# Supplemental Entries to the 1980 Hague Convention Guide

*in order of page number supplemented*

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# II Operation of the Convention

## II.C.2 Party States (p. 25)

In *Chvanov v. Chvanova*, No. 823CV00867-FWS-KES, 2023 WL 6457787 (C.D. Cal. Oct. 3, 2023), the district court dismissed a petition for return of a child on the basis that the child's habitual residence was in the Russian Federation. Although the Russian Federation acceded to the Hague Convention in 2011, the accession had not been accepted by the United States. As such, the Convention was not in force between the Russian Federation and the United States when the child was removed from his habitual residence in 2022.

# III The Case in Chief for the Return of a Child

## III.B.1 Children Must Be Within the United States (p. 30)

In *Junior v. de Sousa*, No. 1:21-CV-02242, 2023 WL 4228163 (N.D. Ohio June 27, 2023), *reconsideration denied*, No. 1:21-CV-02242, 2023 WL 4725909 (N.D. Ohio July 25, 2023), after the mother abducted the parties' daughter from Brazil and brought her to the United States, the father secured an order from a Brazilian court ordering the child returned to Brazil under the authority of the Hague Convention. The father submitted that ruling to the district court in support of his application for the return of the child. Although the court agreed to consider the existence of the Brazilian Hague order, it noted that under ICARA, 22 U.S.C. §9003(e)(2) and Article 9 of the Convention, a Hague Convention petition must be decided by the courts of the country where the child is located at the time the petition is filed.

## III.F.3.d Scope of Factors (p. 75)

In *Johnson v. Johnson*, 669 F. Supp. 3d 1089 (D. Colo. 2023), the district court found that the habitual residence of a fifteen-year-old child had changed from the Bahamas to Colorado due to her involvement in academic and extracurricular activities, meaningful family connections, overall acclimatization, and the proximity of her sixteenth birthday. The district court commented that the remaining issues of grave risk, acquiescence, and mature child's objection bulked strongly in support of its decision to deny the petition for the child's return to the Bahamas. *Johnson*, 669 F. Supp. 3d, at 1102–08.

### III.F.8 Coercion and Physical Abuse (p. 87)

In *Tsuruta v. Tsuruta*, 76 F.4th 1107 (8th Cir. 2023), the Eighth Circuit disallowed the mother's claim that child's habitual residence was coerced by the father's conduct. The court affirmed the district court's finding that there was an absence of physical abuse, violence, threats, verbal abuse, or controlling behavior that would support the claim that the mother was forced or coerced into remaining in Japan. *Tsuruta*, 76 F.4th at 1111–12.

# IV Exception to Return

### IV.A.2 Article 18: Discretion to Order Return (p. 101)

In *Cuenca v. Rojas*, 99 F.4th 1344 (11th Cir. 2024), the Eleventh Circuit declined to order a child returned under Article 18 of the Convention, finding a lack of equitable considerations that outweighed the child's interest in settlement. *Cuenca*, 99 F.4th at 1352–53).

### IV.B.1 First Prong: Failure to Commence Proceedings Within One Year (p. 109)

In *da Costa v. de Lima*, No. 22-CV-10543-ADB, 2023 WL 4049378 (D. Mass. June 6, 2023), *aff'd*, 94 F.4th 174 (1st Cir. 2024), the district court held that the father's attempt to initiate a Hague Convention case by filing an application with the Brazilian Central Authority was insufficient to commence an action for purposes of the one-year limitation of Article 12.

### IV.B.3 Second Prong: Child Settled in New Environment (p. 111)

**Settlement Is Based on Post-Petition Circumstances.** In *da Costa v. de Lima*, 94 F.4th 174 (1st Cir. 2024), the First Circuit ruled that circumstances arising after the filing of a petition for return were appropriately considered in determining whether a child was settled. The court found that the text of Article 12 "explicitly contemplates" that post-petition circumstances are appropriate for consideration of the defense, since the Convention itself provides for a return of the child unless "the child is *now settled*" in the new environment, and it makes no reference to circumstances that exist before the filing of the petition for return. *da Costa*, 94 F.4th at 182.

**Settlement in Region of a Country Is Settlement in That Country.** The court in *da Costa* further found that settlement in a discrete region of the country, as opposed to the country at large, amounts to settlement in the new environment. The court noted, "In a country as expansive as ours, one need not have connections to wide swaths of its lands in order to be settled therein. By being settled in one region of a country—here, Martha's Vineyard—one is by definition settled in that country." *da Costa*, 94 F.4th at 184.

## IV.B.3.a Concealment (p. 114)

In *da Costa v. de Lima*, 94 F.4th 174 (1st Cir. 2024), the First Circuit acknowledged that steps taken by an abducting parent to conceal a child may prevent the child from becoming settled, citing *Lozano v. Montoya Alvarez*, 572 U.S. 1, 17 (2014). But the First Circuit found that the mother's misconduct, amounting to surreptitious removal and concealment of the child, was not shown to be connected to the question whether the child was settled. The court distinguished the factual circumstances before it from those in cases where such misconduct was found to be controlling, citing *Mendez Lynch v. Mendez Lynch*, 220 F. Supp. 2d 1347, 1363 (M.D. Fla. 2002); and *Wigley v. Hares*, 82 So.3d 932, 942 (Fla. Dist. Ct. App. 2011). *da Costa*, 94 F.4th at 185.

## IV.B.3.b Settlement and Immigration Status (p. 115)

In *Horacius v. Richard*, No. 23-cv-62149-KMM, 2024 WL 996097 (S.D. Fla. Mar. 7, 2024), a four-year-old child was wrongfully retained in Florida for twenty months before the father filed a petition for the child's return. The mother defended on the basis that the child was well-settled in Florida because of the child's attendance at daycare and church, the proximity of the child's relatives, mother's stable employment as a paralegal, and her pending application for permanent resident status in the United States. The mother's testimony also established that she would return to Canada if her U.S. immigration application was denied. The district court noted, however, that the mother's unstable immigration status was an important consideration. The court further noted that the credibility of her testimony was in question. On these facts, the court found that the child was not settled within the United States under Article 12.

The court further noted that even if the mother could establish that the child was well-settled in the United States, the court would nevertheless order the child to be returned to Canada by exercising its equitable discretion under Article 18 of the Convention. *Horacius*, 2024 WL 996097, at *8.

**11th Circuit Affirms District Court's Oder of Return.** The Eleventh Circuit affirmed the district court's findings on habitual residence, wrongful retention, and custody rights. The court then declined to rule on the "well-settled" defense because the district court had ruled that even if the "well-settled" defense had been established, the court would nonetheless order the child

returned under the Convention's Article 18. The court of appeals therefore found the "well-settled" defense to be irrelevant:

> [T]he district court found that Richard had not shown that A.H. was well-settled in the United States. Furthermore, even if she had, the district court ruled that it would exercise its discretion to order A.H.'s return. Because the latter ruling is dispositive, we do not address Richard's well-settled affirmative defense.

Horacius v. Richard, No. 24-10801, 2024 WL 3580772, at *6 (11th Cir. July 30, 2024) (citation omitted). Then, because the mother's attorneys failed to brief the issue of returning the child even if a defense was established, the mother's challenge to the issue was deemed forfeited, and there was no showing that the trial court committed clear error. The order of return was affirmed.

## IV.B.3.b Settlement and Immigration Status (p. 115)

In *Cuenca v. Rojas*, 99 F.4th 1344 (11th Cir. 2024), a five-year-old child's mother removed him from Venezuela and relocated to Florida without the father's knowledge. The father filed a petition for return to Venezuela twenty months after the child's removal. Despite the mother's and child's undocumented status, the district court found that the child was settled in his new environment. The child lived in Florida in the same home, attended the same elementary school, earned good grades, learned to speak and read English, and participated in swimming and karate lessons, earned school awards for academics, character, helpfulness, citizenship, and perfect attendance. After being instructed to do so by the district court after the hearing, the mother applied for asylum.

The Eleventh Circuit affirmed the district court's finding that the child was settled in his new environment. In doing so, the appellate court determined that the standard for determining "settlement" questions involved a mixed question of law and fact. The legal test is for a court to employ a "case-specific totality-of-the-circumstances" analysis and is subject to de novo review. *Cuenca*, 99 F.4th at 1349–50. Using that standard, the court evaluates the facts of the case to determine whether a child is settled. The district court's decision on the facts is subject to a "clear error" standard. *Cuenca*, 99 F.4th at 1350 (citing Monasky v. Taglieri, 589 U.S. 68, 84 (2020)).

Following precedents in other circuits, the Eleventh Circuit held that the immigration status of a child is one factor that must be evaluated within the context of the child's specific individual circumstances. *Cuenca*, 99 F.4th at 1351. Without speculating on the possible results of the mother's asylum application, the court noted that despite living in Florida for two years, she was authorized to remain in the United States during the pendency of her application, and she had not yet had her first scheduled asylum hearing.

## IV.E.1.b What Is Not a Grave Risk? (p. 134)

In *Galaviz v. Reyes*, 95 F.4th 246 (5th Cir. 2024), the Fifth Circuit reversed the district court's finding that the return of the children to Mexico would pose a grave risk under Article 13(b). The appellate court found that there was an absence of clear and convincing evidence of the father's claims that the children received inadequate medical care, childcare, showed behavioral regressions, received physical discipline, suffered from impeded development, or were subject to sexual abuse. The court noted that "[t]he question is whether there is clear and convincing evidence that return would expose the child to a grave risk of harm, not whether a parent is a worthy custodian." *Galaviz*, 95 F.4th at 257.

In *Rodriguez v. Molina*, 96 F.4th 1079 (8th Cir. 2024), a Honduran mother petitioned for her daughter's return after the father's wrongful removal of the child to the United States. The father defended against return on Article 13(b) based on the mother's physical discipline of the child. The injuries to the child were established by photos showing bruises on the back, buttocks, or legs, consistent with being hit with a belt. The mother asserted that she would discontinue physical discipline if the child was returned to Honduras. The Eighth Circuit affirmed the district court's conclusion that future abuse of the child was possible, but not "highly probable," if the child was returned. *Rodriguez*, 96 F.4th at 1083.

## IV.E.4 Zone of War (p. 153)

In *Tereshchenko v. Karimi*, 102 F.4th 111 (2d Cir. 2024), the Second Circuit found that the proposed return of the parties' two children to the Ukraine created a grave risk of harm under Article 13(b), reversing the district court's order denying the defense. The parents divorced in 2019 and were participating in Ukraine custody proceedings at the time of the outbreak of hostilities in February 2022.

With father's permission, the mother immediately sought to remove the parties' two children from the Ukraine to the father's alternate residence in Dubai. But instead of arranging for the children's transport to father's Dubai residence, the mother surreptitiously traveled with the children to Poland, the Netherlands, Spain, and finally to the United States. In the meantime, the father relocated to France. He was able to locate the mother and children in New York, and he filed his petition for return in March 2023.

In proceedings before the district court, the mother contended that returning the children to Ukraine would involve a grave risk of harm under Article 13(b). (She also challenged the court's subject-matter jurisdiction and argued that the children were settled under Article 12, but these were denied by the district court, and the district court's rulings on these matters were affirmed on appeal.) The father indicated to the court that if the children were returned to him, and if required by the district court, he would move with the children to Western Ukraine, which was then outside the zone of combat or danger. The district court noted that the grave-risk defense must be "particular to the child, not just a general undesirable condition," and accordingly found

that the mother had not established a grave risk under Article 13(b). Tereshchenko v. Karimi, No. 23CV2006 (DLC), 2024 WL 80427, at *6 (S.D.N.Y. Jan. 8, 2024), *aff'd in part and remanded*, 102 F.4th 111 (2d Cir. 2024). The district court ordered the children returned to their father in France.

The Second Circuit reversed the district court's order of return and found that circumstances in the Ukraine posed a grave risk to the children should they be ordered returned to that country. This appears to be the first court of appeals ruling upholding the grave-risk defense based on a petition to return a child to a zone of war. The appellate court's conclusion was supported by Russian bombings in Western Ukraine, missile attacks to Lviv, and the parties' agreement that "everywhere" in the Ukraine was dangerous. *Tereshchenko*, 102 F.4th at 130. Additionally, there was little evidence before the district court about the conditions that the children would face if returned to their father in their home in Lviv.

The Second Circuit remanded the case to the district court to amend its order of return of the children to their father in France to reflect provisions that (1) the order directing the children's return to the father in France was temporary in nature as required for the children's safety; (2) the father would make the children available for Ukrainian custody proceedings as required by the Ukrainian courts; and (3) the parties would abide by the final custody determination of the Ukrainian courts. *Tereshchenko*, 102 F.4th at 135. (See discussion of the third-country return issue in section V.E. Returns to Countries Other Than the Habitual Residence.")

## IV.E.5 Corroboration of Evidence of Grave Risk Not Required (p. 154)

In *Silva v. Dos Santos*, 68 F.4th 1247 (11th Cir. 2023), the appellate court held that the testimony of a single, uncorroborated witness may meet the clear and convincing standard for an Article 13(b) defense. The court noted that neither the Hague Convention, nor ICARA, nor any "governing precedent" requires independent corroboration to establish the Article 13(b) defense. *Silva*, 68 F.4th at 1259–61.

## IV.E.5.a Discredited Testimony May Corroborate Evidence That the Opposite Is True (p. 154)

In *Silva v. Dos Santos*, 68 F.4th 1247 (11th Cir. 2023), the Eleventh Circuit reversed an order granting the return of a child on the basis that the district court ruled that it could not consider the lack of credibility of a witness as corroborating the testimony of the opposing party. In this case, the district court found that the father was not credible but ruled that the lack of trustworthy evidence could not be considered as substantive evidence of the contrary. The court of appeals ruled that the district court could have chosen to consider the father's untrustworthy testimony as corroborating evidence that the return of the child represented a grave risk. *Silva*, 68 F.4th at 1261.

## IV.F Violations of Human Rights and Fundamental Freedoms (p. 154)

In *Galaviz v. Reyes*, 95 F.4th 246 (5th Cir. 2024), the Fifth Circuit reversed the district court's finding that that the parties' special needs children were denied the fundamental right to an education due to the mother's inability to accompany the children to school as required by the school. The appellate court found that the applicable standard of review for Article 20 questions involved a mixed question of law and fact. To determine whether the return of the child would not be permitted under the fundamental principles of the requested states, the court makes a legal determination (whether return of the children would "shock the conscience of the court or offend all notions of due process"), reviewable for clear error, and the question whether the factual circumstances permit the return of the child are reviewed de novo. *Galaviz*, 95 F.4th at 254. Here, the Fifth Circuit found that the district court essentially made an impermissible *custody* decision when it focused upon the mother's actions or inactions and not upon the policies of the United States that would prohibit return of children to a country with a limited educational system. *Id.*

In *Tereshchenko v. Karimi*, No. 23CV2006 (DLC), 2024 WL 80427 (S.D.N.Y. Jan. 8, 2024), *aff'd in part and remanded,* 102 F.4th 111 (2d Cir. 2024), the mother contended that returning the children to Ukraine during a time of war was a violation of Article 20. The court noted that Article 20 has a narrow application to cases where "return of a child would utterly shock the conscience of the court or offend all notions of due process" and "is not to be used . . . as a vehicle for litigating custody on the merits or for passing judgment on the political system of the country from which the child was removed." *Tereshchenko*, 2024 WL 80427, at *6 (citing Souratgar v. Lee, 720 F.3d 96, 108 (2d Cir. 2013) (relying on *Text and Legal Analysis*, Pub. Notice 957, 51 Fed. Reg. 10,494, 10,510 (Mar. 26, 1986))). The court ruled that return would not "shock the conscience" of the court, and therefore denied the defense under Article 20. *Id.*

On appeal, the mother did not challenge the district court's finding that a return of the children to Western Ukraine would violate Article 20, and the Second Circuit thus deemed the argument abandoned. Tereshchenko v. Karimi, 102 F.4th 111, 123 & n.5 (2d Cir. 2024).

## IV.G.2 Age and Maturity (p. 159)

In *Lomanto v. Agbelusi*, No. 22-CV-7349, 2023 WL 4118124 (S.D.N.Y. June 22, 2023), the district court sustained the defense of a fourteen-year-old child's mature objection. The court also ordered that the younger sibling was unable to form a mature objection to return but would also not be returned. The court noted that "[c]ourts in this Circuit have frequently declined to separate siblings, finding that the sibling relationship should be protected even if only one of the children can properly raise an affirmative defense under the Hague Convention." *Lomanto*, 2023 WL 4118124, at *17 (citing Ermini v. Vittori, No. 12 Civ. 6100 (LTS), 2013 WL 1703590, at *17 (S.D.N.Y. Apr. 19, 2013), *aff'd as amended*, 758 F.3d 153 (2d Cir. 2014)). The *Lomanto* court found that

separation of the siblings "would cause significant hardship and psychological harm and ought to be avoided at all costs." *Lomanto*, 2023 WL 4118124, at *17.

### IV.H.2 Unclean Hands (p. 173)

The court in *Tsuruta v. Tsuruta*, 76 F.4th 1107 (8th Cir. 2023), declined to consider an issue of unclean hands raised for the first time on appeal, noting that "it is far from certain that the unclean hands doctrine should apply to petitions under the Hague Convention." *Tsuruta*, 76 F.4th at 1112 (citing Karpenko v. Leendertz, 619 F.3d 259, 265–66 (3d Cir. 2010)).

## V Issuing Orders of Return

### V.B.3.a *Golan v. Saada* (p. 191)

In *Saada v. Golan* (*Saada VIII*), No. 18CV5292 (AMD) (RML), 2024 WL 262951 (E.D.N.Y. Jan. 24, 2024), unusual circumstances compelled the District Court for the Eastern District of New York to reconsider the father's petition to return the child to Italy.

The previous history of the *Saada* litigation began with the father's initial petition for return of the parties' child to Italy. In *Saada I*, No. 18-CV-5292 (AMD)(LB), 2019 WL 1317868 (E.D.N.Y. Mar. 22, 2019), the district court ordered the child returned to Italy with certain undertakings.

In *Saada II*, 930 F.3d 533 (2d Cir. 2019), the Second Circuit affirmed in part and vacated in part the district court's decision and remanded the case to the district court to reconsider the effectiveness of alternative ameliorative measures.

In *Saada III*, No. 1:18-CV-5292 (AMD)(SMG), 2020 WL 2128867 (E.D.N.Y. May 5, 2020), the district court again ordered the child returned to Italy subject to the adoption of undertakings that were designed to ameliorate the risk of harm to the child.

In *Saada IV*, 833 Fed. App'x 829 (2d Cir. 2020), the Second Circuit affirmed the decision in *Saada III* ordering the child returned to Italy.

In *Golan v. Saada*, 596 U.S. 666 (2022), the Supreme Court vacated the Second Circuit's decision in *Saada IV*, holding that a trial court is not categorically required to examine all possible ameliorative measures before denying a Hague Convention petition for return of a child to a foreign country once the court has found that return would expose the child to a grave risk of harm. *Golan*, 596 U.S. at 666). The Supreme Court remanded the case to the district court to apply the correct legal standard.

Upon remand from the Supreme Court, the district court, in *Saada VII*, 1:18-CV-5292 (AMD) (RML), 2022 WL 4115032 (E.D.N.Y. Aug. 31, 2022), found that the ameliorative measures were sufficient to ensure the safety of the child and again ordered the child returned to Italy. (For the purpose of maintaining the continuity of the numbering designations (*Saada I–VIII*), *Saada V*, No. 18-CV-5292 (AMD) (RML), 2021 WL 1176372 (E.D.N.Y Mar. 29, 2021), and *Saada VI*, No. 21-876-CV, 2021 WL 4824129 (2d Cir. Oct. 18, 2021), represent the mother's motion to set aside the judgment in *Saada IV*, and her unsuccessful appeal from the denial of that motion.)

During the course of the mother's appeal from *Saada VII*, she unexpectedly died. In light of the changed circumstances caused by the mother's death, the Second Circuit dismissed the appeal as moot, vacated the district court's decision, and remanded the case to the district court in light of the changed circumstances. *In re* B.A.S. (*Saada VII*), No. 22-1966, 2022 WL 16936205 (2d Cir. Nov. 10, 2022).

In *Saada VIII*, No. 18-CV-5292 (AMD) (RML), 2024 WL 262951 (E.D.N.Y. Jan. 24, 2024), the district court determined that the child suffered from post-traumatic stress disorder and that removing him from his current environment would cause the child "multiple harms." *Saada VIII*, 2024 WL 262951, at *1. The court also considered that if the child were returned to Italy, there was no determination as to where, or with whom, the child would live or how long such a determination might take. There was also evidence that the child might be placed in an institutional setting while an Italian court decided the issue of custody. Considering the foregoing changed circumstances, the district court denied the father's petition to return the child to Italy. *Saada VIII*, 2024 WL 262951, at *11–*14.

## V.E. Returns to Countries Other Than the Habitual Residence (p. 207)

In *Tereshchenko v. Karimi*, 102 F.4th 111 (2d Cir. 2024), the Second Circuit clarified that courts were authorized by the Convention to order the return of a child to a parent that was located in a country other than the habitual residence as a temporary ameliorative measure. The court noted that there are two limits to a court's discretionary power to adopt measures to ameliorate the effects of a grave risk: (1) such measures "must prioritize the child's physical and psychological safety," *Tereshchenko*, 102 F.4th at 132 (citing Golan v. Saada, 596 U.S. 666, 667–68 (2022)) ; and (2) courts adopting such measures must vigilantly avoid deciding or affecting the ultimate custody claims, *id.* (citing Blondin v. Dubois, 189 F.3d 240, 248–49 (2d Cir. 1999) and *Golan*, 596 U.S. at 671).

> Thus, a court must treat the return order that it crafts as a "provisional remedy that fixes the *forum* for custody proceedings"; it must avoid inadvertently fixing custody itself. *Golan*, 596 U.S. at 671 . . . (emphasis added) (internal quotation marks omitted). In turn, a district court must limit any "ameliorative measures" that it enters "in time and scope to conditions that would permit safe return, without purporting to decide subsequent custody matters or weighing in on permanent arrangements."

> *Id.* at 681 . . . . Return orders that put in place unconditional or unqualified ameliorative measures "delve into the merits of the underlying custody claims" and are not allowed by the Convention. Hollis v. O'Driscoll, 739 F.3d 108, 112 (2d Cir. 2014).

*Tereshchenko*, 102 F.4th at 132.

The matter was remanded to the district court to amend the return order to limit its "time and scope" of the children's residence in France, and to confirm that the Ukrainian courts maintain jurisdiction over the parties' custody dispute. *Id.* at 135.

# VI Procedural Issues

## VI.E.3. *Rooker-Feldman* Doctrine (p. 236)

In *Baz v. Patterson*, 689 F. Supp. 3d 602 (N.D. Ill. 2023), a federal district found that a prior state court order fixing a child's habitual residence was insufficient to trigger the application of the *Rooker-Feldman* doctrine. Rooker v. Fid. Trust Co., 263 U.S. 413 (1923); D.C. Ct. of App. v. Feldman, 460 U.S. 462 (1983). Over a year after the entry of an Illinois state court order finding that the child's habitual residence was in the United States, the mother petitioned in federal court for return of the child to Germany. The District Court for the Northern District of Illinois refused to dismiss the mother's Hague Convention action under the *Rooker-Feldman* doctrine because the prior state court action finding that the child's habitual residence was in the United States was entered over a year before the child was wrongfully retained in the U.S. and after the child's habitual residence was determined to be Germany. The district court held that the habitual residence determination must be made at the time of removal or retention of the child, so that the earlier state-court order regarding fixing the child's habitual residence in the United States did not control the later wrongful retention. *Baz*, 689 F. Supp. 3d at 606 (citing Monasky v. Taglieri, 589 U.S. 68, 77 (2020)).

## VI.I.1 Authority for Awards (p. 249)

In *Mata-Cabello v. Thula*, 67 F.4th 5 (1st Cir. 2023), the district court denied the mother's petition for costs and attorney fees after the father's petition for a return of the parties' minor children was denied on the grounds of abstention. The mother had previously filed a divorce and custody action in the territorial courts of Puerto Rico. The father challenged the mother's action on jurisdictional grounds and requested a return of the children from Puerto Rico to Columbia. The state court dismissed the mother's petition on jurisdictional grounds but never reached the

father's Hague issues. The father then initiated a Hague petition in federal district court in Puerto Rico.

The Court of Appeals of Puerto Rico reversed the dismissal of the mother's actions and remanded the case to the state court of first instance to hear mother's petition, including Hague Convention issues. The U.S. District Court for the District of Puerto Rico thereafter dismissed the father's Hague Convention petition on abstention grounds without prejudice, on the basis that Hague issues had been raised by both parties in the Puerto Rican territorial courts.

The mother moved for an award of attorney fees and costs based on the district court's inherent powers and the father's alleged bad faith in initiating the petition for the children's return. The First Circuit denied the mother's request for an award of attorney fees, finding that the Hague Convention issues were not considered by the territorial court at the time that the father filed his petition for return, and finding that his filing in federal court was done in a good faith belief that he was properly exercising his rights under the Hague Convention. *Mata-Cabello*, 67 F.4th at 10.

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