

2005 Compliance Report

2005 Report on Compliance with the Hague Abduction Convention

Submitted Pursuant to Section 2803 of Public Law 105-277, (Foreign Affairs Reform and Restructuring Act of 1998), as amended by Section 202 of Public Law 106-113 (the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act for Fiscal Years 2000 and 2001), and Section 212 of the Foreign Relations Authorization Act for Fiscal Year 2003

Introduction

The Department of State places the highest priority on the protection of U.S. citizens abroad, and especially on the welfare of our country's children. When children become the victims of international parental child abduction, the Department takes seriously its responsibility to help parents who seek the return of, or access to, their children through lawful means. For many parents, the Hague Convention on the Civil Aspects of International Child Abduction ("the Convention") is a viable remedy to the trauma of an abduction. With each passing year, the number of U.S. left-behind parents filing for the return of or access to their children under the terms of the Convention has grown.

During the period covered by this report, the Department assisted in the return to the United States of 292 children abducted or wrongfully retained overseas. Of this number, 154 children returned in cases in which a Hague application was filed, while 138 returns were involved in non-Hague cases, a 17 percent increase over the previous year. As a mechanism for promoting the return of children to their habitual residence, the Hague Convention continues to be an invaluable tool. It is noteworthy that while Hague cases constitute about 30 percent of the total volume of abduction cases handled by the Department, they represent a larger percentage (over 50 percent) of children returned.

The Convention is an international treaty that provides a mechanism to bring about the prompt return of children who have been wrongfully removed or retained outside their country of habitual residence in violation of rights of custody existing and actually exercised in the child's country of habitual residence. Along with the other signatories of the Convention, the United States believes that children must be protected against the harmful effects of international abduction. The United States was a major force in preparing and negotiating the Convention, which was finalized in 1980 and entered into force for the United States on July 1, 1988. Since then, the Convention has been an important tool for reuniting families across international borders and in deterring potential abductions. Currently, seventy-five countries are party to the Convention.

Today, the United States has a treaty relationship under the Convention with fifty-five other countries. When a new country accedes to the Convention, the Department of State undertakes an extensive review of that country's accession to determine whether the necessary legal and institutional mechanisms are in place to fully implement the Convention. Once the Department concludes that a country has the capability to be an effective treaty partner, its accession is recognized and the Convention comes into force between our two countries. The Convention applies to the wrongful removal or retention of a child that occurred on or after the date the Convention came into force between the U.S. and the other country concerned. The date on which the U.S. entered into a treaty relationship with its many Convention partner countries varies, and more countries are considering becoming parties to the Convention all the time. The U.S. has actively encouraged countries to accede to the Convention, recognizing its potential effectiveness not just in resolving cases of international parental child abduction, but also in deterring future abductions.

As mandated by Section 2803 of Public Law 105-277, (the Foreign Affairs Reform and Restructuring Act of 1998), as amended by Section 202 of Public Law 106-113 (the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act for Fiscal Years 2000 and 2001) and Section 212 of the Foreign Relations Authorization Act for Fiscal Year 2003, the Department of State submits this report on compliance with the Convention by other party countries. The individual cases covered in Attachment A of the present report remained unresolved as of September 30, 2004.

This report identifies the Department's concerns about those countries in which implementation of the Convention is incomplete or in which a particular country's judicial or executive authorities do not properly apply the Convention's requirements. Where known, the report notes country-specific reasons for compliance failure and attempts to indicate varying degrees of compliance.

The Department of State serves as the U.S. Central Authority for the Convention; one of its functions is to assist parents in filing applications for return and access under the terms of the Convention with the Central Authority of the country where the child is located. Under the Convention, return and access applications may also be filed either with the Central Authority of the country in which the child is located or directly with a properly empowered court in that country. Because of this, left-behind parents may (and frequently do) pursue the return of a child under the Convention without involving the U.S. Central Authority. In these circumstances, the U.S. Central Authority may never learn of such applications or their eventual disposition. This report therefore cannot give a complete picture of the outcome of all Convention applications for the return of children to the United States.

As has been the practice in previous reports, the Department is reporting as "resolved" cases that are determined by the U.S. Central Authority to be "closed" as Convention cases or that are "inactive." This is a technical designation, and does not necessarily mean an end to the Department's support of a left-behind parent's efforts to resolve a dispute involving an abduction or wrongful retention. As in other countries party to the Convention, the U.S. Central Authority closes or inactivates Convention cases for a variety of reasons. These include: return of the child; parental reconciliation or agreement; a parent's withdrawal of the request for assistance; inability to contact the requesting parent after numerous attempts over a two-year period; exhaustion of all judicial remedies available

under the Convention; the child attaining 16 years of age; or (in appropriate cases) the granting and effective enforcement of access rights. In all such cases, regardless of the outcome, no further proceedings pursuant to the Convention are anticipated. Treating these cases as “resolved” and closing them as Convention cases is consistent with the practice of other Convention party countries. The Department marks a case as “inactive” when, in the absence of such definitive circumstances, the facts of the case do not allow, or the applicant parent does not permit, a further reasonable pursuit of the case. One year after inactivation, and in the absence of additional relevant requests for assistance by the left-behind parent, the Department closes inactive cases. Should a relevant change in material circumstances occur thereafter, the Department will always consider reopening a case.

The exhaustion of all judicial remedies available under the Convention may result in a case that is “closed” but that has been resolved in a way that is unsatisfactory to the applicant parent and the U.S. Central Authority. Even when a case for the return of a child under the Convention has been closed, however, the U.S. Central Authority provides assistance to the left-behind parent by helping to facilitate access to a child (which may be sought under or independently of the Convention), reporting on the welfare of the child, or assisting the parent to achieve a more satisfactory solution through non-Convention remedies. In such instances, the U.S. Central Authority treats the case as an open “non-Hague” case for return or access, depending on the parent’s goals. When a foreign court decision on the Convention aspects of a case indicates a misunderstanding of or failure properly to apply the Convention’s terms, the U.S. Department of State may register its concern and dissatisfaction with the decision through both the foreign Central Authority and diplomatic channels. The same is true in circumstances involving the failure by administrative or other executive officials effectively to enforce court or other relevant orders arising out of applications under the Convention. The Secretary of State, other senior Department officials, U.S. Ambassadors abroad and U.S. Consuls frequently raise international parental child abduction issues and specific cases with appropriate foreign government officials.

Annexed to this report as Attachment A is a list by country of the cases submitted pursuant to the Convention that remained unresolved for more than 18 months as of September 30, 2004. Specific details that might identify the parties to a case or relevant others have been removed to protect the privacy of the child and the applicant parent.

This report identifies specific countries and individual cases in which countries party to the Convention have not complied with its terms or in which the results for applicant parents in the United States has been inconsistent with the purposes and objectives of the Convention. The U.S. Department of State continues to take steps to promote better information sharing and more consistent practices among countries party to the Convention. The Department works in close cooperation with the Hague Permanent Bureau on judicial education issues and the formulation of Best Practices guides for states party to the Convention.

Reporting Period

This report covers the period from October 1, 2003 to September 30, 2004. The information provided herein is that available to the U.S. Central Authority within these dates. In some instances, the report provides updates to include developments subsequent to September 30, 2004.

Response To Section 2803 (A)

Section 2803(a)(1) of Public Law 105-277, as amended, requires that we report "the number of applications for the return of children submitted by applicants in the United States to the Central Authority for the United States that remain unresolved more than 18 months after the date of filing."

Taking into account the above clarifications, as of September 30, 2004, there were thirty-three (33) applications for return in U.S. Central Authority records that remained open and active eighteen months after the date of filing with the relevant foreign Central Authority. This total includes several cases that became known to the U.S. Central Authority through contacts with parents or local and state officials, but that were actually filed by California authorities directly with a foreign Central Authority.

Section 2803 (a)(2) requests "a list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted, are being wrongfully retained in violation of the United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States."

The thirty-three applications identified above that remained unresolved eighteen months after the date of filing, as of September 30, 2004, involved ten countries: Colombia, Croatia, Greece, Honduras, Israel, Mauritius, Mexico, Poland, Romania, and Spain. The extent to which these countries and others appear to present additional, systemic problems of compliance with the Convention is discussed further in the passages concerning Sections 2803(a)(3), (a)(4) and (a)(6), below.

In considering the question of compliance with the Convention and the treatment of court orders of custody, it should be noted that adjudications of return applications under the Convention are not custody proceedings. Rather, the basic obligation under the Convention to return a child arises if a child is removed to or retained in a country party to the Convention in violation of rights of custody existing and actually exercised in (and under the law of) the child's country of habitual residence. Most Convention cases filed by parents seeking the return of a child to the United States are premised on the existence of rights of custody held by the applicant parent that arise by operation of law, typically because the applicable state law creates joint rights of custody in both parents. A court order of custody in favor of a left-behind parent is not a requirement for pursuing a return application under the Convention. In effect, the Convention requires that foreign countries recognize rights of custody arising under U.S. law (if the child is habitually resident in the U.S.) to the extent that such rights provide the basis for an application and the rationale for return. Courts adjudicating applications for return under the Convention are not permitted to examine or rule on the merits of an underlying custody dispute.

Section 2803 (a)(3) requests “a list of countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to the applications for the return of children, access to children, or both, submitted by applicants in the United States to the Central Authority of the United States.”

There are many factors relevant to evaluating whether a country has properly implemented and is effectively applying the Convention, not least because the executive, legislative and judicial branches of each member country have important and varying roles. A country may thus perform well in some areas and poorly in others. The Department of State, building on the recommendations of an inter-agency working group on international parental child abduction, has identified certain elements of overall performance relating to the Convention’s most important requirements and has used these as factors to evaluate each country’s compliance.

The Department used analysis of the following four elements to reach its findings on compliance: the existence and effectiveness of implementing legislation; Central Authority performance; judicial performance; and enforcement of court orders. Analysis of “implementing legislation” examines whether, after ratification of the Convention, the Convention is given the force of law within the domestic legal system of the country concerned, enabling the executive and judicial branches to carry out the country’s Convention responsibilities. “Central Authority performance” involves the speed of processing applications; the existence of and adherence to procedures for assisting left-behind parents in obtaining knowledgeable, affordable legal assistance; the availability of judicial education or resource programs; responsiveness to inquiries by the U.S. Central Authority and left-behind parents; and success in promptly locating abducted children. “Judicial performance” comprises the timeliness of a first hearing and subsequent appeals of petitions under the Convention and whether courts apply the law of the Convention appropriately. “Enforcement of court orders” involves the prompt enforcement of civil court or other relevant orders issued pursuant to applications under the Convention by administrative or law enforcement authorities and the existence and effectiveness of mechanisms to compel compliance with such orders. Countries in which failure to enforce orders is a particular problem are addressed in the passages concerning Section (a)(6) below.

This report identifies those countries that the Department of State has found to have demonstrated a pattern of noncompliance or that, despite a small number of cases, have such systemic problems that the Department believes a larger volume of cases would demonstrate a pattern of noncompliance. In addition, the Department recognizes that countries may demonstrate varying levels of commitment to and effort in meeting their obligations under the Convention. The Department considers that countries listed as noncompliant are not taking effective steps to address serious deficiencies.

Applying the criteria identified above, and as discussed further below, the Department of State considers Austria, Colombia, Ecuador, Honduras, Mauritius, Panama, and Turkey to be “Noncompliant” and Chile, Greece, and Mexico, to be “Not Fully Compliant” with their obligations under the Convention. The Department of State has also identified several “Countries of Concern” that have inadequately addressed significant aspects of their obligations under the Convention. These countries are Hungary, Poland, Romania, Switzerland, and The Bahamas.

Note Regarding Comparisons to the 2004 Report

In several countries during this reporting period, the U.S. Central Authority saw either improvements or increasing problems with Hague Abduction Convention implementation that has led to a change in the Department's findings in this report, as compared to last year's report.

Mexico demonstrated an improved record of returning children, and this year we find it not fully compliant; Switzerland and Romania both improved to the level of country of concern. Israel is no longer cited for compliance problems, although we continue to see enforcement problems.

In three countries, implementation of the Convention has either deteriorated or we have further evidence of a lack of performance to justify a lower compliance finding than in previous years. Chile has been added to the list of countries we have identified with compliance problems for the first time, as not fully compliant. Greece and Panama, which were countries of concern in the last report, have also demonstrated increasing difficulties in implementation of the Hague Convention, and we now find Greece to be not fully compliant, and Panama to be noncompliant. In both Chile and Greece, the tendency to treat Hague cases as custody determinations, and an overly expansive interpretation of the allowable defenses against issuing a return order, seriously risk undermining the power of the Convention to act as a defense against further wrongful abductions of children.

France and Greece are cited for enforcement problems in this year's report due to significant delays in enforcing return or access orders.

Noncompliant Countries

AUSTRIA

As in past compliance reports, the United States continues to view Austria as noncompliant in its implementation of the Hague Convention. Our primary concern in the past has been with the capabilities and willingness of the Austrian authorities and legal system to enforce judicial orders for return or for access. These concerns are exemplified by a long-outstanding access case that, although not pursued under the Convention in 2003, resulted from earlier compliance problems (the history of this case was outlined in earlier Compliance Reports). The left-behind parent has brought two cases against the Austrian Government to the European Court of Human Rights (ECHR), prevailing in both instances. While the ECHR determined that Austria had violated this parent's and his child's right to a family life under the European Convention for the Protection of Human Rights and Fundamental Freedoms, this parent continues to experience difficulties gaining acceptable access to the child. The Department of State has continued to engage the Government of Austria over the past year and has pushed for a resolution to this case that fully respects the parental rights of the left-behind parent.

We are encouraged by the fact that the Government of Austria has continued to address the difficult challenges to creating suitable Hague Convention compliance mechanisms and effective enforcement procedures. In November 2003, the Austrian Parliament passed new implementing legislation that,

effective January 1, 2005, limits the number of courts empowered to hear Hague Convention return cases to sixteen, down from over two hundred (Convention access cases were not restricted to these courts). It may be several years before we can begin to determine the effects of the legislation on judicial processing of return applications. In the meantime, the Austrian Ministry of Justice (MOJ) has begun conducting in-depth training for the judges at the sixteen Austrian courts that will be handling all Hague return cases. The MOJ has also instituted a pilot program to train bailiffs in child psychology in order to sensitize them to complications that may arise during enforcement procedures. Furthermore, in October 2004, a panel of experts was convened to draft recommendations for improvements in enforcement of custody and return orders; the conference received nation-wide press coverage and legislation incorporating the recommendations is being prepared.

Over the reporting period, Austrian judicial and legal authorities displayed a greater sense of urgency in enforcing return orders, often in the face of harsh public criticism, particularly in three high-profile, non-U.S. Hague return cases. Judicial delays are still common, but this new awareness of the need for effective enforcement represents a significant step forward by the Austrian Government.

There were no new cases opened during the reporting year of children abducted from the United States to Austria; however, the Austrian Government has maintained consistent communication with the U.S. Central Authority and the U.S. Embassy on general Hague compliance matters. We hope future U.S. cases will be accorded the same high level of commitment as recent non-U.S. cases have been receiving.

COLOMBIA

As in last year's report, the United States continues to view Colombia as noncompliant in its implementation of the Hague Convention. Previously mentioned systemic problems, particularly with respect to judicial processing, have persisted. Court jurisdiction over Hague cases remains unclear in practice, despite a Constitutional Court ruling in 2002 that addressed jurisdiction. This lack of clarity creates lengthy delays in case processing; in some instances, cases have remained pending for years. A key component in the effective application of the Convention is courts' willingness and ability to hear and issue a decision on Convention applications expeditiously. Delays are also caused when judges routinely order home studies or psychological evaluations. These inquiries, unless part of a carefully circumscribed inquiry in response to a taking parent's assertion of an exception to return under the Convention's Article 13(b), are inappropriate in the context of a Hague proceeding since they tend to go to the merits of custody, and are properly left to the courts of the country of habitual residence. It does not appear that Colombian judges are receiving specialized training in the Hague Convention. A review of the Office of Children's Issues' records shows that very few abducted children return to the United States from Colombia despite the considerable volume of cases.

Colombian officials have begun to demonstrate a greater openness to discussing outstanding Hague-related problems with the Department of State, Office of Children's Issues and with U.S. Embassy officials. In March 2004, U.S. Ambassador Wood discussed abduction issues with Colombia's President Uribe. U.S. Embassy officials were actively involved in assisting Central Authority officials and

legislators during the drafting of implementing legislation, which would clarify jurisdictional problems by directing Hague cases to the Family Court. The legislation was passed by the Colombian House of Representatives on December 14, 2004, and must now be passed by the Senate. U.S. Embassy officers have encouraged the Ministry of Foreign Affairs to take a more active role in managing interagency procedures in order to facilitate Hague case processing. Assistant Secretary Harty has twice during the past year relayed our concerns to the Colombian Ambassador here in Washington.

The Colombian Central Authority has become more responsive over the past year to requests for information and in providing assistance in welfare visits, and case processing is becoming more efficient. However, the procedural issues within the court system discussed above continue to seriously impede case resolution. We hope that engagement and dialogue between the United States and Colombia continues.

ECUADOR

Ecuador's performance in implementing the Hague Convention was previously cited as "noncompliant" due to the lack of a functioning Central Authority and lack of progress in resolving cases. The Government of Ecuador abolished its Central Authority in April 2003 and has still not appointed a new office to function as the Central Authority to fulfill its responsibilities under the Hague Convention, despite several requests from U.S. officials. The Assistant Secretary for Consular Affairs raised this concern in meetings in Quito in September 2004. The U.S. Embassy in Quito has repeatedly discussed this with the Ecuadorian officials and in Washington, the Office of Children's Issues has discussed the matter with officials from the Embassy of Ecuador.

Left-behind parents can still file Hague applications directly with Ecuadorian courts. Without a functioning Central Authority, however, the Government of Ecuador has not been able to coordinate resources to work with law enforcement to locate missing children, to train judges hearing Hague cases, or to promote consistent, appropriate implementation of the Convention. Ecuador has appointed a series of offices to serve temporarily as the Central Authority, but these offices have not been given any additional resources that would enable them to carry out their mandates. The United States has sent two diplomatic notes to the Government of Ecuador with requests that a permanent Central Authority be designated, and asking for updates on our unresolved cases.

HONDURAS

The United States continues to view Honduras as noncompliant due to its ongoing failure to carry out its obligations under the Hague Convention. Honduras lacks a functioning Central Authority; although IHNFA, the Honduran Agency for Children and Families, is the government agency designated as the Honduran Central Authority, it has not set up an office nor appointed any staff to handle Hague Abduction Convention issues. No progress has been made in any abduction cases forwarded from the U.S. Central Authority. Although the Hague Convention has been in effect between the United States and Honduras since 1994, the Honduran Government refused to accept Hague Convention cases for

ten years because the Honduran Congress had not ratified the Convention. In early 2004, the Honduran Congress ratified the Hague Convention, thus resolving this longstanding deficiency.

Over the past year, the Department of State has seen no improvements in the Government of Honduras' implementation of the Hague Abduction Convention. The Honduran Central Authority remains dysfunctional. A small office was designated to handle Hague matters for a brief period, but this office was soon disbanded. There are no judicial training or education programs to prepare judges who hear Hague cases. Even though the Convention has been ratified, Hague applications still are not being forwarded to the courts.

U.S. Embassy officials continue to press the Honduran Government to establish a functioning Central Authority and to process outstanding cases expeditiously. It appears that the government agency responsible for carrying out Central Authority functions is undergoing a reorganization and is looking into establishing new procedures for handling Hague cases. We support any efforts the Government of Honduras makes that will bring it into compliance with the Hague Convention.

MAURITIUS

The United States continues to view Mauritius as noncompliant in its implementation of the Hague Convention. The Hague Convention entered into force for Mauritius in 1993. The United States accepted Mauritius' accession in the same year, creating reciprocal obligations between the U.S. and Mauritius under the treaty. Mauritius failed, however, to put in place domestic implementing legislation until October 2000. This failure created lengthy delays for the two Hague cases forwarded by the U.S. Central Authority to Mauritius (one in 1998 and one in 1999). Although both abductions took place years after the treaty entered into force between the United States and Mauritius, the Mauritian Supreme Court, in June 2004, six years after the initial filing of the Hague application, decided in the first case to deny the application for return on the grounds that no domestic implementing legislation was in effect at the time the application was filed (1998).

It is the Department's view that this decision places Mauritius in violation of its obligations to the United States under the Hague Convention. Article 35 of the Hague Convention obliges signatory countries to apply the Convention to all abductions occurring after entry into force of the treaty between the U.S. and Mauritius.

In addition to making our complaints known to the Government of Mauritius regarding the way in which this case was handled, the Department of State and the U.S. Embassy in Mauritius are also concerned that the June decision by the Supreme Court will be used as a precedent for the second U.S. case, which is scheduled to be heard by the court in June 2005.

Removal of Mauritius from the category of noncompliant countries will require concrete action to resolve both these cases and any future cases consistently with Mauritius' Convention obligations. The first case discussed above is not listed in Attachment "A" as one of the cases unresolved after 18 months. The Department believes such a listing would be misleading because, while we do not

believe Mauritius is in compliance with its obligations and we are not satisfied with the outcome of the case, the case has been resolved in the sense that the judiciary has completed its action.

PANAMA

The Department has cited Panama's compliance problems in previous editions of this report. After making progress in 2003 in its handling of its Hague responsibilities (passage of new legislation, training for judges, and good communication from the Central Authority), in 2004 Panama's performance deteriorated and it once again demonstrated systemic problems with Hague Convention compliance.

The Panamanian Central Authority (PCA) has not processed Hague applications expeditiously, and communication with the Office of Children's Issues (CI) has been inconsistent. In the only case in which a decision was actually rendered during the reporting period, the PCA did not inform CI that the left-behind parent lost the case. CI learned of the case's outcome six months after the decision was rendered only by contacting the U.S. family of the left-behind parent. Since then, CI has attempted repeatedly to contact the PCA to learn more about the case outcome, but has received no response.

The failure of Panamanian authorities to locate children continues to create enormous and unnecessary delays in resolving cases, and we have not seen any steps being taken to remedy the situation. On the contrary, in at least two cases, U.S. consular staff provided the PCA with detailed information concerning the whereabouts of abducted children, and still there was no action on the part of the PCA to investigate and confirm the locations of these children so that the Hague applications could move forward to the courts.

We also have serious concerns in the area of judicial performance. The huge backlogs of cases that are endemic to the Panamanian court system have created lengthy delays in Hague proceedings. In some cases it takes months for a hearing date to be set, and in one case no date has been set despite the fact that the Hague application was filed over a year ago. Panamanian authorities have made no efforts to expedite the way in which courts handle Hague abduction cases. Once Hague cases do come to court, judges commonly order psychological evaluations of the children and parents and generally approach cases as if they were custody cases, an approach which contradicts the objects of the Hague Abduction Convention. Despite initial attempts to restrict Hague cases to a limited number of trained judges and courts, it seems cases are being filed in whatever courts are closest to the child's location, and the judges who do sit on the appropriate courts change frequently, making it difficult for those courts to retain the experience that would enable Hague cases to be handled appropriately. Although the PCA has stated that judges are being offered Hague Convention training, we have seen no positive effects from this training on case processing or decisions.

TURKEY

Hague applications for the return of abducted children from Turkey continue to experience the same systemic problems that were cited in the last report. Cases move very slowly through the courts and

can take years to resolve. It appears that few judges or lawyers are familiar with the Convention or understand it well enough to implement it effectively. For example, Hague cases are often treated as custody cases and home studies are frequently ordered. Turkish officials have consistently been unable to locate abducted children. New legislation implementing the Hague Convention has still not been enacted, although the Ministry of Justice is in the process of drafting the legislation.

Developments since the end of this reporting period, however, are encouraging. Turkey has consolidated abduction cases into new family courts, which are more familiar with all aspects of family law, including the Hague Convention. This consolidation should help to move cases along through the courts more rapidly. The Turkish Parliament also passed legislation to criminalize parental child abduction. Once the new law takes effect in April 2005, Turkish police officials will have more authority to investigate and locate missing children. Turkish judges and prosecutors throughout the country participated in a series of training sessions on the Hague Abduction Convention sponsored by the European Union in order to gain greater familiarization with the principles and mechanisms of the Convention.

During this reporting period, a child was ordered returned to the United States when an appeal court overturned a lower court decision. This case had been marked by repeated hearings and delays. Throughout the entire process, the U.S. Ambassador, Deputy Chief of Mission, and Consular Chief repeatedly pressed for resolution of the case consistent with the Convention during meetings with appropriate senior Turkish officials, including the Ministers and the Under Secretaries of Foreign Affairs, Interior, and Justice, and the Turkish Central Authority.

U.S. Embassy and Department of State officials have worked closely with the Government of Turkey over the past year on matters related to the Hague Convention: encouraging proper treaty implementation, inquiring into the status of cases, delivering demarches, etc. It is crucial that the Government of Turkey sustain the momentum needed to fully implement the Hague Convention and carry out its obligations under the Convention. In particular, we hope to see implementing legislation passed as soon as possible.

Countries Not Fully Compliant

CHILE

Chile has not been cited in previous Compliance Reports. Key to the Department's finding that Chile is not fully compliant this year is our observation of significant problems in Chilean judicial performance. There is evidence that Chilean courts favor mothers and Chilean nationals over foreign left behind parents. In addition, Chilean courts consistently handle Hague return cases more as custody determinations than as decisions regarding wrongful removal and habitual residence of the child, in clear contradiction of the letter and spirit of the Convention. Psychological or social evaluations are routinely conducted, in most cases in the absence of any evidence of risk or harm to the child. Such evaluations, unless part of a carefully circumscribed inquiry in response to a taking parent's assertion of exceptions to return under the Convention's Article 13(b), are inappropriate in the context of a

Hague proceeding, since they tend to go to the merits of custody, and they properly should be left to the courts of the country of habitual residence. Chile is also a signatory to the UN Convention on the Rights of the Child, and Chilean courts seem to be using this Convention as a rationale for introducing an examination of a broad range of custody-related issues into Hague cases. The appeal decisions in two cases were egregious enough to prompt the Chilean Central Authority (CCA) to file a complaint with the Chilean Supreme Court alleging that the appeal judges abused their judicial discretion. The U.S. has raised its concerns about Chilean judicial performance several times over the past year, including in three demarches to the Government of Chile. Then-U.S. Ambassador Brownfield raised these issues in discussions with Chilean government leaders.

The CCA has functioned well over the reporting period and has maintained consistent communication with the Department of State. CCA officials are aware of the problems in judicial performance noted above. U.S. Embassy officers are exploring with the CCA the possibility of jointly sponsored training for Chilean judges on the Convention.

GREECE

The U.S. Central Authority considers Greece to be “not fully compliant” with the Hague Abduction Convention due to two grave concerns in the area of judicial performance: lengthy court delays, and a consistent pattern of deciding Hague cases based on custodial matters and not on the merits of the Hague application, which has led to an alarmingly low rate of return decisions.

As noted in last year’s Compliance Report, Hague case processing in Greece continues to be characterized by long delays. Of particular concern is the long period of time that elapses between a hearing and notification of the court’s decision. In many cases, it has taken as long as six to twelve months before a judge’s decision is communicated to either the left-behind parent or the U.S. Central Authority. These lengthy delays violate Article 11 of the Convention requiring the expediting of proceedings, and ultimately worsen the impact from the abduction on the children involved.

Furthermore, rather than restricting their analysis to the matters of habitual residence and wrongful removal as required by the Hague Convention, courts in Greece exhibit a clear and consistent tendency to determine matters of custody in the course of Hague proceedings. This problem is worsened by a pattern of nationalistic preference and inappropriate considerations of the home environment (including the benefits to the child of living surrounded by his or her Greek extended family). Over the last review period, Greek courts failed to order a single return to the U.S. Greek courts frequently accept taking parents’ claims that the left-behind parent was abusive or generally unfit to be a parent without clear evidence in support of these assertions. Courts do not fully investigate these claims or consider alternative methods – such as the availability of social services – to protect the child and the taking parent so that a return can be ordered and custody can be properly determined in the child’s country of habitual residence.

Institutionally, the legal framework in Greece seems to support the necessary mechanisms for the Hague Convention to function effectively. The Convention has force of law and has primacy over

domestic law; first instance courts can hear Hague cases under expedited procedures (provisional or “emergency” measures); and enforcement mechanisms exist. Despite the legal status of the Convention, however, U.S. case experience over the last few years indicates that Greek courts consistently find ways of circumventing the Convention and, using expansive interpretations of the allowable defenses, are extremely reluctant to order children to leave Greece and return to their country of habitual residence. Since 1997, of the twelve applications provided by the U.S. to the Greek Central Authority, two have resulted in orders for return, while Greek courts have rejected returns in ten other cases. Other countries have reported similar trends on returns from Greece.

MEXICO

In the last report, the Department found Mexico to be noncompliant with the Convention due to systemic problems, including slow case handling, lack of progress in resolving cases, and inability to locate children. Mexico continues to be the destination country of the greatest number of children abducted from the United States or wrongfully retained outside the United States by parents or other relatives. Over the recent reporting period, the Department has seen some notable improvements in the performance of the Mexican Central Authority (MCA). The MCA forwards Hague applications to judges much more expeditiously than before; whereas previously delays of 3-6 months were common, cases are now being forwarded to the courts as early as 4-8 weeks after being received. MCA responsiveness to inquiries from the U.S. Central Authority has also improved. The Office of Children’s Issues is now in regular (weekly and at times daily) contact with the MCA. Mexican authorities and judges participated in various training opportunities and judicial conferences co-sponsored by the Department of State. This training appears to be having a positive effect. Over the past year we have seen the highest number of court-ordered returns from Mexico to the United States of any reporting period.

Many of the problems cited in the past do persist, however. Our greatest concern remains Mexico’s inability to locate missing children or taking parents. In some cases, finding them takes years. Though the MCA has begun to work more closely with the various branches of local law enforcement, including Interpol, we have not observed a substantial change in the frequency with which children are found. Also of serious concern are lengthy court delays, especially due to the excessive use of a special Constitutional appeal process (the “amparo”), which can block Convention proceedings almost indefinitely.

Delays are also due to the ability of Mexican appellate courts to reconsider factual determinations made by a lower court. These case delays could be dealt with through the passage of implementing legislation incorporating Convention procedures and obligations, something that the Department of State has urged Mexico to do; we have seen no steps taken in this direction. In addition, Mexico’s record on enforcement of judicial orders for return is mixed. Although some mechanisms do exist to enforce court orders, they are not utilized consistently. Finally, we continue to see Hague cases mishandled as custody cases rather than focusing on securing the prompt return of children wrongfully removed or retained abroad.

We have made numerous appeals to the Mexican Government to invest greater funding and attention towards international child abduction-related issues, including strengthening the MCA, offering more training for judges, and allocating more resources for locating children. The U.S. Embassy and Consulates in Mexico have worked closely throughout the year with Mexican officials and judges to explain roles and obligations under the Hague Convention. Assistant Secretary for Consular Affairs Maura Harty has repeatedly raised USG concerns over Mexico's compliance problems with senior Mexican officials, including during the November 2004 Binational Commission meetings and during Secretary of State Rice's first trip to Mexico in March 2005. Mexican judges participated in Department-sponsored training and conferences, including a December 2004 Latin American Judicial Seminar, at which judges from 19 countries in the hemisphere shared experience and worked through cases studies using Hague principles. Nevertheless, the MCA has not taken a sufficient lead in broadening the amount of training offered within its borders to judges. While the Department is pleased at the progress seen since last year's report, there remains considerable room for improvement.

Countries of Concern

HUNGARY

The Department of State continues to see significant problems in communicating with the Hungarian Central Authority (HCA) and with adjudication of Hague cases in Hungary. The HCA has been slow to respond to requests from the Department for information, sometimes taking weeks or months to answer. Further, the HCA does not have regular, structured judicial education for Hungarian judges; it states that it provides training services when requested. Hungarian judges consistently attempt to make custodial determinations in Hague cases, which is inappropriate in the context of a Hague proceeding, since such issues are properly left to the courts of the country of habitual residence.

Two recent cases illustrate our concerns with case processing in Hungary. In one case, the Supreme Court overturned a return order on the grounds that separation of the child from his half-sibling would constitute serious and irreparable psychological damage to the child. In another case, an appeals court upheld a lower court ruling against the return of the children on the grounds that the children were too young to be separated from their mother and that the mother could not support herself in the U.S. We do not believe that either of these decisions reflect the spirit of the Hague Convention, the intention of which is to narrowly limit the range of exceptions to return allowed under Article 13(b). Although the first case was appealed to the Supreme Court, this final appeal was not allowed in the second case. The HCA has acknowledged that the decision in the second case was not a good one.

Historically, the number of U.S. cases submitted to Hungary has been very small, and as of March 2005, there are no open U.S. cases in Hungary. Nevertheless, recent case experience suggests that the Hague process may not be functioning properly in Hungary. The U.S. Central Authority and the U.S. Embassy will continue to monitor the treatment of any future applications for return in Hungary.

POLAND

The U.S. Central Authority continues to see problems in the way Hague cases are handled in Poland. Courts routinely order psychological evaluations and home studies. Locating missing children is still a significant problem, in part because it appears that Polish law limits the ways in which Polish law enforcement can offer assistance. In one U.S. case a taking parent in hiding was able to protest a return order in court while also collecting child support payments from the government. This situation indicates that institutionally there is a disturbing lack of coordination among local law enforcement, the Polish Central Authority, and social welfare agencies. In Poland, international parental kidnapping is not a criminal offense as long as the taking parent retains parental rights, limiting the involvement of local law enforcement to search for children hidden by the taking parent and limiting the use of the law enforcement tools of provisional arrest and extradition of the taking parent.

We understand that the examination of home environments by Polish courts is often at the demand of attorneys who represent taking parents in these cases and invoke Article 13(b). The Polish procedure does limit the number of courts that can hear Hague cases in an attempt to allow judges to develop Hague expertise. However, Polish law does not permit courts to consider resources for child welfare and protection in the country of habitual residence when asked to consider the grave risk defense. We hope that recent EU legislation (“the Brussels II bis”) will allow courts to order a return if the resources in the Contracting State are available to address concerns regarding a child’s welfare. In addition, we are not aware of any institutionalized training opportunities available to Polish attorneys which would assist them in improving their understanding of the Hague Convention and its practice.

Officials from the Department of State in Washington and the U.S. Embassy in Poland continue to raise compliance issues and individual abduction cases with high-ranking officials from the Polish Government through diplomatic notes, formal demarches, and ongoing communications with the Polish Central Authority. Assistant Secretary for Consular Affairs Maura Harty regularly raises the issue during bilateral meetings with her Polish counterpart.

ROMANIA

The Department of State has noted some improvements in the performance of the Romanian Central Authority over the past year, especially with respect to the level of responsiveness to requests for status updates and case information. Hague cases continue to face lengthy court delays, although there have been some improvements in recent months. Many of the problems cited in the last report continued in 2004, especially the use of psychological evaluations, an apparent lack of familiarity with the Hague Convention that results in judges and attorneys treating cases as custody determinations, and judicial determinations of resettlement that result because of cases languishing in the Romanian court system. Delays in case processing on the part of a foreign government should not penalize children or left-behind parents. The burden of proof lies on the taking parent to prove that the child is in fact re-habituated, and the child should still be ordered returned if the taking parent cannot demonstrate that the child is now integrated into that culture in such a way that his/her habitual residence has changed.

Romania passed Hague Convention implementing legislation in September 2004. This legislation should improve Hague case processing, particularly because it centralizes the hearing of Hague cases in family courts, allowing the development of judicial expertise. Under the provisions of this new law, Hague abduction cases are to be tried in the Child and Family Department of the Bucharest Court by family law judges who are trained in the provisions of the Convention. The law became effective on December 27, 2004. Pending cases have been or are in the process of being transferred to the new court. The Ministry of Justice is in the process of drafting internal regulations for the processing of Hague Convention cases according to the new law. The Department does have some concerns about the consistency of specific articles of the implementing law with the Hague Convention. For example, the mandated involvement of psychologists in all cases raises concerns, as psychological reports can delay decisions and inevitably go to the merits of custody. Since the implementing legislation was passed at the end of this reporting period, we will be alert to the effects the new legislation might have on pending and future U.S. Hague cases.

SWITZERLAND

Last year the Department found Switzerland to be not fully compliant in this report because of concerns with lengthy court delays. Swiss authorities have made concerted efforts to address, on an institutional basis, many of the problems cited in previous Hague Convention compliance reports. Switzerland has a federal system of government with powerful and independent cantonal governments. Federal level authorities, including the Swiss Central Authority, are cooperative and responsive, even if their power and influence over cantonal institutions are limited as a result of the federal structure. That said, courts and officials at all levels of Swiss government have demonstrated the seriousness with which they take their obligations stemming from the Hague Convention, and efforts have been made to centralize practices regarding international child abduction. Although the U.S. Central Authority did not submit any Hague applications to Switzerland for the return of children last year, the Swiss Central Authority did in fact process many cases from other countries. The rate of returns from Switzerland in these non-U.S. cases has been very high; furthermore, Swiss courts have demonstrated their willingness to order returns in very difficult cases, often against a backdrop of hostile public opinion or media outcries. It is our understanding that when a Hague decision has been made in one court, that decision is valid and enforceable throughout the country and the case cannot be easily re-opened. The Department will continue to monitor Swiss compliance on the basis of experience with U.S. cases that occur in the future.

THE BAHAMAS

Over the past year there have been improvements in the level of assistance and responsiveness from the Bahamian Central Authority (BCA) to requests for case status updates. Recently, Bahamian Government officials met with representatives of the Office of Children's Issues to discuss how Hague cases are handled in The Bahamas.

We have two serious procedural concerns over Hague Convention implementation, however. Our first concern regards legalization requirements. The Bahamas requires authentication or certification of

documents submitted by left-behind parents, including certified copies of the laws of the originating jurisdiction, notarial authorizations, and apostilles on foreign decisions. This practice is inconsistent with Article 14 of the Hague Abduction Convention, which declares that states need not make recourse to specific procedures for proof of a law of the requesting state or for the recognition of foreign decisions.

Secondly, we have concerns about the required affidavit process. While the BCA is concerned that affidavits be in the correct format prior to submission to the courts, the process that applicants need to go through, including drafting the affidavit in support of the application, sending the draft for vetting to the BCA, returning the affidavit to the applicant for notarized signature, and resubmitting the notarized affidavit to the BCA, is cumbersome and can potentially create lengthy delays.

The delays that can be caused by these extraordinary requirements contravene the Convention's Article 2 requirement to use the "most expeditious procedures available." Such delays have the potential to cause significant harm to all parties to the dispute, especially the children.

Attachment A - Unresolved Return Cases

Section 2803 (a)(4) requests "[d]etailed information on each unresolved case described in paragraph (1) and on actions taken by the Department of State to resolve each such case, including specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted."

The information requested under this section is provided in Attachment A.

Encouraging Use of the Convention

Section 2803 (a)(5) requests "information on efforts by the Department of State to encourage other countries to become signatories to the Convention."

The Department avails itself of appropriate opportunities that arise in bilateral contacts to persuade other countries of the advantages that would derive from becoming parties to the Convention. The Assistant Secretary for Consular Affairs consistently raises the Convention in talks with foreign officials on other bilateral consular matters. The Department maintains a library of talking points and materials for its overseas posts to use in explaining to foreign governments the advantages of adhering to the Convention.

When a country accedes to the Convention, the Department does not automatically accept it as a Convention partner. The Department assesses whether the country has established the necessary legal and institutional framework for carrying out its Convention responsibilities. In 2004, the U.S. completed its assessments of Bulgaria and Uruguay and accepted their accessions. Assessments are

currently underway of all other countries whose accessions to the Convention have not yet been recognized by the U.S.

The Assistant Secretary for Consular Affairs formally discussed the Convention this year with several countries, including Egypt, India, Japan, Jordan, Kenya, Lebanon, Nigeria, Pakistan, Philippines, Russia, Saudi Arabia, and United Arab Emirates, which have not yet acceded to the Convention. States that have recently acceded to the Convention include the Dominican Republic (November 2004).

Enforcement Problems

Section 2803 (a)(6) requests “[a] list of the countries that are parties to the Convention in which, during the reporting period, parents who have been left-behind in the United States have not been able to secure prompt enforcement of a final return or access order under a Hague proceeding, of a United States custody, access, or visitation order, or of an access or visitation order by authorities in the country concerned, due to the absence of a prompt and effective method for enforcement of civil court orders, the absence of a doctrine of comity, or other factors.”

The Convention directs contracting states to ensure that rights of custody and/or access are effectively respected. The Convention requires that other countries recognize U.S. custody rights, including rights of access and visitation, to the extent that such rights provide the basis for applications and the rationale for return. Adjudication of a return case by a foreign court under the Convention is not a decision whether to enforce a custody order.

In the context of a return application, the Convention specifically limits consideration of custody matters to the question of whether the applying parent was actually exercising rights of custody (under the applicable law in the child’s country of habitual residence) at the time the child was wrongfully removed to or retained in another country. Our evaluation of compliance with the Convention’s requirements concerning the return of abducted or wrongfully retained children and corresponding enforcement issues does not, therefore, evaluate the extent to which U.S. court orders are recognized and enforced as such.

FRANCE

France has largely been effective in returning children abducted to France back to the United States, and until this past year, we did not discern a pattern of system-wide enforcement difficulty. In two cases this year, however, left-behind parents were severely delayed in enforcing return orders, which led to increased bilateral consultations and diplomatic intervention to seek their resolution. These cases occurred in entirely different parts of the country and involved different officials. One case became highly visible in the media, and six months passed after a Hague return order was issued before the case was finally resolved. The other case, however, remains unresolved as of this writing. In the first case, the taking parent was able to avoid enforcement by refusing to comply with enforcement officials and by concealing the whereabouts of the child. In the second, the prosecutor

has taken no action since a return order was issued in March 2004. The problems experienced in 2004 with respect to enforcement in France serve as a cautionary note that even in countries where Hague cases are handled well and frequently result in returned children, enforcement issues can and do occur.

GERMANY

Since 2000, Germany has demonstrated strong performance regarding applications for the return of children to the U.S. Despite this, we continue to observe unwillingness on the part of some judges, law enforcement personnel and others within the child welfare system in Germany to vigorously enforce some German orders granting parental access in both Convention and non-Convention access cases. American parents often obtain favorable court judgments regarding access and visitation, but the German courts' decisions can remain unenforced for years. A taking parent can defy an access order with relative impunity. As a result, a number of U.S. parents still face problems obtaining access to and maintaining a positive parent-child relationship with their children who remain in Germany.

In one particularly high-profile access case, the parent living in Germany, a non-German until early 2004 with physical custody of two children, defied valid German court orders permitting visitation by the U.S. parent. The parent in Germany monitored all contacts between the children and other persons and prevented the children from meeting or communicating with the U.S. parent for almost eight years. U.S. officials sought assistance from German officials at all levels. In a breakthrough in early 2004, following years of sustained efforts by the German-U.S. bi-national working group, the Assistant Secretary for Consular Affairs, and the U.S. Ambassador to Germany, local authorities temporarily removed the children from the foreign parent's care and have assisted in reacquainting the children with the U.S. parent after their prolonged separation. In December 2004 the foreign parent was again able to thwart German officials by removing the children from a court-ordered group home and again curtail access by the U.S. parent. The court order removing the children from the foreign parent's custody was later temporarily suspended, and they remain in her care. German and American officials continue to cooperate toward a resolution of this vexing case.

GREECE

Based on U.S. Central Authority experience, when adjudicating Hague cases, Greek courts routinely ignore the existence of prior U.S. custody orders that granted custodial rights to left-behind parents and nearly always rule in favor of the taking parent. Furthermore, taking parents have been successful in preventing left-behind parents who were granted access rights in Greece from obtaining visitation with their children.

ISRAEL

The Israeli Central Authority has been cooperative and responsive in its dealing with the U.S. Central Authority. However, court orders for return have not been executed because of excessive provisions

(undertakings) in the orders requiring guarantees regarding the taking parents' immigration or employment status upon return to the United States with the child or regarding prepayment of financial support beyond the means of the left-behind parent. Additionally, in one long-standing case, a failure to locate the child and the taking parent (despite evidence of the child's whereabouts) has prevented the enforcement of the order for the child's return to the United States.

POLAND

Poland's domestic legal framework does not permit the consistent, effective enforcement of orders for return. As a practical matter, a taking parent who flees or hides a child in defiance of a final return order cannot be compelled to comply with the order unless the parent is first stripped of his/her parental rights.

SPAIN

Spanish authorities recognize the importance of returning abducted children to the United States, but law enforcement officials continue to have problems locating children, as in the case discussed in Attachment A of this report. Without improving their capabilities to locate children, Spanish authorities will continue to have problems enforcing orders if the taking parent decides to go into hiding, as occurred in a case discussed in last year's report.

SWEDEN

Sweden's significantly improved record on enforcing return orders has been noted in previous Compliance Reports. Enforcement problems, however, remain a barrier to access. Arrest or physical removal of the child from the violator's care is rarely used, and Sweden does not have the equivalent of a "contempt of court" mechanism. In the Department of State's experience, Swedish courts have enforced very few of the access rulings favorable to American fathers.

SWITZERLAND

Although Switzerland has a range of available legal mechanisms for enforcing court orders for return or for access, in an effort to protect children and their relationships with both parents, Swiss authorities are generally reluctant to use any coercive means. This reluctance creates conditions that make it easier for taking parents to consider evading compliance with court orders. Also, the independent nature of each canton creates an opportunity for complicating enforcement of orders. Although cantons generally will respect decisions issued in other cantons, given the different procedures in place in each canton, a taking parent can delay the enforcement of an order by moving to another canton where the left behind parent may then have to formally request that their return or access order be enforced.

Non-governmental Organizations

Section 2803 (a)(7) requests “[a] description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of non-governmental organizations within their countries that assist parents seeking the return of children under the Convention.”

The U.S. Central Authority works in close partnership with non-governmental organizations, particularly the National Center for Missing and Exploited Children (NCMEC), to promote education and training and to resolve cases of international child abduction. The degree of cooperation continues to expand. The International Center for Missing and Exploited Children, NCMEC's international arm, has run a series of training programs targeted at law enforcement officers over the last year in such places as Croatia, Romania, and Hong Kong, among others. This training, which includes a component on locating missing children, addresses a particular concern we have had with many of our treaty partners.

International Social Services (ISS) works with U.S. and foreign officials and parents to facilitate contact with and return of children. ISS currently has national branch offices or bureaus in 146 countries (including most of our Hague Convention partner countries) to assist families who are separated, including separation resulting from child abduction. When appropriate, the Department and U.S. consular officials refer parents to ISS for additional support or work directly with ISS. In some cases, ISS has been actively involved in arranging escorts for returning children and in working to establish better communication between parents or between a parent and child.

In our diplomatic efforts, the Department of State has encouraged Hague Abduction Convention parties to utilize the services and expertise of local NGOs, particularly in countries trying to develop or expand their capacity to more effectively implement the Convention.

REPORT ON COMPLIANCE WITH THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

List by country of applications for the return of children submitted to the Central Authority for the United States that remained unresolved more than 18 months after date of filing.

The following acronyms are used throughout:

CI - Office of Children's Issues, part of Overseas Citizen Services of the Bureau of Consular Affairs, U.S. Department of State. Acts as the U.S. Central Authority.

CA - Foreign Central Authority responsible for Hague Abduction Convention Issues in the Foreign country.

LBP - Left-behind parent from whom a child has been abducted or wrongfully retained abroad.

TP - Taking parent, who abducted or wrongfully retained the child abroad.

Please note that, in addition to the actions described in the case summaries below, the U.S. Department of State and our overseas Embassies and Consulates ("posts") maintain frequent and ongoing conversations and meetings with left-behind parents.

COLOMBIA CASE 1

Date of abduction or wrongful retention: July 20, 2002

Date Hague application filed: November 29, 2002

Have children been located? Yes

On July 20, 2002, TP abducted the children to Colombia. The LBP filed Hague applications for their return on November 29, 2002. This case has been languishing in the Colombian courts since that time. The most recent hearing was scheduled to take place on November 14, 2004, but as of the time of writing of this report, the Colombian CA had not reported the outcome of the hearing to CI, despite multiple requests for information.

In March 2004, U.S. Ambassador Wood discussed abduction issues with Colombia's President Uribe. U.S. Embassy officials regularly meet with Colombian authorities to urge resolution of outstanding cases and to promote speedier, improved Hague case procedures.

COLOMBIA CASE 2

Date of abduction or wrongful retention: August 23, 1998

Date Hague application filed: March 11, 1999

Has child been located? Yes

This case has been in litigation for years. The child was ordered returned in March 2000, but the decision was reversed in October 2000, upon appeal. Since then, the case has moved through 5 different courts without resolution. The U.S. Embassy and CI have approached Colombian authorities at various times on behalf of the LBP. Since February 2001, the Embassy has sent six diplomatic notes, urging the case's swift completion in compliance with Colombian commitments under the Hague Convention. In August 2003, a diplomatic note was forwarded to the Colombian CA seeking assistance in gaining consular access to the child. To date, there has been no consular access to the child.

In March 2004, U.S. Ambassador Wood discussed abduction issues with Colombia's President Uribe. Six diplomatic notes have been sent to the Colombian Ministry of Foreign Affairs regarding the case since February 2001. U.S. Embassy officials regularly meet with Colombian authorities to urge resolution of outstanding cases and to promote speedier, improved Hague case procedures.

CROATIA

Date of abduction or wrongful retention: September 6, 2002

Date Hague application filed: December 5, 2002

Has child been located? Yes

In May of 2003, a Croatian court ordered the child to return; the TP appealed. The appeals court upheld the appeal and remanded the case to the lower court for correction. Case underwent lengthy delays from this point. In August 2004, the lower court closed hearings. In November 2004, the court (once again) decided to return the child. Although we are concerned with the length of time that it took to draft the final order, it is apparent that thorough research was done to ensure the decision followed the intent of the Convention. Although the return order was handed down before the beginning of December 2004, the TP evaded service of the decision until December 29, 2004 and submitted an appeal on January 12, 2005 (the last day of the appeal window). Enforcement cannot be effected until this second appeal is decided. Given the history of delay in this case, concern remains regarding the passage of time, the TP's attempts to evade service, and potential problems with enforcement if/when the appeals court rules in favor of the LBP.

In May 2004, Embassy filed a protest with the Croatian Central Authority over the extent of the delays.

GREECE

Date of abduction or wrongful retention: February 15, 2002

Date Hague application filed: June 21, 2002

Has child been located? Yes

TP took child to Greece without LBP's knowledge in February 2002. The Hague return hearing was held in Greece in September 2002. After waiting five months without notification of the outcome of the hearing, CI sent a letter to the Greek CA (GCA) requesting clarification of the proceedings. CI was then informed that the court of first instance denied the return application, and LBP requested an appeal. For the appeal hearing, GCA requested home and psychological evaluations be done of the LBP, which were done in June 2003; the hearing took place December 4, 2003. CI was informed Sept. 13, 2004 by LBP that the appeal was denied. Several aspects of the Greek court's decision raise serious concerns, such as the ease with which the courts accepted the TP's claims of abuse without also investigating whether protective services or legal aid were available to the TP prior to abducting the child; and expansive interpretation of the Article 13 (b) defense of creating an "unbearable situation" if the child were ordered returned. LBP has expressed his intent to appeal to Supreme Court.

Embassy officials have met several times with Greek CA to discuss this and other outstanding cases. In February 2005, the U.S. Ambassador discussed the importance of effective Hague case processing with the Greek Minister of Justice.

HONDURAS

Date of abduction/retention: April 1, 1997

Date Hague application filed: May 1998

Has child been located? Yes

IHFNA, the Honduran Agency for Children and Families which is responsible for handling Central Authority functions, has at no point addressed the return of this child to the United States. At the request of the U.S. Embassy, IHFNA has conducted welfare visits with the child and reports on these visits have been provided to the LBP. The TP, who is Honduran-American, re-entered the U.S. without the child in 2003. The child's abduction to Honduras violated a U.S. court order issued in December 1997 that mandated that the child not be removed from the court's jurisdiction. The U.S. civil court that issued the order has been holding the TP in jail on contempt of court charges since July 2003 and has indicated that the TP will remain in custody until the child returns to the United States. The Government of Honduras (GOH) is closely monitoring the TP's U.S. civil court case. At one hearing the GOH, through hired legal representation, submitted an Amicus Curiae brief in support of the TP's release. The brief stated that the GOH will not relinquish the child to the authority of the court in the U.S. and therefore the contempt charges against the TP could not have any coercive effect. The TP also faces pending criminal charges under the International Parental Kidnapping Act. The child remains in Honduras in the care of Honduran-American grandparents, while the TP remains in U.S. custody.

ISRAEL CASE 1

Date of abduction or wrongful retention: April 18, 1997

Date Hague application filed: October 6, 1997

Have children been located? No

On November 24, 1998, the court ordered that the children be returned to the U.S. On January 13, 1999, after attempts to locate the TP and the children had failed, the Court issued another order instructing the police to locate the children. Unfortunately, efforts undertaken by police also failed. To date, neither the TP nor the children have been located. CI has regular, ongoing contact with the LBP, U.S. law enforcement, the Israeli CA (ICA), and through the ICA, contact with foreign law enforcement. In an effort to help the ICA and foreign law enforcement locate the TP, CI and federal law enforcement provided them with the TP's Department of Motor Vehicles photograph. At the request of CI, the director of the ICA has had several meetings with law enforcement officials regarding their efforts to locate the children. ICA informed CI that search efforts had been expanded, but whereabouts of the children remain unknown.

ISRAEL CASE 2

Date of abduction or wrongful retention: June 2, 1997

Date Hague application filed: May 5, 2002

Has child been located? Yes

The Israeli Central Authority (ICA) accepted the Hague application for return since the exact location of the child and TP had been confirmed. In August 2002, at the request of an Israeli judge, LBP traveled to Israel to allow Israeli social services to do a full evaluation of the situation. In January 2003, the judge accepted the social worker's recommendation that as part of the reunification process with the child, the LBP should come to Israel for longer periods and each visit between the LBP and child during this time would be extended. The social worker and the court would monitor the

reunification process, before making any decision concerning travel to the United States. Visitation in Israel between the child and LBP continues; most recent visit was in March 2004. The LBP also telephones the child twice a week. The LBP still wants the child returned to the U.S. ICA has informed CI that the judge told the LBP's attorney that a mutually agreed visitation arrangement was the best solution, adding no return would be ordered unless the TP refuses to cooperate on establishing a visitation agreement. To date, this case is still pending in court. CI has regular, ongoing contact with the LBP. The ICA closed their file on this case, but continues to respond to inquiries from CI.

MAURITIUS

Date of abduction or wrongful retention: December 4, 1998

Date Hague application filed: February 3, 1999

Have children been located? Yes

This is one of two cases in Mauritius in which the application was filed after the Hague Convention entered into force between the U.S. and Mauritius (1993) but before the country's legislative body incorporated the Convention into the domestic law of Mauritius (October 2000). The lower court rejected the petition in 1999, ruling that the Hague Convention had not yet been incorporated into domestic law through implementing legislation. The Mauritian Supreme Court affirmed this decision. In October 2000, Mauritius passed legislation implementing the Hague Convention. In light of the passage of implementing legislation, and at the prompting of CI and the U.S. Embassy, LBP's case was refiled but again denied by the lower court on grounds that the implementing legislation had no retroactive effect. A procedural hearing for submission of both parties' affidavits before a Supreme Court judge occurred in February 2004. A hearing originally scheduled for October 2004 has been postponed to June 2005.

The U.S. Embassy in Port Louis has been in regular contact with the LBP and the Mauritius CA (MCA), with the earliest contact having been a demarche by the Ambassador, DCM, and Pol/Conoff on the Attorney General. In 2004 and early 2005, embassy officials met with the head of the MCA to discuss outstanding cases and press for their resolution in a manner consistent with the Convention. In July 2004, embassy officials met with the Principal Attorney General to discuss child abduction cases.

MEXICO CASE 1

Date of abduction or wrongful retention: May 5, 1999

Date Hague application filed: August 28, 1999

Have children been located? No

This case, like several others, was filed directly with the Mexican Central Authority (MCA) by the San Diego District Attorney's Office in California. California officials work directly with the LBP and MCA and inform us of relevant actions in the case. In September, 2004, the MCA informed the Embassy that they had recently referred the case to Interpol.

The Consul General in Mexico City met with the Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. The Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on the status of this and other unresolved cases.

MEXICO CASE 2

Date of abduction or wrongful retention: February 9, 2001

Date Hague application filed: July 25, 2001

Has child been located? No

This case, like several others, was filed directly with the Mexican CA by the San Diego District Attorney's Office in California. California officials work directly with the LBP and MCA and inform us of relevant actions in the case. The MCA referred the case to Interpol Mexico, which advised in September, 2004 that child has not been located.

The Consul General in Mexico City met with the Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. The Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on the status of this and other unresolved cases.

MEXICO CASE 3

Date of abduction or wrongful retention: November 22, 2001

Date Hague application filed: February 6, 2002

Has child been located? No

LBP filed an application for return directly with the Mexican CA. A month later LBP hired a private detective who confirmed that the child was living with the grandparents. On April 1, 2002, a local Mexican judge ordered the child taken into protective custody pending a hearing. In mid-April, the court, convinced the grandparents were conspiring to hide the child, authorized forcible entry to determine if the child was in the house. The grandmother allowed the police to enter only after police begin to disassemble the lock. The child was not located in the home and has not been located since. The Mexican CA turned the case over to Interpol August 2002.

Office of Children's Issues coordinated assistance from Embassy Mexico. Consular and Regional Security Office Sections and Federal Bureau of Investigation Attaché assisted LBP by arranging appointments with the Mexican Central Authority, social services, and Mexican law enforcement. Embassy Staff accompanied LBP to meetings. Further support came from the Deputy Chief of Mission who met with the Minister of Foreign Affairs regarding this case.

Assistant Secretary for Consular Affairs Maura Harty raised this case with the Mexican Government in 2003 and 2004. The Consul General met with Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. The Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 4

Date of abduction or wrongful retention: August 21, 2000

Date Hague application filed: August 30, 2001

Has child been located? No

This case was filed directly with the Mexican CA by the District Attorney's Office in California. California authorities work directly with the LBP and CA, and inform CI of relevant actions in the case. TP and child traveled to Mexico for a three week visit to their family, but did not return. LBP has not seen child since July 13, 2000. The court has been unable to locate the child. LBP provided updated address information over the past three years but the child still has not been located. Mexican CA referred the case to Interpol in October 2002.

Assistant Secretary for Consular Affairs Maura Harty raised the case in the Binational Committee Meeting in November 2003 and 2004. Embassy has followed the case up with MCA.

MEXICO CASE 5

Date of abduction or wrongful retention: October 2, 2001

Date Hague application filed: July 2, 2002

Has child been located? No

TP took the child to Mexico City on a one-way ticket in 2001 after allegedly being threatened by spouse. U.S. state police never opened a criminal case against LBP because no evidence was found to support TP's claim. In early days of the abduction, TP's family members spoke with LBP over the telephone. As time went on, LBP said family members became less friendly, often shouting over the telephone that they had no knowledge of the location of TP and child. Eventually the family changed the telephone number. Mexican CA turned the case over to Interpol, who reported in July 2004 and September 2004 that they had a possible address for the child. They also requested an additional photograph of the child. CI forwarded the picture but the child has not been located.

Assistant Secretary for Consular Affairs Maura Harty raised this case in Binational Commission Meeting November 2003 and 2004. Consul General met with Mexican Attorney General's Office to request improved cooperation on locating parentally abducted children. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 6

Date of abduction or wrongful retention: January 18, 2002

Date Hague application filed: January 06, 2003

Has child been located? No

TP and grandparents have wrongfully retained this child in Mexico since January 2002. While the child was on a visit at the home of LBP's parents in Mexico, TP and TP's mother came to the house demanding that child be turned over to them. After a brief altercation, local police arrived to settle the dispute. Police handed the child over to the TP, then instructed LBP and LBP's parents to follow them to the police station. Police arrested LBP, who was released after paying a six hundred dollar

fine. Mexican CA reported in December 2003, that the judge was unable to locate the child after several visits to the home. MCA forwarded the case to Mexican Interpol January 2004. LBP provided updated address information and photographs of the child at the TP's mother's home. Despite this concrete proof of location, the child has not been located.

Assistant Secretary for Consular Affairs Maura Harty raised this case at the Binational Commission Meetings in November 2003 and 2004. Consul General met with Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 7

Date of abduction or wrongful retention: February 17, 2002

Date Hague application filed: June 14, 2002

Has child been located? No

LBP filed a Hague application directly with Mexican authorities in 2002. A judge in the United States awarded joint custody to the parents in a 2001 divorce settlement. Child was allowed to live temporarily in Mexico with one of the parents. After that parent's sudden death, the surviving parent went to Mexico to retrieve the child. The parent was met with extreme opposition from the deceased parent's mother, who utilized the legal system to keep the child in Mexico, including obtaining a constitutional stay (amparo). The amparo was eventually overturned. In the meantime, the grandmother hid the child and refused to present the child to the court. In November 2004, the local Child Protective Services Office in Mexico informed the Embassy that the judge assigned to the case had requested the support of the Mexican federal police and intelligence agencies to locate the child.

The U.S. Ambassador, Deputy Chief of Mission and Assistant Secretary Secretary for Consular Affairs appealed to the Mexican Government. Assistant Secretary for Consular Affairs Maura Harty raised this case at the Binational Commission Meetings in November 2003 and 2004. Consul General met with Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases. Embassy established contact with the courts handling the case, as well as local Child Protective Services, in an effort to stimulate action on the case – so far, without result.

MEXICO CASE 8

Date of abduction or wrongful retention: October 7, 2000

Date Hague application filed: May 28, 2002

Has child been located? No

TP allowed a consular officer to visit the child in an agreed upon place on two separate occasions, but refused to reveal where TP and child live. Consular officer reported that TP met with the judge presiding over the case at a relative's home in July 2003. The Mexican CA reported to CI in July 2003 that TP no longer lived with TP's mother and the child could not be located. In September 2004,

Interpol Mexico reported that the child had returned to the US. Embassy has asked Interpol for confirmation.

Assistant Secretary for Consular Affairs Maura Harty raised this case at the Binational Commission Meeting in November 2003 and 2004. Consul General met with Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases. The Consulate General in Guadalajara conducted welfare visits to the child until they were no longer able to contact the TP or otherwise locate the child. The last visit was in October 2003.

MEXICO CASE 9

Date of abduction or wrongful retention: February 1999

Date Hague application filed: February 21, 2000

Has child been located? No

The parents of this child were granted joint custody in 1997. TP took the child to Mexico when sole legal custody was subsequently granted to LBP. Although there was initially no exact confirmation of the child's location in Mexico, there was evidence that TP and child were living with an aunt. Mexican CA forwarded the case under that assumption. On August 1, 2001, MCA reported that the Second Family Judge in the relevant town was unable to locate the child at the given address and requested a new address. MCA forwarded the case in May 2002 to Interpol after no new information could be provided by the LBP. Interpol Mexico requested child's pictures, which were provided by MCA in September, 2004.

Assistant Secretary for Consular Affairs Maura Harty raised this case at the Binational Commission Meeting in November 2003 and 2004. Consul General met with Mexican Attorney General's Office to request improved cooperation on locating parentally abducted children. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 10

Date of abduction or wrongful retention: February 14, 1999

Date Hague application filed: February 19, 1999

Has child been located? Yes

This case, like several others, was filed directly with the Mexican CA by the Santa Barbara District Attorney's Office in California. California authorities work directly with the LBP and MCA and inform CI of relevant actions in the case.

The Consul General met with Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. The Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 11

Date of abduction or wrongful retention: May 19, 1999

Date Hague application filed: July 19, 2001

Has child been located? No

Child was in custody of child protective services at the time of her abduction. Non-custodial parents abducted the child to Mexico. The case was forwarded to a presiding judge in Mexico. After the judge was unable to locate the child, DIF, the Mexican equivalent of child protective services, also looked for the child but was unable to locate her. Mexican CA forwarded the case to Mexican Interpol in May 2002. In November 2004, the Embassy requested a case status report from the MCA. MCA informed that case was re-sent to Mexican State Tribunal on November 6, 2004.

Assistant Secretary for Consular Affairs Maura Harty raised this case at the Binational Commission Meeting in November 2003 and 2004. Consul General met with Mexican Attorney General's Office to seek improved cooperation on locating parentally abducted children. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 12

Date of abduction or wrongful retention: November 16, 1998

Date Hague application filed: June 11, 2001

Has child been located? No

This case was filed directly with the Mexican CA by the District Attorney's Office in California. California authorities work directly with the LBP and CA and inform CI of relevant actions in the case. In early 2004, the CA informed the U.S. Embassy that a judge had been assigned the case, though no hearing has yet been scheduled. As of December 2004, the judge has still not set a hearing date.

U.S. Embassy officials, California justice officials and the Mexican Consulate in Los Angeles have all pressed the Mexican CA for updates on Mexican action taken on the case. Assistant Secretary for Consular Affairs Maura Harty raised the case in the Binational Committee Meeting in November 2003 and again in January 2004, when she met with her counterpart in the Mexican Ministry of Foreign Affairs.

MEXICO CASE 13

Date of abduction or wrongful retention: April 20, 2000

Date Hague application filed: August 9, 2002

Has child been located? Yes

The San Diego District Attorney's Office filed the Hague Application and is managing the case, while informing CI of relevant actions in the case. In September 2004, the Mexican judge hearing the case asked the San Diego DA's office to produce and translate into Spanish all court documents regarding custody from San Diego, including trial transcripts and judge's minutes. On December 3, 2004, the LBP and the DA's Office presented the required documents to the Mexican judge. She refused to

accept them, saying that according to procedure, the Mexican Central Authority needed to present the documents for a Hague Case. San Diego DA's Office sent the documents to the Mexican CA. The Mexican CA forwarded only some of the documents to the judge, who found the package inadequate.

MEXICO CASE 14

Date of abduction or wrongful retention: December 1, 1997

Date Hague application filed: September 29, 1999

Have children been located? No

The Mexican CA forwarded this case to the courts in early 2000. No hearing date has ever been set because TP and the two children have not been located. In the spring of 2003, CI provided new information regarding the children's location to the CA. In response to a case status request from CI, the CA reported in early 2004 that the case was sent to a court but no judge had yet been assigned to handle the case. The Mexican CA informed the U.S. Embassy in early 2004 that it would contact the LBP to obtain more leads on the children's whereabouts. Though the LBP applied for return of two children, the older child is now over 16 and thus falls outside the scope of the application. On November 8, 2004, CI asked LBP to provide additional information on children's possible location.

At a meeting with the CA in February 2002, the Department raised the case as illustrative of the problems caused in child abduction cases when courts are unable to locate children. Assistant Secretary for Consular Affairs Maura Harty raised the case in the Binational Committee Meeting in November 2003 and again in January 2004, when she met with her counterpart in the Mexican Ministry of Foreign Affairs. Consular Chief holds monthly meetings with the Ministry of Foreign Affairs on status of this and other unresolved cases.

MEXICO CASE 15

Date of abduction or wrongful retention: December 15, 1998

Date Hague application filed: March 8, 1999

Has child been located? No

The Department worked with the LBP to locate the TP in Mexico in 1999 and 2000. The U.S. Mission confirmed the TP's work address in August 2000. The Department forwarded this information to the Mexican CA the same month. The CA, in response to repeated CI requests for case updates, reported in January 2002 that the case had been forwarded to the courts. The CA informed the U.S. Embassy in early 2004 that the court had never located the TP, and the case file was forwarded to Mexican Interpol for location of the TP and child. CI is seeking an address that Mexican authorities can use for locating the child and her mother.

This case was raised at Binational meetings in 1999 and 2000, and with the Foreign Ministry Under Secretary in February 2001, highlighting problems caused by not locating children. The Assistant Secretary for Consular Affairs Maura Harty also discussed this issue with the Mexican delegation to the Special Commission on the operation of the Hague Convention held in The Netherlands in March 2001. Assistant Secretary Harty raised the case in the Binational Committee Meeting in November

2003 and again in January 2004, when she met with her counterpart in the Mexican Ministry of Foreign Affairs.

MEXICO CASE 16

Date of abduction or wrongful retention: October 5, 1999

Date Hague application filed: December 2, 1999

Has child been located? No

In June 2000, the Department provided the TP's address to the Mexican CA. The judge originally assigned to the case initially refused to take this case for jurisdictional reasons. While the jurisdictional issue was under review by the Mexican courts, the Department discussed alternate non-Hague remedies with the TP in conjunction with the U.S. Department of Justice. The jurisdictional issue was eventually resolved and a hearing scheduled, but the TP disappeared with the child. After the TP failed to appear at three separate hearing dates between March and June 2001, the judge, in an unprecedented move in a Hague Convention case in Mexico, issued a warrant for the TP's arrest. The TP has not been arrested, but the case remains with a judge pending location of the child, even though the LBP's contacts reported sighting the TP and child in November 2002, and the judge himself visited the presumed residence, and found a room containing the child's belongings, but no child. On October 28, 2004 the MCA informed our Embassy that the case was referred to Interpol.

Assistant Secretary for Consular Affairs Maura Harty raised the case in the Binational Committee Meeting in November 2003 and again in January 2004, when she met with her counterpart in the Mexican Ministry of Foreign Affairs.

MEXICO CASE 17

Date of abduction or wrongful retention: June 5, 1997

Date Hague application filed: August 27, 2001

Have children been located? No

The Mexican CA sent the case to the family court in Mexico City in June 2002. The case has not moved forward because the children have not been located. CI provided the MCA with phone numbers and general locations where the children might be in July 2004. In October the Mexican CA sent the case to Interpol to search for the children. On December 10, 2004, the MCA informed our Embassy that a judge was assigned to this case. However, the judge questioned whether there had, in fact, been an abduction, and requested that the LBP provide additional information, since LBP had indicated to other Mexican authorities that the family had lived in Mexico previously. The MCA is waiting for LBP's additional information.

MEXICO CASE 18

Date of abduction or wrongful retention: May 22, 2001

Date Hague application filed: November 7, 2002

Has child been located: No

This case was filed by the State of California Attorney General's Office. CI received an informational copy. State of California has not provided CI with updates.

MEXICO CASE 19

Date of abduction or wrongful retention: July 11, 2001

Date Hague application filed: August 9, 2001

Has child been located? Not known

The San Diego District Attorney's Office filed this case directly with the Mexican CA. The Office of Children's Issues received an informational copy only. San Diego DA's Office told CI on December 6, 2004 that there had been no recent activity on this case. San Diego DA's Office is following up on the case with the MCA.

MEXICO CASE 20

Date of abduction or wrongful retention: March 2002

Date Hague application filed: July 26, 2002

Have children been located? No

The judge to whom this case was assigned ordered the children picked up and delivered to the LBP in January 2003. However, police went to the supposed residence of the TP and found it abandoned. The Mexican CA has asked law enforcement for assistance in locating them; these efforts have been unsuccessful. CI spoke to the LBP's current spouse on November 2, 2004 and asked if the LBP might make further inquiries in Mexico of their possible whereabouts.

MEXICO CASE 21

Date of abduction or wrongful retention: January 10, 1994

Date Hague application filed: March 9, 1999

Has child been located? No

The LBP, a Mexican national, forwarded the return application directly to the Mexican CA. In November 1999, in response to a request from the Mexican Embassy for an update on the case, CI queried the Mexican CA. In April 2000, the MCA responded that the TP had filed an amparo against an order issued for the child's return and the MCA would inform CI of the results of the appeal. TP's amparo was eventually denied, thus allowing the return to proceed. In early 2004, the CA reported that the child must be located in order for the return decision to be enforced. On Sept. 1, 2004 the MCA reported that the child had been located and it would ask the judge to enforce his return order. On October 28, 2004 the Central Authority responded to an Embassy inquiry that the case had been referred to the Child and Family Services for a legal opinion as to how to enforce the return order.

The Assistant Secretary for Consular Affairs Maura Harty discussed this issue with the Mexican delegation to the Special Commission on the operation of the Hague Convention held in The Netherlands in March 2001 and again in the Binational Committee Meeting in November 2003 and again in January 2004, when she met with her counterpart in the Mexican Ministry of Foreign Affairs.

MEXICO CASE 22

Date of abduction or wrongful retention: October 30, 2001

Date Hague application filed: May 30, 2002

Has child been located? No

Case was assigned to a judge in November 2002. However, the court reported it could not locate the child at the address provided by the LBP. The Mexican CA referred the case to Interpol, who informed our Embassy in September 2004 that they have not located the child.

POLAND

Date of abduction or wrongful retention: November 28, 1998

Date Hague application filed: August 4, 1999

Have children been located? No

On March 28, 2001, the local Court of Justice in Poland denied the return of the two children. The LBP appealed the decision, and on July 11, 2001, the Court of Appeals overturned the lower court decision and ordered the return of the children. On November 9, 2001, the TP was ordered to return the children to the LBP within three days. At that time, the TP disappeared with the children, and they have been missing ever since. The LBP traveled to Poland several times, employed the services of a private investigator, and they both worked with the Polish regional prosecutor to locate the children.

Ambassador Skolimowski and Assistant Secretary Maura Harty discussed this case during a meeting in Washington in September 2003. In February 2004 and again in February 2005, Assistant Secretary Harty discussed Poland's implementation of the Hague Convention with Polish Undersecretary of State Wolski.

U.S. Embassy officials in Warsaw have repeatedly brought this case to the attention of the Central Authority, the Ministry of Justice, and the head of the International Cooperation Office. Actions include a Diplomatic note in 2001, meeting with Minister of Justice in 2002, four Diplomatic notes and a letter to the court in 2003, four diplomatic notes in 2004, and a letter in 2004 from the Consul General to MFA.

ROMANIA

Date of abduction or wrongful retention: July 2001

Date Hague application filed: June 20, 2002

Has child been located? Yes

TP took the child to Romania in May 2001 for an agreed-upon vacation and both were to have returned in July 2001. However, in June 2001, the TP informed LBP that they would not return as planned. LBP attempted to negotiate a voluntary arrangement with the TP over the ensuing year to no avail, and in June 2002, filed an application for the child's return to the U.S. On June 27, 2003, the application for return was denied on the basis that more than a year had passed between the time

that the child was removed to Romania and the time that the application was heard in the Court; thus the child was resettled in Romania. In February 2004, the Romanian CA confirmed that there was an appeal pending. On May 21, 2004, the appeal court upheld the lower court's ruling. The RCA has indicated that this will be sent to Supreme Court, but has not provided any additional details.

SPAIN

Date of abduction or wrongful retention: April 18, 2002

Date Hague application filed: February 4, 2003

Has child been located? Yes, but then subsequently disappeared

The TP, in contravention of an existing U.S. court order, removed child from the U.S. to Spain. The LBP filed a Hague application and after the child was located in Spain in July 2004, a hearing was scheduled for August 11, 2004. The TP disappeared with the child in advance of being served with notice of the hearing date and they are believed to be in the Canary Islands. The Spanish authorities have yet to locate TP and child. CI has requested updates from the Spanish Central Authority (SCA) regarding their attempts to locate the child. The SCA has indicated that police are still searching and they will forward information pertaining to any new developments in the case.

U.S. Embassy officials met with the SCA to request status updates in September 2004 and in February 2005, and to inform the SCA that there was a possibility that TP and child were in the Canary Islands and to suggest that the SCA seek Interpol assistance in locating the child.