

P v P (Minors) (Diplomatic Immunity: Jurisdiction) (1998) sub nom Re P (Diplomatic Immunity: Jurisdiction) (1998)

(1998) 1 FLR 1026 : Times, March 2, 1998

22/01/1998

Barristers

Henry Setright KC

Court

Family Division

Facts

Application by the wife of a US diplomat for a declaration under s.8 Child Abduction and Custody Act 1985 that the removal of the children of the marriage from the jurisdiction was a wrongful removal within Art.3 of the Hague Convention on the Civil Aspects of International Child Abduction 1980 as contained in Sch.1 of the Child Abduction and Custody Act 1985. The father's return to the United States with his family was done in compliance with an order of the US Government. The mother asserted that she left with her husband under protest. The US Government was given leave to intervene and the husband applied for dismissal of the proceedings on the ground of both state and diplomatic immunity.

Held

Although actions of a personal nature performed at the end of a diplomatic posting were not acts performed in the exercise of a diplomat's functions within Art.39(2) of the Vienna Convention, an agent could enjoy state immunity if the acts were of a sovereign or governmental nature. The return of the agent with his family to the US in compliance with an order of the US Government as his employer was subject to state immunity from legal process.

Father's application granted and proceedings set aside on the ground of state immunity from legal process.

Permission

Lawtel 