



**IAFL Introduction to European Family Law Conference**  
**Friday 12 June 2026**

**11:00 – 12:15 Hague Convention on the Civil Aspect of International Child Abduction**

Speaker profiles:

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## **ANDY HAYHER KC**

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Andy Hayher KC is a partner at Hayher Lee LLP. Andy represents and advises clients on all issues related to divorce, parenting, custody and access, spousal support, child support, division of domestic and foreign property, religious marriage contracts, international family law issues, Hague Convention matters and international child abduction. Andy is a seasoned trial and appellate counsel, appearing regularly before all courts in the Province of Alberta. Andy has also taught lawyers and judges from across Canada on various issues including trial/appellate advocacy and the acceptance of cultural evidence in family law matters.

## SONIA HEYEUR

### Sonia Heyeur Avocate

Montreal  
Quebec  
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Member of the Québec Bar since January 1984. Practice in Immigration law for the first 9 years. Acted as Immigration Judge (arbitre). Since 1995 practice in family law solely and mainly related to international matters. Represented parents from all around the world to the Court for Child Abduction cases whether Hague cases or not. Member of REUNITE. Member of Family Law Association in Québec (AAADFQ), member of AIFI. Published texts and given conferences on Child Abduction cases and International Family Law.

**Languages Spoken:** French and English, Basic Spanish

**Practice Areas:** Child Custody/Residence/Visitation/Contact, Custody/Residence/Visitation/Contact, Domestic Abuse/Violence/Protection Orders, Enforcement: Child Custody, Hague Convention/Child Abduction, Modification/Variation: Child Custody, Relocation/Removal from Jurisdiction



# Sonia Heyeur Avocate

Prévention et résolution d'enlèvements d'enfants  
Conseil Droit international et interne de la famille

## HISTORIQUE PROFESSIONNEL

Avocate pratique privée

1993 à ce jour

1984 à 1991

83, rue Saint-Paul Ouest

**514-284-5618**

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**[sonia@heyeuravocate.qc.ca](mailto:sonia@heyeuravocate.qc.ca)**

1993 à ce jour : Droit de la famille, droit de la famille international et enlèvements d'enfants

1984 à 1991: Droit de l'immigration

**Institut canadien pour la résolution des conflits (ICRC) 2021 à ce jour**

Habilité à agir à titre de Tierce Partie Neutre (TPN), Conciliatrice, Négociatrice

### **Directrice de projet, enlèvements d'enfants - 1999 à 2005**

Centre international de ressources juridiques, Montréal

- Concevoir et rédiger des projets visant à former des intervenants à l'échelle nationale et internationale et rendre accessibles les services juridiques au public.
- Présenter les projets à divers paliers gouvernementaux et organismes en vue d'obtenir du financement

### **Arbitre - 1992**

Gouvernement fédéral, ministère de l'Emploi et de l'Immigration, Montréal

- Présider un tribunal administratif ayant des pouvoirs judiciaires et quasi judiciaires en matière d'immigration

## **EXPÉRIENCES DE CONFÉRENCIÈRE - FORMATION**

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2026: J'ai été kidnappé : documentaire par TrioOrange production - participation pour la question de l'enlèvement international;

2024 - Convention de La Haye enlèvements international d'enfants - formation offerte pour organisme Pro Bono;

2017 - L'enlèvement d'enfants

Association canadienne des parajuristes (CAP)

2016 - Papa est là: la réalité méconnue et complexe de l'enlèvement parental pour La SU-PÈRE conférence Regroupement pour la valorisation de la paternité, 11 février 2016

**2015 - Papa est là:** documentaire par Catbird productions concernant quatre pères dont les enfants ont été enlevés - participation

**2015 - La demande de retour - conférence**  
ABC Québec

**1999 - Enlèvement international d'enfants/violence psychologique aux enfants**  
Conférence « Les enfants et la violence », Laval

**1999 - Entrevue portant sur l'enlèvement d'enfants**  
Entrevue télévisée en direct pour l'émission « Plus ça change, plus c'est pareil » à TQS, animée par Louise Deschâtelets

**1997 - Les défenses à invoquer pour s'opposer au retour d'un enfant dans le cadre d'un enlèvement international**  
Société québécoise de droit international, 8 avril 1997, UMcGill

**1996 - Les relations parents-enfants dans un contexte international**  
Association internationale de droit de la famille (ISFL), symposium nord-américain, 13-15 juin 1996, Québec, Canada

**1995 - Enlèvement international et interprovincial d'enfants**  
Barreau du Québec - conférence

## **ASSOCIATIONS**

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Membre du Barreau du Québec - 1984  
Membre de l'Association des avocat(e)s en droit familial du Québec (AAADFQ)  
Membre de ISFL (International Society of Family Law)  
Membre de IAFL (International Academy of Family Law)  
Membre de Reunite, Angleterre

## **PUBLICATIONS**

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Pour l'éditeur LexisNexis « Jurisclasseur - droit international privé » « Divorce, Séparation de corps et Pension alimentaire » - fascicule 18 - en continu

International Comparative Legal Guides - Family Law ([ICGL.com](http://ICGL.com)) - éditions 2021 et 2023 - 2025 chapitre concernant le « Droit de la famille au Québec, Canada » (Heyeur Jessop s.e.n.c.r.l.);

Le mariage pour la vie ou pour l'immigration, dans Droit de la famille, publié par Yvon Blais, 2011;

Revue scientifique de l'AIPI en 2007 «La médiation dans le cadre d'un enlèvement et non-retour tel que défini par la Convention sur les aspects civils de l'enlèvement international d'enfants de La Haye»;

Pour l'éditeur Brill, en 2007, dans International Kidnapping, la section sur « L'enlèvement d'enfants au Québec »;

« Le droit international privé de la famille dans Développements récents en droit familial, Montréal, Les Éditions Yvon Blais, 2000;

« La loi sur les aspects civils de l'enlèvement international et interprovincial d'enfants et son application » dans Développements récents en droit familial, Montréal, Les Éditions Yvon Blais, 1995, p. 207-242

## Conférences particulières - Participation

Johannesburg, Afrique du Sud, mai 2024: conférence internationale organisée par le bureau permanent à La Haye: Forum on Domestic Violence and the Operation of Article 13(1)(b) of the 1980 Child Abduction Convention

ISFL: Israël 9-10 décembre 2019 : Children's rights and Interests

International Law conference 2016 - Singapore, 29 au 30 septembre 2016  
Table-Ronde du ministère des Affaires étrangères et du Commerce international, Ottawa Canada 12-13 Mars 2009

## RAHIMA NATO-KALFANE

Partner, BWG Associés  
Paris  
France

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Member of the Quebec (Canada) Bar since March 2003 and of the Paris (France) Bar since July 2007.

French and Canadian.

Bilingual English and French.

23 years of experience in Family Law, my exclusive and only area of practice, with a strong dominant

in international family law cases (divorce and complex children's cases).

Certified mediator and trained in family mediation (CEDR certification- Centre for Effective Dispute Resolution) and interest-based negotiation.

Extensive experience in international children's cases: Hague 1980 / 1996 and international relocation.

### ORGANIZATIONS

- Fellow of the International Association of Family Lawyers (IAFL)
- Member and officer of the family law commission of the International Bar Association (IBA)
- Member of the "Union Internationale des Avocats" (UIA)
- Member of the Franco-British Lawyers Society (FBLS)
- Member of the French-American Bar Association (FABA)
- Member of the Barreau de Paris « Commission en Droit de la Famille »
- Member of the Institut du Droit de la Famille et du Patrimoine (IDFP)
- Member of the « Association des Avocats du Québec en France » (AAQF)
- Referenced as a Lawyer in International Family Law at the Canadian Embassy in Paris, France
- and at the French Embassy in the UAE.

### CONFERENCES IN INTERNATIONAL FAMILY LAW

- Speaker and chair at the IAFL, IBA, UIA, Academy of European Law (ERA) etc.
- Speaker at the "États généraux du droit de la famille et du patrimoine", Paris France
- Lectures to lawyers and family judges in international private family law
- Writing articles on the issues of private international family law in the quarterly edition of the
- specialized Journal of Family Law, Gazette du Palais and on different law journals.

## **RICHARD MIN**

### **Green Kaminer Min & Rockmore LLP**

New York  
USA



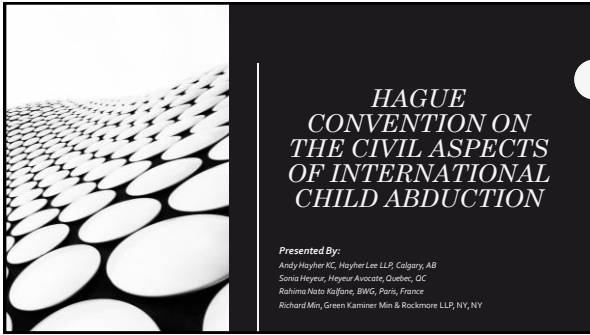
**Email:** [rmin@gkmrlaw.com](mailto:rmin@gkmrlaw.com)

**Website:** [www.gkmrlaw.com](http://www.gkmrlaw.com)

Richard is a partner at Green Kaminer Min & Rockmore, LLP in New York City. His practice focuses almost exclusively on international family law issues.

He has extensive experience in Hague Abduction Convention cases having worked on over 50 Hague cases across more than a dozen states including several appeals. In 2022 Richard argued before the U.S. Supreme Court in *Golan v. Saada*.

Richard frequently lectures and writes on the topic of international family law. He is a Fellow of the International Academy of Family Lawyers and is the current Co-Chair of the ABA International Section Family Law Committee.



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### Introduction to the 1980 Hague Child Abduction Convention

- 30 years since Hague Convention came into effect. Treaty partners - approximately 100 countries
- Each country designates a Central Authority to oversee the implementation of the Hague Convention
- NOT a custody case. It is more appropriate to call it a jurisdictional treaty. However, even if the Courts do not order the return of the child, US courts are not automatically granted jurisdiction (UCCJEA controls state custody jurisdiction still).
- Designed to "protect children internationally from the harmful effects of their wrongful removal and retention and to establish procedures to ensure their prompt return to the State of their habitual residence." - Convention, preamble

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### Child Abduction statistics generally

- 75% of taking persons were mothers, a higher proportion than the 72% recorded in 2015, 69% in 2008, 68% in 2003 and 69% in 1999. In 2021, 23% of the taking persons were fathers and the remaining 2% comprised grandparents, institutions or other relatives.<sup>10</sup>
- Where the information was available, the large majority (88%) of taking persons were the "primary carer" or "joint primary carer" of the child. Where the taking person was the mother, this figure was 94% but only 72% where the taking person was the father.
- At least 2,771 children were involved in the 2,180 return applications, making an average of 1.3 children per application. A large majority of applications (74%) involved a single child. The average age of a child involved in a return application was 6.7 years.
- The overall return rate was 39%, lower than previous Studies, with 45% in 2015, 46% in 2008, respectively, 51% in 2003 and 50% in 1999. This return rate comprised 59% voluntary returns and 23% judicial returns.
- In 2021, 38% of return applications were decided in court (43% in 2015, 44% in 2008, 44% in 2003 and 43% in 1999, 59% of court decisions resulted in a judicial return order being made compared with 65% in 2015, 61% in 2008, 66% in 2003 and 74% in 1999.
- In 2021, 281 return applications (13% of the overall total and 35% of those determined by a court) ended in a judicial refusal. Some cases were refused for more than one reason and if all reasons are combined, the most frequently relied upon ground for refusal was Article 13(1)(b), cited in 46% of refused applications.
- In 2021, return applications were generally resolved more slowly, compared with the 2015 Study. The overall average time taken to reach a final outcome from the receipt of the application by the Central Authority was 207 days compared with 254 days in 2015 and 258 days in 2008. The average time taken to reach a decision of judicial return was 296 days (compared with 258 days in 2015, 256 days in 2008, 125 days in 2003 and 107 in 1999) and a judicial refusal took an average of 259 days (compared with 245 days in 2015, 259 days in 2008, 233 days in 2003 and 147 days in 1999). For return applications resulting in a voluntary return the average time taken was 129 days, compared with 108 days in 2015, 121 days in 2008, 96 days in 2003 and 84 days in 1999. For discussion of the possible effect of the COVID-19 pandemic upon timing, see the Addendum at pages 157 of 160.
- 42% of return applications that went to court involved an appeal, compared with 31% in 2015 and 24% in 2008. In 81% of the return applications, the same outcome was reached on appeal as at first instance, compared with 67% in 2015 and 80% in 2008.

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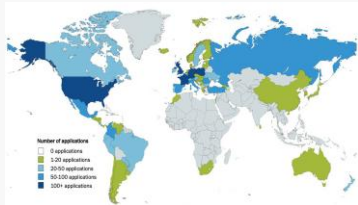
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### Number of Applications Globally



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### Prima Facie Case

Must demonstrate that a child under the age of sixteen (16) was (1) removed from the child's state of habitual residence; (2) in breach of a right of custody attributable to the Petitioner; and (3) which the Petitioner had been exercising at the time of the wrongful removal.

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### Habitual Residence

1. First must prove that the child[ren] was removed from or retained away from their country of "habitual residence"
2. Habitual residence is a factual determination. Factors courts consider: changes in physical location, the location of possessions, the passage of time, did the family change or sell residence prior to move, the child's status in school, the parents' intentions at the time of a move, the child's relationships in the new location, age of the child, coercive control elements.

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### Rights of Custody

- 1. Petitioner must demonstrate that s/he had rights of custody pursuant to the laws of the child's habitual residence.
- 2. Rights of custody "may arise in particular by operation of law or by reason of judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State." Convention, Art. 3.
- 3. A parent does not have to have actual physical custody. The right to make decisions regarding the child's well-being, including the right to determine the place of residence of the child[ren], are considered rights of custody. Convention, Art 5.

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### Affirmative Defenses

Articles 12, 13 and 20 of the Hague Convention provide the defenses available to the Respondent in a Hague case, including that: (1) the Petitioner had no right of custody or was not exercising those rights at the time of the removal or retention; (2) the Petitioner consented or acquiesced to the removal or retention; (3) there is grave risk that a return would expose the child[ren] to harm or an intolerable situation; the child[ren] is of appropriate age and degree of maturity and objects to the return; (4) the child[ren] is settled in the new environment; (5) and/or a return would not be permitted by "the fundamental principles of the requested state relating to the protection of human rights and fundamental freedoms."

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### Well-Settled Defense

- 1. Courts MAY refuse to return a child if the Petitioner waited more than one year after the removal or retention to file the Petition and the child is settled in the new environment.
- 2. This exception provides an additional defense to an abducting parent ONLY in cases where the proceedings were not started within one year.
- 3. Courts have explored a variety of factors including: (1) the age of the child, (2) the stability of their environment, (3) their school experience, (4) any extracurricular activities, (5) the respondent's financial stability, (6) the child's relationships with friends and relatives, and (7) the immigration status of the child.

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### Consent and Acquiescence

Article 13(a) of the Convention provides for the non-return of the child in a situation where a parent "was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced after the removal or retention."

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### Grave Risk of Harm

1. Under Article 13(b) of the Convention, the Court is not obligated to return the child if Respondent establishes that "there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation."
2. In cases of credible sexual abuse, death threats, serious neglect or serious physical or psychological abuse, Courts have found grave risk of harm.

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### Child Objects to the Return

1. There is an additional provision of Article 13 (unlettered) which allows for the judicial or administrative authority to consider the child[ren]'s wishes not to return to his or her country of habitual residence, depending upon the child[ren]'s age and degree of maturity.
2. The drafters of the Hague Convention purposefully declined to set a minimum age that a child must attain before a court may find him or her sufficiently mature and may refuse repatriation based solely on the child's objection.

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Case study #1

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### Conclusions

1. Each new case has the chance to highlight a particular and unique set of facts against the backdrop of the Convention's language and purpose. This in turn helps to clarify the law in the United States.
2. As more countries accede to the Convention and become treaty partners, it will continue to become more important that attorneys and judges learn how to apply the Convention in order to achieve its stated goals.

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