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Migration, abduction and children's rights: the relevance of children's rights and the European supranational system to child abduction cases with immigration components

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The 1980 Hague Convention on the Civil Aspects of International Child Abduction applies to cross-border removals or retentions of children in breach of custody rights. This Convention operates against an ever changing national and international landscape. Sociologically, the profile of the 'abductor' and the justification for removing or retaining children abroad have changed. Different legal disciplines regulate disputes over child custody and international movements, the two events which trigger an international child abduction. In family law, the preference for joint parental responsibilities means that children are expected to live in close physical proximity to both of their parents even after parental separation. Immigration regimes attribute less weight to human and children's rights. The different dynamics of family and immigration laws affect in particular children from mixed-status families.

This dissertation analyses the impact of children's rights on the interpretation of the Child Abduction Convention. The focus is on the role children's rights may play in challenging areas of the Convention, and in particular in the context of immigration-based defences to the child's return. This dissertation further analyses the approaches of the Court of Justice of the European Union and the European Court of Human Rights to the individual children's rights in parental child abduction cases in general and to those with immigration components in particular.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. This study is part of the Law School's research programme 'Effective Protection of Fundamental Rights in a pluralist world'.

Migration, Abduction and Children's Rights

*The relevance of children's rights and the
European supranational system to child
abduction cases with immigration components*

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