

Golan v. Saada: A New Hague Child Abduction Case at the U.S. Supreme Court

Last week, the Supreme Court of the United States agreed to hear a case concerning Hague Convention on the Civil Aspects of International Child Abduction. Amy Howe has an excellent summary of the case on her blog, *Howe on the Court*.

Under the convention, children who are wrongfully taken from the country where they live must be returned to that country, so that custody disputes can be resolved there. The convention makes an exception for cases in which there is a “grave risk” that returning the child would expose him or her to physical or psychological harm.

In *Golan v. Saada*, a U.S. citizen married an Italian citizen in 2015; they had a child, born in Milan, in 2016. The husband was allegedly abusive toward the wife throughout the marriage, but he did not directly abuse their son. In 2018, the wife took the child to the United States and did not return, remaining in a domestic-violence shelter in New York. The husband went to federal court there, trying to compel the child’s return to Italy.

The U.S. Court of Appeals for the 2nd Circuit ruled that, when a district court concludes that a child’s return would pose a grave risk of harm, the district court must consider measures that would reduce that risk. This holding clashes with the holdings of other courts of appeals, which do not mandate the consideration of such measures, particularly in cases involving domestic violence. The case then went back to the district court, which ordered the child’s return to Italy with a variety of protective measures in place – for example, mandatory therapy and parenting classes. The Supreme Court agreed to decide whether courts are required to consider all measures that might reduce the grave risk of harm if the child were to return home.

The case will be argued in the Spring and decided before June 2022; the docket and publicly available filings can be accessed [here](#).