



Testimony of J. Augusto Frisancho, M.D.
Father of **three children abducted to Slovakia in 2010**

Before the U.S. House of Representatives,
Committee on Foreign Affairs
Subcommittee on Africa, Global Health, Global Human Rights and
International Organizations

Hearing: ***Enforcement in Not Optional: The Goldman Act to
Return Abducted American Children***

April 6, 2017

My three sons Raymi, Amaru & Ork'o abducted to Slovakia in 2010

My name is Augusto Frisancho, I would like to thank you Chairman Smith, Ranking Member Bass, and all the Members of the Committee on Foreign Affairs for giving me this unique opportunity to be here on behalf of my children.

How the nightmare started

In 2008 my wife asked me for a divorce. I totally refused and told her we couldn't do this to the children. She told me: "You would give your life for your children, but not for me, this is how you men think. When there is no longer love in the marriage, all you men want is to stay together only because of the children." I asked her to try to work things out, seek professional help, go to counseling, but nothing worked. After a year, I accepted it. I did apologize to her for trying to keep our marriage alive, we agreed on joint custody and I accepted her petition to go and together tell our children that we both had decided to divorce.

On August 25, 2010, my wife asked me to take care of our children for three days as there was something she needed to do. She asked me to wait for them at a park. I left my work at Johns Hopkins and waited at that park until it got dark. She never arrived. I dialed all existing numbers but they were all disconnected. I drove to many places where I thought they could be. The next day I learned that she had abducted our children to her home country, Slovakia, with the assistance of her parents.

It takes two people to divorce, as it takes two to be in a marriage, everybody would acknowledge that. But **no parent has the right to emotionally abuse their children by removing the second parent from their children's lives**. Abducting parents have no rights to psychologically manipulate innocent children by making them believe the left-behind parent is a bad person. Of course, there are circumstances that must be considered like physical abuse, sexual abuse, addictions, etc. but none of these conditions existed in our relationship.

Slovakia

The day after the abduction, I filed an application for the return of the children under an international treaty, the Hague Convention on the Civil Aspects of International Child Abduction. My wife was called upon by the Central Authority for the Hague Convention in Slovakia to discuss the peaceful return home of the children. When no agreement could be reached, the case was sent to the Slovak court for the Hague legal proceedings that continue to this day.

Hague return order without enforcement:

The Slovak judges told the mother she did not have the right to remove our children from everything they were used to, their home, their school, their friends, that those were American children and that if she had matrimonial problems with her husband, she had to return to Baltimore and solve those issues on US ground because only US judges had jurisdiction over that and over the children. The judges also said that the

mother was unable to prove her allegations of abuse on the part of the father. My wife acknowledged in court that the children love their father.

The Slovak courts ruled the return of the children to the USA, but they never enforced it.

Hague case reopened:

The Hague return order that was final and binding was reopened later and the case recommenced, which caused the extension of the proceedings for years. I attended almost all of the hearings. My wife attended some at the beginning, but later on she missed the majority of them.

Judge wants to see the children:

The mother brought only two of the boys to court but not the third child. **Judge was concerned because of the children's appearance** and ordered to see them again in the presence of a psychologist and a translator because the children do not speak the Slovak language. However, the mother repeatedly failed to bring our three children to court. That was actually the **last time the mother showed up in court!**

Travel ban:

The Slovak courts prohibited the removal of the children outside of Slovakia until the Hague proceedings for their return to the US were finished. **In violation of that court-ordered travel ban, my wife wrote to the Slovak court that the Slovak court had forced her to leave the country, and she had had to move to Hungary.** In Hungary, she said that she did not know where the father was, she requested to receive monetary assistance for the poor. She changed her and our children's citizenship to Hungarian. However, I, the father, am the custodial parent. Foreign officials could just google my name to find me online due to the kind of work I do and would easily find my email address, phone number, etc.

Hague proceedings stayed:

The Slovak courts stayed the proceedings twice, even after I appealed. The Hague case is currently being reviewed by the Slovak Constitutional court, but there is no time limit for this court to give a response. In the past, **it sometimes took about one year for the Slovak court located in Komarno to issue a response.**

European Court of Human Rights (ECHR)

Although the Slovak courts acknowledged the wrongful removal of our children, ordered their return to the US under the Hague Convention, their ruling became final and binding within the meaning of Slovakian law, and its enforcement was ordered, the courts never carried out the enforcement order. It took them years to deal with the case, allowing my wife to file dozens of motions, complaints, appeals and extraordinary appeals on points of law and other legal procedures that only gave her time to continue this emotional abuse of our children and to orchestrate her next abduction to Hungary. I filed a complaint under the ECHR, where **a chamber of seven judges unanimously ruled that Slovakia had indeed violated article 8 of the Convention and my human**

rights as a father with respect for my family life, and it ordered Slovakia to pay me damages.

The ECHR concluded that:

-) There was no dispute that the **relationship between the father and his children was one of family life**.

-) **Slovakia** as a Contracting State of the Hague Convention **is obligated to carry out the proceedings for the return of the children** unless there are circumstances preventing the children's return, **allowing the courts in the country of their alleged habitual residence (USA) to resolve all questions relating to parental rights and responsibilities**.

Proceedings in Slovakia should be practical and effective.

-) The ECHR notes in particular the opinion expressed by the President of the Bratislava First District Court, who said that there is a systemic problem in that numerous appeals are allowed during the return proceedings, with the effect of negating the purpose of the Hague Convention. The recommenced Hague proceedings bear witness to these systemic concerns.

Thus, **the status of the children has not been determined by any court**, the courts in Slovakia having no jurisdiction to do so, and the courts in the country of their alleged habitual residence (USA) having no practical opportunity to do so, **a state of affairs which can by no means be said to have been in the children's best interests**.

Where are we now?

The Slovak Constitutional Court is reviewing the case, it will decide whether it supports the staying of the Hague return proceedings ordered by the First Instance Court and upheld by the Regional Upper Court, or if it will reopen the case and remit it back for further proceedings as it did in 2012.

In any case, we have solid legal grounds to file another complaint against Slovakia under the ECHR. But what is the point of having all these court rulings on our side, what is the purpose of "winning" the case again at the ECHR, and receiving again money for damages from the government of Slovakia if our main goal of helping the children return home has not been accomplished?

Three judges in the US, four judges in Slovakia, and seven judges at the ECHR in Strasbourg, a total of 14 people, men and women from different backgrounds and countries, all have acknowledged that the abduction of our children is wrong, but the children are still being emotionally abused for almost 7 years!

Slovakia needs to rule consistently with the ECHR. Slovakia needs to comply not only with the Hague treaty but also with the European treaty called Brussels II Regulation, that gives Slovakia the tools to order again the return of the children to the US and to enforce that order in Slovakia in the event that the children are found in Slovakia, or to cooperate with any other country member of Brussels II, such as Hungary, to have the Slovak court order enforced in that third country.

How can we start new litigation in Hungary when both Slovakia and Hungary are members of the same treaty? A Slovak court order must be enforced in Hungary or vice versa. **The most important reason not to file again in Hungary is that Slovakia has already accumulated evidence during six years!**

After all our attempts to convince Slovak authorities to fulfil their obligations to resolve abduction and access cases, and after the final judgement of the ECHR from July 2015, Slovakia made amendments to its laws concerning international abductions to Slovakia effective as of January 2016. None of these new regulations, however, apply retroactively to rule against the return of my children to the US following Brussels II Regulation and cooperation with Hungary for the final enforcement.

To top all that injustice, **my wife is trying to file criminal charges against me for unpaid child support for children Slovak courts say no longer reside in Slovakia.** I have said in the past that by doing that, I would be supporting this emotional abuse of my children. Moreover, it is **the US court** that has jurisdiction over the children. This court **has given full custody, legal and physical, to me, and in its custody ruling, it says that child support will be decided by the Baltimore court, not by Slovakia.**

Access to children

I requested of the Slovak courts access to my children while the Hague proceedings for their return to the US were taking place. I had repeatedly obtained preliminary rulings ordering the mother not only to physically prepare the children to meet with their father, but also to psychologically promote visitation in order to prevent alienation. **I travelled several times to Europe, in one year alone I took 14 weeks off from my work at Johns Hopkins trying to stay in touch with my children.** With the court orders in my hands, I went to my wife's parents' house. Her parents threatened to call the police. My children's grandmother, **Mrs. Piroška Kiss, told me: "Don't you know, Augusto, that you will NEVER see the children again? Go away and give us peace, stop bothering us."** I then called the police and showed them the court order. They spoke with the grandparents, who told the police they did not know where the children nor their daughter were. On another occasion, I filed a missing person report in Slovakia, but not even law enforcement would help me see my children. I went to their schools repeatedly in both Slovakia and Hungary and met with the teachers and principals, who introduced me to my children's classmates in their classrooms and gave me a tour of the school. **I never saw my children because my wife had taken them away for days and weeks until she learned I had returned to the US. The courts also ordered my wife to let me skype, email and talk over the phone with our children, but she refused to obey the court rulings, saying that she does not have a computer nor internet.** She changed the house phone number and **declared openly in court that she will never let me see "her" children.**

For more than a year, the US Consul tried to visit and bring to my children gifts that I brought from the US and left at his office. My wife would always refuse to accept his

visit, until one day after he persisted, she agreed to accept with his visit and **received a letter from me for our children and the gifts. The Consul asked her if the boys could talk to me using his cell phone and if he could take a picture of them for me, but my wife refused that.**

My boys need me. Every boy needs his father. They are teenagers, their bodies are changing from boys to men, their minds are changing. **Besides being father and sons we were friends, we had a strong, respectful, very much attached and loving relationship.** When my wife stayed at work from early morning to late evenings, our children stayed with me. I did everything with them, woke them up, got them ready for school, gave them breakfast, made lunch boxes, drove them to school, then I ran to work, and left my job earlier in order to pick the boys up from school. Then we had lunch, rested, played, and did sports like soccer or baseball depending on the season. My oldest son did karate since he was 6 years old. We then went home, and while the older boys did homework, I did art or drawing with Raymi, the little one. Then we had dinner together, showered before going to bed, prayed and read before sleeping. Once the lights went off, I would tell them stories until they fell asleep. Sometimes I would fall asleep first, but they woke me up and I continued telling the story.

Once it happened that while I was talking to them about life and that one day we will go to heaven, one of the boys asked me: **“But Daddy, why should we go if this life is so beautiful”....** I am sharing this with you so that you see what a good life our children had before the idea of divorcing came up.

Concerns about my wife’s mental health

We are still married. My wife filed for divorce here in the US, her mother served the summons on me, and when I read all her accusations and the kind of financial compensations she was asking, I just could not believe her mind was right. Once she kidnapped our children to Slovakia, she dismissed her motion for divorce in Baltimore and filed another one in Slovakia, but I responded **I did not want a divorce, but to remain married so that when the children return to the US, she could also return with them** and that I will support her until she starts working again.

She collapsed in the parking lot of our children’s school, and because she screamed aloud using profanity in front of the children and their parents, the principal called 911 and an ambulance. She was taken to a psychiatric hospital where she was retained against her will and put on strong antipsychotics. After she was released, she described to me how it was when she was in the hospital and would comment that she said there that she was sick because of her boss, so that all the guilt will go on her boss’s shoulders. However, later she changed the version and blamed me, her husband, for everything. She raised accusations against some of our children’s teachers, she wanted to change our children’s pediatrician, and dentist.

In order to cover the real reasons for abducting our children, in Slovakia she said that I had forced her to leave the US. In Slovakia, she fought with the judge and requested

the judge to be removed from the case. One of her lawyers wrote a letter to the court explaining that she abandoned representation of the case. After all, when she abducted our children to Hungary, she wrote to the Slovak court that Slovakian authorities, judges, lawyers, and law enforcement officials all forced her to leave the country and find refuge in another country. One year prior the abduction, she went to Slovakia, supposedly to rest after she fought with her boss in Baltimore and resigned her job. Later on, she emailed me asking me to quickly travel to Slovakia to pick her up because she could no longer live under the same roof with her parents. According to her, everybody in the village where they lived looked at her as if she was a criminal due to the complaints her father Mr. Alexander Kiss had made against her, and people in the village felt sorry for her parents and thought she was a bad daughter.

I am disclosing all this because I would like you to understand **why I am concerned about my wife's mental instability**. I mentioned that in the local court in Komarno, however, judge Konkolovska responded that although the father had taken the liberty to put in doubt the mother's mental health, she was healthy; otherwise, she would not be able to perform her job.

What judge Konkolovska does not take into consideration is that **one can be mentally ill and still be able to work** if his or her problem-solving abilities are not affected, **one can know how to solve work issues that are encountered on a daily basis, but this does not mean the person is mentally fit**.

Department of State – Office of Children's Issues (DOS - OCI)

I would like to express my gratitude to the DOS – OCI for having assisted me from day one, as follows,

-) For helping me file an application for the return of my children to the US.
-) **Embassy officials attended each and every hearing in Slovakia.**
-) OCI requested that Slovakia provide an explanation for the delay in proceedings.
-) **Embassy officials sent diplomatic notes to the Slovak Ministry of Foreign Affairs (MFA) at senior levels. The MFA informed the US Embassy Bratislava that the MFA would continue to monitor the case.**
-) **U.S. Ambassador to Slovakia** joined ambassadors and chargés from other European embassies in Slovakia to participate in a multilateral effort with senior officials from Slovakia's Ministry of Justice to **encourage Slovakia's compliance with the Hague Convention.**
-) Embassy officials met with working-level Slovakian counterparts.
-) OCI reported a Pattern of Noncompliance, and the **Embassy delivered a demarche to the Government of Slovakia noting Slovakia's** citation in the 2015 Annual Report on International Parental Child Abduction as demonstrating patterns of **noncompliance**, meaning that thirty percent or more of the total international abduction cases in Slovakia remained unresolved at the end of the reporting period.
-) **Embassy officials met with the representatives of the Slovak Ministry of Justice Legislative Department responsible for civil and commercial law and the recent changes to the Family Code and Civil Procedural Law to improve Slovakia's compliance with the Convention.**

-) **Slovakia made amendments to its laws concerning international abductions to Slovakia effective as of January 2016.** None of these new regulations however, apply retroactively to rule again the return of my children to the USA, following Brussels II Regulation and cooperation with Hungary for the final enforcement.

I'd like to tell officials from the DOS OCI that I am grateful for what CI has done up to now. However, I would very much appreciate if OCI could use the additional tools provided by the Goldman Act in order not to let Slovakia find excuses to release its responsibility by saying it no longer has jurisdiction over my children's case, forgiving my wife for removing our children to Hungary in violation of a valid travel ban court order and staying the Hague proceedings in Slovakia. Instead, have Slovakia follow Brussels II regulations, continue the Hague case in Slovakia, order again the return of American children home, and enforce its ruling with the cooperation of their counterparts in Hungary. **We are not telling Slovakia how to rule their judicial system, but we are demanding Slovakia to follow the rules of treaties for which Slovakia had signed a membership.**

OCI could still take the following actions:

-) Have the US Special Advisor for Children's Issues meet with Slovak authorities.
-) Make an official public statement condemning the unresolved case of US children.
-) Delay or cancel bilateral working, official, or state visits and student exchanges.
-) Withdraw, limit, or suspend United States development, economic, or security assistance.
-) In the 2015 Annual Report on International Parental Child Abduction (IPCA), table 4 on page 30 shows Countries Demonstrating Patterns of Noncompliance: Slovakia is listed there and in the Description of pattern of noncompliance **it is not mentioned that Law enforcement authorities failed to locate the children and enforce orders of rights of access rendered by the judicial authorities** in abduction cases (D). Also, that the Slovak courts failed to implement and comply with the provisions of the Convention (C). The pertinent information in the report should be corrected.

The Goldman Act not only empowers the Department of State but it even requires punitive actions against countries that do not respect their international agreements like Slovakia.

Acknowledgements

I'd like to express my gratitude to the Department of Justice, FBI and Interpol, to Ausias Ortí Moreno, my children's case manager from International Social Services, to National Center for Missing and Exploited Children, especially to Rami Zahr, Sarah Baker, and Team Hope Program Director Abby Potash, all present here. And on behalf of my children, my very special thanks to you, Congressman Smith, and your Counsel, Allison Hollabaugh. When I spoke to my children over the phone shortly after the abduction, they naively asked me: **And Daddy, "can't you help us return home?"** It was as if they were saying: you are our father, how come you can't help us? My heart breaks every time I remember those words. I promised my children then, I was going to do

whatever was only possible in the world to help them. My children are the reason why I live; they were and will always be the most precious thing God has entrusted to me. Since 2010 I have been working with lots of people, and one thing about you that I can say, **Chairman Smith, is that you have sincere compassion for all children, you indeed care for the well-being of all the children who are victims of all kinds of abuse committed by their own parents as a result of their blind selfishness.**

Abductors put themselves first, children are secondary and often used as an act of revenge against the spouse. But this is why the law exists. What would the world be today if there were no laws? So, on behalf of my three boys, thank you Mr. Smith for creating the Goldman Act, thank you for asking the Department of State (DOS) to enforce the Goldman Act and request Slovakia, and all the other countries who to date are still attempting to bypass the law, to go ahead and simply fulfil the law and return our American children home. We did the same for them, when a child had been kidnapped by a parent to the US, our authorities made sure the child was safely returned to the left behind parent in Slovakia. We did not create excuses. We acted fast, we used all the possible resources and will do it again.

To my children

And to you, Ork'o, Amaru and Raymi, this is the first time I have been given the opportunity to talk to you since our phone conversations were cut in 2010. I love you guys with all my heart, you are my life, I miss you. Every morning when I get up, I kneel and pray to God to help us be together again, to protect you from any evil. I kiss your pictures that I have placed on the door of the fridge, I kiss your picture on my cell phone, I dream about you often, but I see you in my dreams still little, as you left our home almost 7 years ago. I bet you are bigger and stronger now. Hang in there guys, stay strong, Dad loves you more than anything in the world, I live only for you. Forgive me for not having been able to honor my promise to help you return home until today. And please, read my blog, read the news, read the court orders, please give me the chance to tell you my part of the story too, every story has two sides, you have heard only one side. No matter what you have been told about me, listen also to me, please. You guys also pray to God, all the time, pray for your mom too. God does not do anything wrong, but He permits bad things to happen. I am waiting for you and will always be.

Te amo Ork'o. Amaru te adoro. Raymi, I love you.
Papa.



Raymi



Raymi plays T-ball



Raymi's graduation - preschool



Raymi



Amaru



Amaru plays baseball



Amaru



Ork'o



Ork'o



Ork'o

I love you guys! With all my heart!

Dad

April 6, 2017