



Alexander's abduction: Ukraine's HCCA boycott - Child-return order and an unusual confession of truth by the Court of Cassation

Von: "Anatol Jung" <anatol.jung@gmx.net>

An: s.v.hlushchenko@minjust.gov.ua

CC: receiptmin3@minjust.gov.ua, "BAGIROV Eduard" <liga_main@ukr.net>, "Eduard BAGIROV" <bagirov.pravo@gmail.com>, "Ksenia BEZLUDNA (TV Inter)" <rabocaapocna6@gmail.com>, "RA Evgen PRONIN" <lawyer.gpp@gmail.com>, "Roman SEMENUKHA MP" <Semenukha.Roman@rada.gov.ua>, "Marina GROMOVA" <marina22101987@gmail.com>, "Olga RUDENKO KyivPost" <rudenko@kyivpost.com>, "Oleksandr SHVETS (Batkomaepravo)" <olshvets@yahoo.com>, "Dmitri BELY (Batkoamaepravo)" <conteo@ukr.net>, "Roman DIKHTYAR" <dihtiar.roman@gmail.com>, omb@ombudsman.gov.ua, hotline@ombudsman.gov.ua, "Ulyana REMENYUK" <ulyana2407@ukr.net>, "Enforcement Agency Kyiv-Solomyanskiy" <vdvs.sol@gmail.com>, info@prismua.org, kristin.kalniuk@gmail.com, "Irina KOLESNIK" <irinakolesnik991@gmail.com>, "Alina SOLOVIOVA UA-JM" <altoryk10@ukr.net>, "Oleksiy VOROBIOV UA-JM" <o.vorobiov@minjust.gov.ua>, themis@minjust.gov.ua, "\"Lyudmyla LEBEDEVA (Enforcement Agency)\\"" <vdvs.sol@gmail.com>, "Kostyantyn PROKOPENKO (BMP)" <kostyanTV@bk.ru>, "Iryna OKHREMENKO" <irina.ohremenko@yandex.com>, "Vanessa CUEVAS HERMAN (EP)" <MediationChildAbduct@europarl.europa.eu>, hrmmu@ohchr.org, "Andreas STEIN EC" <andreas.stein@ec.europa.eu>, just-a1-civil-justice@ec.europa.eu, justa1@ec.europa.eu, "UK Embassy Kyiv" <ukembinf@gmail.com>, o.vorobiov@minjust.gov.ua, "Italian Embassy Kyiv" <ambasciata.kiev@esteri.it>, "US Helsinki Commission" <INFO@CSCE.gov>, "Natalia GONCHOROVA TV1+1" <goncharova@1plus1.tv>, "Elsa COURT (Kyiv Post)" <elsa.m.court@gmail.com>, "US Embassy Kyiv" <kyivacs@state.gov>, "Veronika MELKOZEROVA (Kyiv Post)" <melkozerova@kyivpost.com>, Joerg.Meuthen@EuroParl.Europa.eu, "Anton FRIESEN AfD" <anton.friesen@bundestag.de>, "Michael LECHNER AfD" <anton.friesen.ma02@bundestag.de>, avv.franco.arona@gmail.com, giacomo.rotoli@gmail.com, antonucciodelogu@yahoo.co.uk, elisapozzatasca@alice.it, "RA Harald WEISKER" <ra.weisker@t-online.de>

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Vice Minister
Svitlana Hlushchenko

Ministry of Justice
vul Striltsiv 73
UA-04053 Kyiv
s.v.hlushchenko@minjust.gov.ua

Alexander's abduction: Ukraine's HCCA boycott - Child-return order and an unusual confession of truth by the Court of Cassation

Pryvit, Mme Hlushchenko !

Be it a result of some party's political pressure or not:

In its **unlikely verdict on the HCCA case of the British minor Alexander Rodgers**, Ukraine's Court of Cassation has finally **ordered the child's return to Britain** (see attachments). On top, in unique and unprecedented way, it has **blamed illegal and illicit all action and inaction of Ukraine's authorities** during the routinely procrastinated and manipulated 6-year procedure.

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The **key parts** of the Court decision:

- "Визнавши фактично, що дитина з 2012 року утримується на території України незаконно, суди безпідставно застосували одночасно декілька виняткових підстав для відмови у поверненні дитини до держави її постійного місця проживання, передбачених статтями 12 та 13 Гаазької Конвенції 1980 року."

Whilst recognizing the fact that the child has been illegally detained in Ukraine since 2012, the courts (in Ukraine) unreasonably applied at the same time a number of exceptional grounds for refusing to return the child to the State of his permanent residence (UK) provided for in Articles 12 and 13 of the 1980 Hague Convention.

- "Статтею 13 Конвенції про захист прав людини і основоположних свобод 1950 року визначено одним із ключових прав людини, гарантованих цією Конвенцією, право на ефективний засіб юридичного захисту в національному органі для кожного, чий права та свободи, визнані в цій Конвенції, було порушено, навіть якщо таке порушення було вчинене особами, які здійснювали свої офіційні обов'язки."

Article 13 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms has identified one of the key human rights guaranteed by this Convention as the right to an effective remedy in a national body for anyone whose **rights and freedoms recognized in this Convention have been violated** even if such a violation was committed by the persons who carried out their official powers.

- "Із грудня 2012 року питання повернення малолітнього ОСОБА_12 до держави його постійного місця проживання неодноразово було предметом розгляду судів різних інстанцій в Україні, фактичні обставини справи з'ясовані в обсязі, достатньому для прийняття рішення по суті спору. Проте, застосовуючи Гаазьку Конвенцію 1980 року, суди неправильно тлумачили її положення стосовно виключень, передбачених у статтях 12, 13 (а), 13 (б) Конвенції, вдалися до з'ясування обставин, які не входять до предмета розгляду справ такої категорії, та відмовили у поверненні дитини без законних та достатніх на те підстав."

Since December 2012, the issue of the return of a minor (Alexander Rodgers) to the state of his permanent residence has repeatedly been the subject of consideration by courts of different instances in Ukraine, the factual circumstances of the case are clarified to the extent sufficient for a decision on the merits of the dispute. However, by applying the Hague Convention of 1980, the **courts misinterpreted its provisions on the exceptions provided for in articles 12, 13 (a), 13 (b) of the Convention, to clarify the circumstances that are not part of the consideration of cases of that category, and refused to return the child without legal and sufficient grounds.**

- "Верховий Суд також зауважує, що у цій справі батько дитини не мав ефективного засобу юридичного захисту відповідно до статті 13 Конвенції про захист прав людини і основоположних свобод 1950 року, оскільки суди допустили надмірно тривале провадження у справі, не розглянувши питання повернення дитини протягом шести тижнів, як того рекомендує Гаазька Конвенція 1980 року."

The High Court also notes that in this case the **child's father did not have means for legal protection as provided for in accordance with Article 13 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms**, since the courts allowed an excessive length of proceedings in the case without considering the question of returning the child for six weeks, as the Hague Convention of 1980 recommends.

- "Оскільки під час вирішення справи суди неправильно застосували норми матеріального права, то на

підставі статті 412 ЦПК України постановлені у справі рішення Печерського районного суду м. Києва від 27 травня 2016 року та ухвала Апеляційного суду міста Києва від 21 вересня 2016 року підлягають скасуванню з ухваленням нового рішення про повернення дитини до країни походження."

Since in the course of the court proceedings the courts incorrectly applied the substantive law, on the basis of Article 412 of the Civil Code of Ukraine, the decisions of the Pechersk District Court of Kyiv dated May 27, 2016, and the decision of the Kyiv Court of Appeal of September 21, 2016, are to be repealed with the approval of the new the decision to **return the child to the country of origin.**

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Such confession of truth as it has come now just even from the corrupt and lawless environment of Ukraine's Higher Courts, **applies to ALL (!) HCCA cases !!!**
The exceptional judgment shames the regular condition in Ukraine - and thus turns down the persistent **Soviet ideology and legal nihilism in child-protection matters.**

Use it as a **precedence to clean up with Ukraine's nasty child-abduction, child-retention and child-alienation policies in favour of insane and irresponsible abductor mothers**, as practiced also in 2018 by your Ministry, the corrupt Courts and the arbitrary, malicious 'Child Services' of Ukraine !!!!

It is one step on the long way to **make Ukraine less of a ruthless mafia state and to enable its European integration.**

Foreign - and Ukrainian - parents are waiting for your U-turn, **for the sake of their deprived children !!**

In expectation of a qualified and positive response from your Ministry
 Anatol Jung

Dr Anatol Jung
 Tassilostr. 7
 D-85540 Haar
 anatol.jung@gmx.net

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Von: "Anatol Jung" <anatol.jung@gmx.net>

An: "Svitlana HLUSHCHENKO (Themis)" <s.v.hlushchenko@minjust.gov.ua>

Betreff: Ukraine's child-abduction policy: "Dark operetta" - Arbitrary thwarting of Sabina's repatriation

Vice Minister
 Svitlana Hlushchenko
 Ministry of Justice
 vul Striltsiv 73
 UA-04053 Kyiv
 s.v.hlushchenko@minjust.gov.ua

Pryvit, Mme Hlushchenko !

On the 67. anniversary of the construction of the Berlin Wall, father Uwe Mertens has been informed by the German authorities: The wall erected around his kidnapped daughter Sabina by Ukraine's Soviet-minded bureaucrats, will last !

After six (!) years of severe procrastination and manipulation of the child-return procedure, the highly corrupt Supreme Court of Ukraine, chaired by Judge Luspenik, has rejected her repatriation (see attachment).

The judges argue that the child is now well-accommodated to its new environment and - according to the local Child Service, which has never listened to Uwe - would be harmed if returned to Germany. Sabina's cloak-and-dagger abduction from her decent German home is brazenly labelled as "legal transfer" with her father's tacit consent and without any violation of parental rights.

Not a word is said about

- Sabina's poor living conditions, years of disappearance and ongoing neglect by the abductor family, as well as
- the outright breach of all judicial and administrative HCCA provisions during the entire procedure.

This judgment is just another Soviet-standard artefact having waited in the wings - filled with placeholders ('Person_1', 'Address_2' etc.) for permanent use.

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In the context of total corruption and lawlessness, the respected British weekly "Economist" has recently characterized the current events in Ukraine as "dark operetta" (see attachment) - referring to Bukgakov's novel "The White Guard" from almost a century ago. Half a decade after the Maidan uprising, corruption, violence, chaos and the wilful erosion of institutions are on the advance again. A system change may come, if ever, only along with a generation change in the corridors of power.

Thus, ten years after HCCA's ratification, Ukraine's infamous approach to cross-border child abduction remains unchanged:

- leave the child at sole disposal of the abductor mother,
- eliminate the father from the child's life,
- transform the return procedure into a custody case under illegal change of jurisdiction.

There is lie, fraud, falsification, manipulation and deprivation of rights - as far as the eye can see ...

--> <http://nicht-ohne-meinen-sohn.de/en/timeline>

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Your ministry is in the very center of that illegal and inhuman practice Ukraine has inherited - and mindfully preserved - from the Soviet Evil Empire.

CHANGE WAYS - SOON AND SWIFTLY !!!!!!!!!!!!!!!!!!!!!

Appalled
Anatol Jung

Dr Anatol Jung
Tassilostr. 7
D-85540 Haar
anatol.jung@gmx.net

Dateianhänge

- Alexander's abduction_Cassation Court of Ukraine - Child-return order_UA-E_09-2018.pdf
- Alexander's abduction_Ukraine's HCCA violations - Chronicle by father Peter Rodgers (UK)_11-2016.pdf