

2-MAY. '00 (MON) 16:35

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19 May 2000

Stuart McLaren Esq
Policy & Crisis Management Section
Consular Division
FCO

Dear McLaren

GERMANY: CHILD ABDUCTIONS

1. As you know, there are a number of longstanding child custody cases involving German courts appearing to favour the German parent against a parent of another nationality. That involving Lady Meyer is perhaps the best known case with a UK connection. But the French and US governments, and probably others too, have taken up with the German authorities at the highest levels cases involving their citizens.

2. It has never been easy to generate much public interest in Germany in the problem. So you might like to be aware of a series of recent press articles here which have drawn attention to it, in terms of sympathy for the plight of the other parent. I attach a summary translation of the points made in the two most prominent articles, in Die Welt (national conservative daily, circulation around 230,000), and Spiegel (the most-read national weekly, circulation over a million).

3. Even more striking was a passage in an interview in the current Spiegel with Foreign Minister Fischer, following his visit to Washington last week: full translation attached. As far as I am aware, it is the first time that German Ministers have been ready to acknowledge that these cases constitute a political problem affecting the overall bilateral relationship with eg the US.

Yours

J C W Kidd

cc: HMA Washington
HMCB Hamburg
Alison Johnson, EUD(B), FCO

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Translation

Extract from an interview with Joschka Fischer in Der SPIEGEL of 15 May 2000

SPIEGEL: In US-German relations there seems to be less willingness at present to respect one another's interests.

Fischer: I think it is much more complicated and difficult to maintain an alliance when there is no external pressure, no common danger to be averted. And that applies not only to military and political interests but to the whole spectrum of relations.

SPIEGEL: Can you give us an example?

Fischer: A major issue was drawn to my attention during my recent visit to Washington. There are a number of American parents who have been greatly angered by German court rulings on custody rights for children from former marriages with German partners. Members of the House of Representatives gave me a letter for the Chancellor.

SPIEGEL: Above all the case of Joseph Cooke which has been recounted in the Washington Post...

Fischer: I am not taking sides with any of the interested parties. But we have a political problem here which would have been just a human problem during the Cold War era.

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**Summary of articles in "Die Welt" of 10 April and "Der Spiegel" of 1 May 2000
about the abduction of Lady Meyer's children**

Background detailed in both publications:

In 1992, a German court awarded custody of the two boys to the mother who was living in London at the time. A notarial agreement between both parents made provisions for the children to visit their father, a physician living in a small town in northern Germany, during the school holidays, an arrangement that worked well for 2 years. In the summer of 1994, four days before the boys were due to return from visiting their father, his former wife received a letter saying he would not be sending the children back. The High Court of Justice in London ordered the immediate return of the children: the father's actions were in contravention of Hague Convention stipulations requiring the immediate return of abducted children to their legal place of residence. The High Court's decision was initially upheld by the Guardianship Court in the father's (unspecified) hometown on 20 September 1994. Following the father's subsequent appeal to the Higher Regional Court in Celle, which he won on the grounds that "the children adamantly refused" to be returned to their mother, the Guardianship Court overturned its initial decision and ruled in favour of the father. Judges in Lower Saxony will shortly be dealing with the matter for the thirteenth time.

Formation of international protest against the handling of abduction cases in Germany

Lady Meyer won support from Cherie Blair and Hillary Clinton at last year's launching of an "International Centre for Missing and Exploited Children", the aim of which is to help fathers and mothers re-establish contact with their children. Hillary Clinton has called for greater effort in ensuring the enforcement of the Hague Convention and President Clinton will purportedly query the role of the German judiciary during his next call on Chancellor Schröder in June. This will not be the first time that a head of state has discussed children abducted from dual-national marriages with the German government. French President Jacques Chirac twice raised this "problème douloureux" at German-French summits. 160 French mothers and fathers have joined forces in a self-help group called "SOS - Children Abducted by Germany". As in Lady Meyer's book, the group accuses the German courts and authorities of failure to observe international

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agreements: since the authorities were not prepared to ensure visiting rights, non-German parents were at the mercy of their former partners. The French self-help group advocates fines or even prison sentences for German officials who fail to ensure visiting rights. Desperate American fathers are publishing their story on the Internet in the hope their children in Germany will learn the truth.

Last October, Lady Meyer censured the German judiciary before US Congress Committees and cited numerous examples from broken US-German marriages: very restricted visiting rights had led to a breakdown in relations with her own children. German courts had sanctioned her former husband's illegal behaviour and had failed to ensure generous visiting rights.

Legal arguments

Wolfgang Weitzel (responsible for children abducted from dual-national marriages in the Federal Public Prosecutor's Office) insists that German courts would never use citizenship as a criterion for a decision. However, "Der Spiegel" writes that German lawyers apparently have far greater problems with applying the Hague Convention on Abducted Children, which came into force in Germany 10 years ago, than their British colleagues. British judges take 5½ weeks on average for proceedings under the terms of the Hague Convention. In contrast, Weitzel had to concede that German courts deliberate for up to one year on abduction cases. After such a time lapse, children invariably adapt to living with their German parent and for this reason alone can no longer be sent abroad or to a neighbouring European country.

Children from broken marriages are questioned in great detail about their preferences before the courts reach a decision "because under German law, the child's welfare is always the primary concern", so Christian Arns of the Federal Justice Ministry. Foreign experts like Professor Nigel Lowe, a British authority on international family law, regard the German interpretation of the Hague Convention as incomprehensible. Lowe points out that a decision quickly to terminate an abduction and prevent one of the quarrelling parents from gaining a forced advantage should not be confused with custody proceedings. The Hague Convention specifically states that such rulings "shall not be seen as a decision on the custody of a child".

Subject: reuters. Minister defends German handling of US custody case
Date: 5/25/00 2:46:37 PM Eastern Daylight Time
From: steve.atkins@washington.mail.fco.gov.uk (Steve Atkins)
To: Meyercath@aol.com (Meyercath@aol.com)
CC: preid@washington.mail.fco.gov.uk (Peter Reid), tfitzgerald@washington.mail.fco.gov.uk (Tom Fitzgerald)

Minister defends German handling of US custody cases
By Adam Tanner

BERLIN (Reuters) - Germany's justice minister rejected charges Thursday that the country's courts were flouting international conventions in custody battles involving U.S. citizens.
Herta Daeubler-Gmelin was speaking amid controversy over the case of American Joseph Cooke, who has been denied custody of his two children by a German court, although they have been in foster care since 1992.
German officials say they expect President Clinton to raise the Cooke case with Chancellor Gerhard Schroeder during a visit to Berlin next month.
"It is false to say that German courts have not followed international conventions," Daeubler-Gmelin told ARD television.
"In the last five years there were, in all, 160 cases with the United States, and the vast majority were solved satisfactorily."
New Yorker Cooke lost his children Danny, 10, and Michelle, nearly 9, after his German-born wife checked into a mental health clinic in 1992 and put them in the care of the authorities. German courts have denied Cooke custody.

Earlier this month, Foreign Minister Joschka Fischer told Secretary of State Madeleine Albright he would look into the Cooke custody battle and said he was profoundly affected by the tragic case.
Republican Sen. Mike DeWine of Ohio last week deemed the issue "international parental kidnapping" and urged Clinton to make the cases a priority when he meets Schroeder in Berlin on June 1.
Daeubler-Gmelin said she believed there had been errors in the case, which was far from straightforward.

"The standoff in the Elian case again showed that reports are one thing, emotion another and the truth a third thing," she said, referring to the 6-year-old Cuban castaway in the United States who is also at the center of a highly publicized custody battle.

AN EYE ON U.S. ELECTIONS

DeWine said some countries were not taking their obligations under the Hague convention on child abduction seriously.

"Several of the countries that have signed the convention have very poor rates of return or access to children, such as Germany, Sweden and Austria," DeWine wrote in a May 17 letter to Clinton.

"In fact, from 1990 to 1998, only 22 percent of American children for whom Hague applications were filed were returned to the United States from Germany and that percentage includes those who were voluntarily returned by the abducting parent."

The German justice minister suggested political maneuvering ahead of U.S. elections in November had exaggerated the issue.

"This stirring up of opinion in the election season is not in order," she said.

REUTERS

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March 24, 2000, Friday, Final Edition

SECTION: A SECTION; Pg. A04

LENGTH: 442 words

HEADLINE: Abduction Cases Draw Ire on Hill; Lawmakers Allege Violations of Treaty On
Child Custody

BYLINE: Cindy Loose, Washington Post Staff Writer

BODY:

*1 Think this
Res forced
membership.*

Members of Congress yesterday called on Germany, Austria and Sweden to live up to commitments to return American children abducted during child custody disputes and detained in those nations.

Thousands of American children are abducted by a parent and taken abroad each year; the other parent is sometimes denied even visitation rights by foreign courts.

Many people may imagine such situations involve nations hostile to the United States. But at a news conference on Capitol Hill, members of Congress rebuked three allies as some of the worst offenders, even though each has signed an international treaty promising to return children to home countries for a decision on custody.

Germany, Austria and Sweden "are not acting like civilized countries," said Rep. Steve Chabot (R-Ohio). "They are not acting like allies."

Chabot and Rep. Nick Lampson (D-Tex.) announced a bipartisan resolution, with about 100 co-sponsors, that criticizes the three nations for "consistently violating" the treaty, which in most circumstances promises the return of the children to their home country. The treaty stipulates that any necessary custody hearings be held in the nation where the child had "habitually resided" before being abducted.

Congress now stands ready to pressure not only noncompliant nations, but also the State and Justice departments, Lampson said. Both departments were criticized for failing to fight hard to recover children who are U.S. citizens.

"We penalize nations that steal products and violate trade agreements," said Sen. Mike DeWine (R-Ohio). "It's about time we go after them for supporting the theft of our children."

A spokesman for the Austrian Embassy said he was aware of criticism involving only one U.S. case. "To conclude a pattern of noncompliance is unjustified," he said. Officials at the German and Swedish embassies said they could not respond until they studied the issue further.

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Lady Catherine Meyer, wife of the British ambassador, was at the House yesterday to announce the formation of Parents of Abducted Children Together. Meyer's sons by a previous marriage are being kept in Germany by their father. A German court ruled her sons would suffer living in an English-speaking country.

Rep. Tillie Fowler (R-Fla.) said she had met with a constituent whose child had been abducted to Germany, and concluded there should be no problem in helping him.

"I thought, 'Germany is a progressive, civilized country, we'll have this resolved in a month.' That was three years ago," she said. The State Department, she said, must become more aggressive advocates for American parents.

LANGUAGE: ENGLISH

LOAD-DATE: March 24, 2000

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Sally Quinn

Bring the Stolen Children Home

President Clinton is going to Germany to visit Chancellor Gerhard Schröder next week. This is his chance to do something extraordinary. He can get back American children who have been stolen from their American parents.

That's right, stolen. Hundreds of children have been kidnapped by their German parents and taken back to Germany. Their non-German parents have no access to them and in some cases no visitation rights—nothing. The German courts maintain that they are better off in Germany, being raised by Germans.

This is not some country that has no rule of law. This is our ally, a member of the European Community, a signatory to the Hague Convention that is deliberately and unlawfully keeping children away from their custodial parents for the simple reason that it feels Germans are better. From 1990 to 1998, as Sen. Mike DeWine (R-Ohio) pointed out last week in a letter to President Clinton, "only 22 percent of American children for whom Hague applications were filed were returned to the United States from Germany—and that percentage includes those who were voluntarily returned by the abducting parent."

There are so many horror stories that it is incomprehensible that our government, Congress and State Department do not simply refuse to have any dealings with the Germans unless they return these children to their parents or at least allow the parents to have liberal visitation rights. If the Germans were stealing weapons or Internet ideas or medicine from us you can imagine the outrage. But kids? No problem.

Talk to Joseph Cooke, who was profiled in this paper recently. His children were turned over to foster parents when his German wife abducted them back to Germany and was too mentally ill to raise them. The German courts deemed them better off with foster parents than with their natural father. And what did our State Department do? It assisted in filing a Hague Convention application, while our embassy in Bonn



BY MARGARET SCOTT

wrote a letter to Germany's foreign ministry. In other words, it did virtually nothing. Sens. DeWine and Jesse Helms and Rep. Ben Gilman, among others on the Hill, are fighting hard for the American parents. But they need help from Secretary of State Madeleine Albright and the White House.

Joe Cooke is one of many American parents brought together by Lady Catherine Meyer, the wife of the British ambassador to the United States, to form PACT, Parents of Abducted Children Together. It seeks to raise awareness of this problem and to get the children back.

Catherine Meyer has seen her two sons for a total of 24 hours in the past six years. They, too, were abducted by their German father. The German courts decided they were better off without her. She has spent six years fighting to no avail. Her children have been told that their mother abandoned them and did not want them anymore, so the few times she has seen them—mostly in supervised visits at the father's house—they have been hostile and unresponsive.

The Germans argue that the courts need time to decide the cases. By the time a deci-

sion is made, they can argue that the children would be psychologically damaged by being taken out of the comfortable surroundings where they have been such a long time and placed in an alien environment.

In her book, "They Are My Children Too," Meyer writes that the German courts maintain that "it is better for a child's development to live in Germany and be exposed to German culture; that German blood is superior to others."

The German government claims that it can't do anything about the courts that make the decisions. But in fact it has acted before. When two French babies were kidnapped by thugs and driven across the border to their German father, the French foreign minister flew to Germany and raised so much hell that

... guess what? The German courts miraculously reversed: ruling they had made in favor of the father.

And France and Britain put so much pressure on the Germans that last July German law was changed to allow Hague Convention cases to be tried in only 25 courts (courts which were aware of and understood it) rather than the previous 600. So pressure does work.

Germany is not the only offending country. Austria and Sweden are bad. It's just that there are so many more cases out of Germany. And if Germany reverses its position, the others will most likely follow suit. (Many other countries are equally bad, but they are nations that have not signed the Hague treaty.)

It is clear that nothing will change unless President Clinton personally demands of the German government that our children be given back. Bill Clinton is a father. He should recognize that the pain suffered by many of these American parents is unthinkable. He has it in his power to alleviate that pain.

Sally Quinn is a Washington Post staff writer. She wrote the foreword to "They Are My Children Too."

WASHINGTON POST
DATE MAY 25 2000

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Voilà-traduction

25.5.2000: Bei vielen Zeitungen bleiben links nur kurze Zeit aktuell. Hier ist ein neuer Bericht zum Fall Cooke:

Hamburger Abendblatt, 26.5.2000: Bei Clintons Treffen mit Schröder wird es auch um Kindesentführungen gehen. **Deutschland am Pranger.**

Berliner Morgenpost, 25.5.2000: **US-Parlament prangert Kindesentführungen an.** Resolution gegen Deutschland verabschiedet. Von Cornel Faltin

Schwäbische Zeitung 22.5.2000: **Clinton will Kindesentführungen in Deutschland ansprechen.** Berlin/Washington (dpa) - Unter dem Druck der amerikanischen Öffentlichkeit will US-Präsident Bill Clinton auch das brisante Thema Kindesentführungen bei seinem Deutschland-Besuch in der kommenden Woche ansprechen. «Wir rechnen damit, dass das eine Rolle spielen wird», hieß es am Montag aus Regierungskreisen in Berlin.

Kindesentführungen nach Deutschland ist das Thema des Tages im ARD/ZDF Morgenjournal. 25.5.2000.

24.5.2000: The Times (UK) May 24, 2000: **Cherie Booth in court victory for parental rights.** BY ALEXANDRA FREAN. SOCIAL AFFAIRS CORRESPONDENT

23.5.2000: Heute finden sich in fast allen deutschen Tageszeitungen ausführliche Meldungen mit Schlagzeilen wie „Clinton will Kindesentführungen ansprechen. Deutschland verstößt ständig gegen Haager Konvention.“. Wir sind noch außerstande diese Meldungen zusammenzufassen. Allerdings handelt es sich im wesentlichen um eine dpa Meldung, die Sie vermutlich auch "Ihrer" Zeitung entnehmen können, z. B.: Lippische Landeszeitung Politik 22.5.2000 **Clinton will Kindesentführungen in Deutschland ansprechen** etc. Hervorgehoben wird besonders der Fall Cooke, in dem neben der Handhabung durch die Gerichte, psychologische Sachverständige, auch die Rolle des Jugendamtes kritisch zu beleuchten ist. Wir möchten deshalb hier sowohl auf unsere **Zusammenfassung des Falles Cooke**, als auch auf eine Auswahl wesentlicher Bestimmungen aus dem Kinder- und Jugendhilfegesetz hinweisen, die speziell **Pflegekinder** betreffen. In diesem Gesetz und den Kommentaren dazu wird insbesondere die Wichtigkeit der Aufrechterhaltung des Kontaktes zu den leiblichen Eltern, einschließlich der Zielrichtung einer baldigen Rückführung betont.

Das Thema soll heute auch in ZDF Frontal (21h) behandelt werden.

<http://www.vaeterfuerkinder.de/vikneu.htm>

5/26/00

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Bei Clintons Treffen mit Schröder wird es auch um Kindesentführungen gehen

Deutschland am Pranger

Auch wenn in Washington dies niemand bestätigen will gilt inzwischen als sicher, dass US-Präsident Bill Clinton bei seinem Treffen mit Bundeskanzler Gerhard Schröder in der kommenden Woche in Berlin das Thema Kindesentführungen auf seiner Agenda hat. Das US-Repräsentantenhaus verabschiedete einstimmig per Ellantrag eine Resolution, die die Unterzeichner der Haager Konvention ultimativ auffordert, sich an den Gesetzestext zu halten. Das Haager Übereinkommen verfügt, dass aus dem Ausland von einem Elternteil entführte Kinder wieder ins Ursprungsland zurückgegeben werden müssen.

Von CORNEL FALTIN

Die USA und Frankreich werfen deutschen Gerichten vor, dass sie das internationale Abkommen permanent unterlaufen und Kinder aus gescheiterten deutsch-amerikanischen Ehen um jeden Preis in Deutschland halten wollen. Die Entscheidung des US-Kongresses erhöht sowohl den Druck auf Clinton als auch auf die deutsche Regierung, in der Angelegenheit aktiv zu werden. Nach Angaben des US-Außenministeriums gibt es mehr als 50 Streitfälle zwischen der Bundesrepublik und den USA, die unter die Haager Konvention fallen. In einer emotionsgeladenen Debatte stellte der texanische Abgeordnete Nick Lampson, der den Antrag eingebracht hatte, besonders Deutschland, Österreich und Schweden an den Pranger und machte das Problem an Einzelschicksalen deutlich. Darunter auch der Fall des Amerikaners Joseph Cooke. Dessen deutsche Frau hatte die beiden gemeinsamen Kinder 1992 nach Deutschland entführt und dort dem Jugendamt übergeben, nachdem sie wegen Depressionen in eine psychiatrische Anstalt eingeliefert worden war. Weder das Jugendamt noch Gerichte benachrichtigten den leiblichen Vater. Sie steckten die Kinder in eine Pflegefamilie, wo sie heute noch leben. Joseph Cooke kämpft seither vergebens um die Rückführung seiner Kinder in die USA.

<http://www.abendblatt.de/contents/ha/news/politik/html/260500/STOOO23.HTM>

5/26/00

Hamburger Abendblatt: Deutschland am Pranger -

US-Außenministerin Madeleine Albright hatte den Fall ihrem deutschen Kollegen Joschka Fischer bei seinem Besuch Anfang Mai erzählt. Der grüne Minister hatte daraufhin versprochen, sich der Sache anzunehmen, gleichzeitig aber auf die Unabhängigkeit der Justiz verwiesen.

Die deutsche Psychologin von Ursula Kodjoe, die sich auf die Beratung und Rückführung von Opfern internationaler und nationaler Kindsentführungen spezialisiert hat, sieht das Hauptproblem dagegen nicht bei der deutschen Justiz, sondern bei den Jugendämtern. Die Gerichte stützen ihre Entscheidungen fast immer auf deren Empfehlungen. Kodjoe, die sich zur Zeit zu einem Kongress in den USA aufhält, plädierte dafür, Jugendämter, "die Sorgerechtsentscheidungen bewusst verschleppen und entgegen der Haager Konvention zeitaufwendige Kindeswohlprüfungen anordnen, zu verklagen".

Während das Haager Übereinkommen eine Rückführung von widerrechtlich entzogenen Kindern innerhalb von sechs Wochen vorschreibt, zieht sich die Bearbeitung der Fälle in Deutschland nicht selten über ein Jahr hin. Danach kommen Richter und Psychologen meist zu der Entscheidung, dass es Kindern nicht zugemutet werden kann, aus ihrer gewohnten Umgebung - inzwischen Deutschland - herausgerissen zu werden.

Nick Lampson erklärte, dass die jetzt verabschiedete Resolution 293 nur "der erste große Schritt" sei, "Tausende von amerikanischen Kindern, die in der ganzen Welt illegal festgehalten werden, in die USA zurückzubringen". Der texanische Abgeordnete und andere Parlamentarier wollten nicht ausschließen, dass die USA gegebenenfalls sogar weitaus gravierendere Schritte erwägen müssten: etwa die Verhängung eines Wirtschaftsembargos gegen Länder, die die Haager Konvention verletzen. (SAD)

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US-Parlament prangert Kindesentführungen an

**POLITIK**

Donnerstag, 25. Mai 2000

US-Parlament prangert Kindesentführungen an

Resolution gegen Deutschland verabschiedet

Von Cornelia Falter

SAD Washington - US-Präsident Bill Clinton kommt bei seinem Treffen mit Bundeskanzler Gerhard Schröder in der kommenden Woche in Berlin um das Thema Kindesentführungen kaum herum. Denn das Repräsentantenhaus verabschiedete am Dienstag einstimmig (416 : 0) per Ellantrag eine Resolution, die die Unterzeichner der Haager Konvention ultimativ auffordert, sich an den Gesetzestext zu halten. Das Haager Übereinkommen verfügt, dass aus dem Ausland von einem Elternteil entführte Kinder wieder ins Ursprungsland zurückgegeben werden müssen. Die USA und auch Frankreich werfen besonders deutschen Gerichten vor, dass sie das internationale Abkommen permanent unterlaufen und Kinder um jeden Preis in Deutschland halten wollen. Laut US-Außenministerium gibt es über 50 Streitfälle mit Deutschland.

In einer emotionsgeladenen Debatte stellte der texanische Abgeordnete Nick Lampson, der den Antrag eingebracht hatte, besonders Deutschland, Österreich und Schweden an den Pranger und machte das Problem an Einzelschicksalen deutlich. Darunter ist auch der gravierendste Fall des Amerikaners Joseph Cooke, dessen deutsche Frau die beiden gemeinsamen Kinder 1992 nach Deutschland entführt und dort dem Jugendamt übergeben hatte, nachdem sie wegen Depression in eine psychiatrische Anstalt eingeliefert worden war. Weder das Jugendamt noch die deutschen Gerichte benachrichtigten den leiblichen Vater. Sie steckten die Kinder in eine Pflegefamilie, wo sie heute noch leben. Joseph Cooke kämpft seither vergebens um die Rückführung seiner Kinder in die USA.

Schon Außenministerin Madeleine Albright hatte den Fall ihrem deutschen Amtskollegen Joschka Fischer, bei dessen US-Besuch Anfang Mai erzählt. Der deutsche Minister hatte daraufhin versprochen, sich der Sache anzunehmen, jedoch gleichzeitig darauf

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 zurück

 Leserbrief

Themenfinder



5/25/00

US-Parlament prangert Kindesentführungen an

verwiesen, dass die Bundesregierung keinen direkten Einfluss auf die Gerichte hat.

Dieses Argument ist nach Meinung von Ursula Kodjoe eher eine Schutzbehauptung. Die deutsche Psychologin, die sich auf die Rückführung von betroffenen Kindern spezialisiert hat, sieht das Hauptproblem nicht bei der deutschen Justiz, sondern bei den Jugendämtern. Die Gerichte stützen ihre Entscheidungen fast immer auf Empfehlungen der Jugendbehörden. Psychologin Kodjoe, die sich zu einem Kongress in den USA aufhält, plädiert dafür, Jugendämter, «die Sorgerechtsentscheidungen bewusst verschleppen und entgegen der Haager Konvention zeitaufwendige Kindeswohlprüfungen anordnen, zu verklagen».

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Der texanische Abgeordnete Lampson kündigte an, die nun verabschiedete Resolution 293 sei nur «der erste große Schritt, Tausende von amerikanischen Kindern, die in der ganzen Welt illegal festgehalten werden, in die USA zurückzubringen». Mit weiteren Parlamentariern will er nicht ausschließen, dass die USA sogar weitaus gravierendere Schritte erwägen müssten: Etwa auch die Verhängung eines Wirtschaftsembargos gegen Länder, die die Haager Konvention verletzen.

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SHEELAGH TAYLOR

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GET STARTED

EDITORIAL

Stolen Children

Tuesday, May 9, 2000; Page A30

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WHEN CONGRESS was considering legislation that would have kept Elian Gonzalez in this country, State Department officials argued that such a precedent could disrupt their efforts to intervene in cases where American parents have had children abducted abroad. A sound argument, with one big problem: It turns out that in many of the 1,100 open cases in which American parents are fighting to get their children back from recalcitrant court systems in other countries, the State Department isn't making much effort on the parents' behalf. This heart-wrenching story of Joseph Cooke and his children, told Sunday in this newspaper by Post reporters Cindy Looze and William Drotodiak, highlights an unusually egregious problem with German-American custody battles in particular. In at least 30 cases, advocates say, German judges have flouted basic tenets of the 1980 Hague treaty on international abductions, to which their country is a signatory, and kept children from parents who had overwhelming claims to them. But the Cooke story also reveals an almost incomprehensibly lackadaisical U.S. government response to the human tragedies that arise when a parent cannot get his or her rights enforced.

The Hague Convention calls for quick resolution of custody disputes in the country where a child "habitually resides." The law lacks teeth: An official at the U.S. Embassy in Germany told a Post reporter that he viewed the Hague Convention as "a voluntary compliance sort of thing." Up the ladder, it's the same: U.S. ambassadors fail to raise individual cases or to make diplomatic noise over these cases. German officials say they cannot intervene in the court system. German Foreign Minister Joschka Fischer, meeting with Secretary of State Madeleine Albright this week, echoed that view when the secretary raised the Cooke case--though Mr. Fischer said he was touched by the Cookes' "personal tragedy."

American reluctance to apply diplomatic pressure makes no more sense than German excuses about "interfering" in the judiciary. Public and private pressure through diplomatic channels on behalf of Sundered families can indeed have effect; so could legislation to require judges to be trained in the applicable laws. When an ally such as Germany flouts good conduct in this regard, the issue should rise to the top of the diplomatic agenda, not be shunted aside.

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Deutsches Recht im Visier

Sorgerechtsprobleme belasten das Verhältnis zu den USA

Von CORNEL FALTIN

Washington - Bundesaußenminister Joschka Fischer kam in die USA, um mit seiner Kollegin Madeleine Albright über den von den USA geplanten Raketenabwehrschild und eine Änderung des ABM-Vertrages zu sprechen. Stattdessen standen, für den Gast aus Berlin völlig überraschend, deutsch-amerikanische Sorgerechtsstreitigkeiten im Mittelpunkt des Interesses.

Die US-Außenministerin hatte Fischer beim Abendsessen einen Artikel aus der "Washington Post" gegeben, der das deutsche Rechtssystem anprangerte, weil es einem US-Bürger seit mehreren Jahren den Zugang zu seinen in Deutschland lebenden Kindern verwehrt. Der grüne Minister zeigte sich "tief beeindruckt" und versprach, sich für die Lösung der Kontroverse einzusetzen.

Die beiden Kinder des New Yorker Geschäftsmannes Joseph Cooke (31) wurden laut dem Bericht 1992 von ihrer Mutter Christiane zu einem vermeintlichen Urlaub nach Deutschland gebracht. Wenig später musste die deutsche Frau in eine Nervenklinik eingeliefert werden. Ihre Kinder wurden, ohne Wissen, Zustimmung und Benachrichtigung des leiblichen Vaters, den Jugendbehörden übergeben, die sie in eine Pflegefamilie steckten. Dort leben Michelle (8) und Danny (10) seither. Mehrere deutsche Gerichte kamen zu dem Schluss, dass die Kinder "schwere psychische Schäden davontragen würden, wenn man sie aus ihrer deutschen Umgebung in ein fremdes Land mit einer fremden Sprache, einer fremden Kultur und fremden Leuten verpflanzen" würde. Diese Rechtsprechung steht im krassen Gegensatz zur Haager Konvention, die zivile Aspekte von Kindesentführungen regelt und auch von Deutschland unterzeichnet wurde. Joseph Cooke hat seine Kinder seit fünf Jahren nicht mehr gesehen. Joschka Fischer machte kein Geheimnis aus seiner tiefen Besorgnis, dass der Fall Cooke in Deutschland ähnliche politische Dimensionen bekommen könnte, wie der Sorgerechtsstreit um der kubanischen Flüchtlingsjungen Elian Gonzales, der die USA seit Monaten beschäftigt.

Die Sorge ist sicherlich nicht unberechtigt, wenn man weiß, dass der Kampf von Joseph Cooke um seine Kinder kein Einzelfall ist. Im US-Außenministerium gibt es rund 50 ähnliche Fälle, wo amerikanische Kinder

widerrechtlich von einem Elternteil nach Deutschland entführt worden sind. In 80 Prozent der Fälle haben deutsche Gerichte diese Kindesentführungen später legalisiert. Der bekannteste Fall ist der von Lady Catherine Meyer, deren deutscher Ex-Ehemann die gemeinsamen zwei Söhne unter Verletzung von internationalem Recht nach einem Ferienaufenthalt in Deutschland behielt.

Meyer, die inzwischen mit dem britischen Botschafter Christopher Meyer verheiratet ist und heute in Washington lebt, kämpft seit Jahren um ihre Kinder. Auf ihre Bitte hin haben 140 Abgeordnete des US-Kongresses US-Präsident Bill Clinton schriftlich aufgefordert, Deutschland unter Druck zu setzen. Es gilt nun fast als sicher, dass Clinton bei Bundeskanzler Gerhard Schröder Anfang Juni in Berlin das Thema zur Sprache bringen wird. (SAD)

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