague Convention and to resolve conflicts of interpretation of the Convention's provisions. In this regard, the author identifies such a uniform interpretation as one of the great challenges of the Convention, although she highlights the great work done at the regional level by the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECHR).

In this sense, the author argues that in order to overcome the criticisms of the Convention it is necessary to promote a better understanding of the Convention from different perspectives, so as to ensure, as far as possible, an evolutionary interpretation. To tackle this ambitious purpose, the book is structured in three clearly differentiated parts, consisting of a total of eight chapters, which are a reflection of the rigorous work done by the author, with a praiseworthy selection of a variety of treated problems in-depth.

The First Part analyzes comprehensively the phenomenon of international child abduction, focusing mainly on three angles. The first perspective is the so-called multidisciplinary one, and examines the phenomenon under study from sociology, law and the media, among others. Secondly, the legal perspective, analyzing the sources of regulatory production at different levels and their proposed legal solutions. Thirdly, the author wisely chooses to analyze the phenomenon of international child abduction from the Human Rights perspective.

The Second Part studies the impact of case law on the understanding of the 1980 Hague Convention. It includes a wide range of decisions not only from Contracting States,

but also the ECtHR and the CJEU, and even other international or regional bodies, such as the Inter-American Court of Human Rights or the Committee on the Rights of the Child. To this end, the author has rightly opted for a selection of problems in relation to three axes that are identified as “key” for a correct application of the Convention. First, issues related to the title, philosophy, nature, purpose and constitutionality of the Convention are analyzed, and then the decisions issued in relation to the notions of “habitual residence” and “right of custody”.

Thirdly, from a more practical approach, the last part is devoted to the most relevant exceptions to the return of the child of the 1980 Hague Convention: the exceptions of Articles 13(1)(b) and 13(2) of the 1980 Hague Convention, namely the grave risk exception and the child’s objection exception. In addition to an in-depth analysis of the problems arising from these exceptions, the author aims to clarify the existing doubts about the number of exceptions to the child’s return and their identification.

As stated in the Prologue, the reading of this work reflects the rich academic background and extensive professional experience of the author in the field of Private International Law. She has made an excellent and ambitious selection of problems that are supported by one of the fundamental values of this research. The compilation and systematizing of nearly 600 judgments and decisions from 46 countries, as well as resolutions of a total of seven international or regional courts or bodies. Moreover, another fundamental point of this book is the aim to build bridges between the legal traditions of civil law States and common law States. Together with the emphasis on the necessary connection between the 1980 Hague Convention and Human Rights.

Undoubtedly, a work of great interest that will provide clarity on the subject for which Dr. María Mayela Celis Aguilar deserves high praise, as well as her PhD Director Dr. Marina Vargas Gómez-Urrutia and the International Doctoral School of the Universidad Nacional de Educación a Distancia.

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