

12/03/01

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B5-185/01

MOTION FOR A RESOLUTION

with request for inclusion in the debate on topical and urgent subjects of major importance pursuant to Rule 50 of the Rules of Procedure

by Anne Van Lancker, ^{TERDON} on behalf of the PES group.

on transnationally abducted children

The European Parliament,

- having regard to the convention on the rights of the Child,
 - having regard to the Hague Convention of 25 October 1980 on civil aspects of international child abduction,
 - having regard to the European Convention of 20th May 1980 on the recognition and enforcement of decisions concerning custody of children and the restoration of custody of children,
 - having regard to the Hague Convention of 19th October 1996 on jurisdiction applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children,
- A. Whereas in September 1994 Marie de Brouwer (of Belgian nationality) left Belgium and separated from her husband Olivier Limet (also of Belgian nationality) to start a new life in Kenya; they have three children, Coraline (born 1986), Jim (born 1988) and Samuel (born 1992),
- B. Whereas based on an agreement between both parents, a ruling was pronounced by the Belgian Justice of the Peace in February 1995; Custody of the three children was given to the father, in Belgium, where they were born and grew up; the children would join their mother in Kenya for the holidays (6 weeks during the summer, 2 weeks at Christmas and Easter, and/or one week at the half terms),
- C. Whereas the Court of First Instance of Nivelles, Belgium (1996) and the Brussels Court of Appeal (1997) confirmed this ruling,
- D. Whereas from 1995 to 1998, the children visited their mother for most of the school holidays,

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- E. Noting that since 9 August 1998, Mrs de Brouwer has refused to return the children to their father in Belgium and prevented any contact between the children on one hand and their father and close relatives in Belgium on the other,
- F. Whereas on 9 November 1999, the Criminal Court of Appeal in Brussels sentenced Marie de Brouwer to one year's imprisonment for child abduction and issued an international warrant for her arrest; Marie de Brouwer is considered by Belgian authorities as a fugitive,
- G. Noting the fact that Marie de Brouwer requested Kenyan citizenship with the aim of avoiding the consequences of Belgian Courts decisions reached against her,
- H. Whereas in 1999, a Kenyan court placed the three children "under its protection", although a number of decisions regarding custody of the children had previously been taken in Europe,
- I. Welcoming the efforts made by the Belgian Government and its Foreign Minister - Mr Michel, the President of the Commission - Mr Prodi and the European Parliament Presidents Mediator for transnationally abducted Children -Mrs Banotti, MEP, to reach an amicable solution with the Kenyan authorities,
- J. Thanking the President of Kenya, Mr Moi for this promise to do his best to try and resolve this situation as soon as possible,
- K. Deeply concerned about this case and the cases of transnationally abducted children,
1. Strongly believes that the first custody orders of the country where the children were born and living should be respected in accordance with International Private Law,
 2. Strongly believes that every child has the right to maintain direct contact with both parents if separated from one or both,
 3. Urges the Kenyan authorities to respect the first Belgian custody orders and in accordance with International Private Law and do their utmost to bring this matter to a satisfactory conclusion as quickly as possible in accordance with the Convention on the Rights of the Child and the Hague Convention,
 4. Invites the Council and the Commission to raise this case in meetings with Kenya at all levels,
 5. Instructs its President to forward this resolution to the Council, the Commission, the Government of Kenya and its President, Mr Moi.

Paulaender
van haecker

Amatois
Ténon

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