



## **OFFICE OF THE DEPUTY JUDGE PRESIDENT**

### **SOUTH GAUTENG HIGH COURT**

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23 March 2009

1. All Judges – South Gauteng High Court, Johannesburg
2. The Chief Registrar – South Gauteng High Court, Johannesburg
3. The Chairman, Johannesburg Society of Advocates
4. The Chief Executive Officer / Director, Law Society of Northern Province
6. The Chairman, Advocates for Transformation
7. The Chairman, National Forum of Advocates
8. The Chairperson, Black Lawyers Association (Gauteng Branch)
9. The Chairperson, National Association of Democratic Lawyers (Gauteng)
10. The Director, National Prosecuting Authority: South Gauteng High Court
11. The Family Advocate, South Gauteng High Court

## **PRACTICE DIRECTIVE 01 OF 2009**

### **APPLICATIONS IN TERMS OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION ACT 72 OF 1996**

#### **Introduction**

1. There is a worldwide increase of incidents of crossborder abduction of children. The criminal part of that phenomenon is regulated by criminal law and intergovernmental treaties in that field of law.
2. The response of the international community to the civil aspects of the phenomenon (which is commonly inter-parental or familial) was the adoption of the Hague Convention on Civil Aspects of International Child Abduction. South Africa is a signatory to the convention and adopted the convention as part of its national law. In order to respond to its obligations under the convention, the South African parliament passed Act, No. 72 of 1996 (The Hague Convention on Civil Aspects of International Child Abduction Act, No. 72 of 1996) which is for the sake of brevity simply herein referred to as The Hague Convention.
3. Our courts, like other courts in countries that have adopted the convention, have an important role to play under The Hague Convention. Cases under the convention normally come to court by way of applications, often in the urgent court, for the return of the abducted child to the country of origin, often another member country to the convention.
4. The objective of this Practice Directive is to expedite the handling of all applications under The Hague Convention. In case of uncertainty legal practitioners should not hesitate to approach the office of the Deputy Judge President with any difficulties regarding the practical aspects of implementing this Directive.

#### **Directive**

5. The Judge President or Deputy Judge President shall designate from time to time a judge who shall be responsible for Hague Convention matters.
6. A judge designated in terms of paragraph 5 above is not the only one who shall hear The Hague Convention matters. Such judge shall fulfil the role of gathering relevant information on these matters and shall also perform the liaison function with judicial officers and Central Authorities in other jurisdictions as and when the need may arise.
7. Once a file for a matter under The Hague Convention has been opened, the file must, upon issue, be clearly marked as a Hague Convention matter. The primary duty for doing so shall be on the



practitioner acting in the matter on behalf of the applicant. If the applicant is not represented the Registrar must assist litigants as far as is possible.


8. As a matter of course matters under the Hague Convention are to be dealt with as urgent in nature.

9. After its issue the matter is to follow the following route:

9.1 The court file is to be taken to the Deputy Judge President, who is to allocate a judge to case manage the matter and ultimately hear it when it is ripe for hearing, irrespective of the court in which that judge is doing duty when the matter becomes ripe for hearing.

9.2 The judge to whom the application has been allocated shall determine the date and time for hearing of the application in collaboration with the Deputy Judge President or the most senior judge on duty and advise the parties of such date.

9.3 Should any reason have arisen during the course of managing the case, for that judge not to hear the case, that judge concerned will approach the Deputy Judge President forthwith for allocation of another judge to urgently hear the matter.



**P M MOJAPPELO**  
**DEPUTY JUDGE PRESIDENT**  
**SOUTH GAUTENG HIGH COURT**

**23 MARCH 2009**