

Courts order the mother to return the children to New Zealand

Child Abduction under Hague Convention where the Mother was ordered to return the children to New Zealand. There was no evidence that the children will be exposed to physical harm once they return to New Zealand. The Court's return order was subject to condition precedents that mother will return with the children, and the father will ensure protection of the mother in New Zealand.

The parties commenced a sexual relationship in New Zealand sometime in February 2004 when Ms. Morton was only 13 years old, and the father was 20 years old. The parties do not deny the relationship was testy and that there exists [domestic violence](#). Finally, on June 29, 2009, Ms. Morton departed with their two children for Australia. The departure was done without the father being notified, which led to the application of the latter to have the children return to New Zealand. The Court granted the father's application but subject to conditions precedent.

The father's action for the return of the children to New Zealand was pursuant to The Hague Convention. Ms. Morton opposed the petition of the father, arguing that their return to New Zealand would expose the children to physical or psychological harm. The father is involved in a relationship with another woman and does not intend to reconcile with Ms. Morton.

The Court found that the children were witnessed to some of the arguments between their parents. However, there was no evidence that the children were physically harmed by the father. Thus, the Court concluded that there was "little or no risk of the children being exposed to physical harm if they return to New Zealand."

In accordance with the family law, the Court ordered the return of the children to New Zealand. However, a court is empowered to include terms on which a return order is made that are appropriate to give effect to the Convention on the Civil Aspects of International [Child Abduction](#).

In the exercise of its discretion, the first condition of the Court was that the children return to New Zealand in the care of Ms. Morton. A condition precedent for the return of the children is that the father will commence parenting proceedings in New Zealand, and that he obtains an injunctive order or makes an undertaking to ensure the protection of Ms. Morton. Failure of the father to comply with the conditions will cause the dismissal of his application.

About the Author

Alan Weiss established aussiedivorce.com.au in 2005. Today, we are Australia leading boutique family law website. We have [family lawyers in Sydney](#), [family lawyers in Melbourne](#), [family lawyers in Brisbane](#).

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