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# ABDUCTION OF A MINOR: NON-COMPLIANCE WITH COURT DECISIONS OF LITIGATION COURTS AND JUDICIAL PRACTICE ANALYSIS

This paper examines which actions constitute the criminal offence detainment or abduction of a minor as defined by Art. 191 para. 1, Criminal Code of the Republic of Serbia, in the following situations: upon termination of the partnership, the parents independently exercise parental rights based on the decision of the "litigation" court; one parent is given sole custody; maintaining contact between parents and children. Among scholars, there are conflicting opinions regarding these issues. The analysis of seven recent decisions of the second-instance courts showed that the courts also have opposing views on certain issues in the same or similar life situations. The paper starts from the hypothesis that there is legal uncertainty regarding court decisions about this offence. For the analysis of individual court decisions and comparison with relevant earlier decisions, the dogmatic-normative method and comparative method were used.

**Key words:** *child custody, maintaining relationships between parents and children, criminal law, abduction of a minor*

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## 1. Introduction

The relationship between parents and children is one of the most important relationships in any society. For this reason, states regulate these relationships through family legislation. However, criminal law also deals with the protection of these relationships, as an "ultima ratio". In family legislation and theory, in accordance with Art. 1 of the Convention on the Rights of the Child (UN doc. GA/RES/ 44/25 (1989)), the term child is used for a human being who has not reached the age of 18, if the legal age of majority is not attained earlier, while the Criminal Code of the Republic of Serbia uses the term minor for a person who has not reached the age of 18. Therefore, these two terms are synonyms, and both will be used in the paper, in accordance with the legal terminology. When the married or cohabiting community in which children were born breaks down, one of the primary questions is which parent will exercise parental rights. In those cases, the court decides, among other things, which parent will be given custody of the child and how the contact with the other parent will be maintained.

The aim of this paper is to determine how and in which situations the state prosecutes the persons who are obliged to respect the decision of the litigation court on child custody or maintaining contact and fail to do so. The criminal offence detainment or abduction of a minor is defined in Art. 191 of the Criminal Code of the Republic of Serbia. The paper will identify the behaviors which constitute this criminal offence with the aim of achieving legal certainty, since judicial practice records contradictory decisions, and that even in theory there are different understandings on certain issues. The paper also presents statistical data from the Republic Institute of Statistics relating to the number of divorces in 2022, as well as statistics relating to the number of reports, accusations and verdicts in 2022 for the criminal offence abduction of a minor.

## 2. Abduction of a Minor

Before determining the nature of the criminal offence, it is necessary to briefly describe the cases when the litigation court makes a decision on child custody. Thus, "one parent alone exercises parental rights based on a court decision when the parents do not live together and have not concluded an agreement on the exercise of parental rights; one parent alone exercises parental rights on the basis of a court decision when the parents do not live together and have concluded an agreement on joint or independent exercise of parental rights, but the court judges that this agreement is not in the best interest of the child; one parent alone exercises parental rights based on a court decision when the parents do not live together if they conclude an agreement on the independent exercise of parental rights and if the court judges that this agreement is in the best interest of the child" (Family Law, Art. 77 par. 3-5) . While the second and third instance do not need to be further analyzed, the first instance, in which one parent alone exercises parental rights based on a court decision when the parents do not live together and have not concluded an agreement on the exercise of parental rights, requires additional explanation because it involves several possibilities that are all relevant to the criminal offence in question. These would be cases when "[...] the marriage has broken down, but the parents have not yet divorced (de facto separation), due to the termination of the common-law marriage of the parents, when the common-law parents have never lived in a common-law union and cannot agree on the exercise of parental rights, then in the case of divorce or marriage annulment" (Cvejić Jančić, 2009: 319). In all these cases, parental rights are exercised based on the court's decision. The court's decision must be legally binding and enforceable.[2]

For instance, according to the Report of the Republic Institute of Statistics for 2022, which 9,813 marriages were divorced, against 32,821

[2] For enforceability, see Šarkić, N. & Vavan, Z. (2021). Procedures for the execution of court decisions in family relations. *Court Practice Journal*, 2, 17–21; Vavan, Z. (2020). *Enforcement of court decisions in parents-children relationships*. Doctoral dissertation, Faculty of Law Union University Belgrade.

concluded marriages, of which 5,151, or 52.5%, were divorced marriages with children, of the total number of divorced marriages. When we add to these numbers those extramarital unions with children in which the union was dissolved, for which there is no precise data, it is clear that we are dealing with a large number of cases in which the court will have to regulate the aforementioned relationships.

### 2.1. Abducting a Minor: Theory and Positive Law

The criminal offence abducting a minor in Serbian criminal code is classified under Chapter XIX - Criminal offences against marriage and family, according to the object of protection that the legislator considers to be predominant. Thus, in the theory of criminal law, it is stated that "this criminal offence protects the right of certain persons to take care of a minor, which indirectly, as a rule, also protects the interests of the minor" (Stojanović, 2020: 633); or, in other words, "by prescribing this criminal offence, the interests of a minor are protected, for whom his parents are first responsible, and only in the event that they are not present or if they are deprived of parental rights, other persons (adoptive, guardian, other person or institution to which the minor is entrusted) may be responsible" (Mrvić Petrović, 2019: 148).

This criminal offence has two basic forms and two more serious forms to which certain circumstances have been added that make them more serious. The first basic form is committed by a person "who unlawfully detains or abducts a minor from a parent, adoptive parent, guardian or another person or institution, entrusted with care of the minor, or whoever prevents enforcement of the decision granting custody of a minor to a particular person [...]" (Criminal Code, Art. 191 para. 1). The action of execution of this basic form is prescribed alternatively, as the action of detaining, abducting or preventing the execution of the decision on entrusting a minor to a certain person. A person who does not act according to the court decision by which it was decided on the exercise of parental rights can enter the zone of criminal responsibility by undertaking any of these three alternatively specified enforcement actions, as the following sections will show.

It appears that the most relevant action is preventing the execution of the decision by which a minor is entrusted to a certain person, so it will be analyzed first. Non-compliance can be directed against any decision of a state body that entrusts a minor to someone, and thus, in addition to a court verdict that determines which parent the child is entrusted to, and when the guardianship authority, within its competences, decides by administrative act. For the subject of this paper, non-compliance with the court decision is important. It was stated that the court decision must be enforceable and that "[…] a valid enforceable title existed at the time of the criminal offence which creates the obligation of the defendant to hand over the minor to an authorized person or institution." Therefore, the existence of the offence is not affected by the circumstance that the judgment on the assignment of a minor to another person was later revoked by an extraordinary legal remedy (revision)" (Mrvić Petrović, 2019: 150). Essentially, the parent to whom the child is entrusted by a court judgment is prevented from exercising his right and duty by changing residences or hiding a minor. Examples of judicial practice show some of the ways in which this criminal offence can be committed. Scholars agree that just taking an action consititutes a criminal offence, regardless of whether it was successful. Therefore, for the existence of a criminal offence, it is not important that the consequence of the criminal offence occurred.

The action of detention assumes that the minor was with the parent who undertakes the criminal offence, preventing the minor from returning to the parent who has the sole custody. "It can be done by all the actions that achieve the inability of the passive subject to be with the person who is authorized to take care of him. This includes inducing a minor to stay with the perpetrator or giving consent for such a procedure by a minor" (Mrvić Petrović, 2019: 148). Serbian legal scholars have debated whether the act of detention can be carried out under duress. As Stojanović states (Stojanović, 2020: 634), "the opposite understanding, present in our theory and practice, which starts from the fact that coercion and deprivation of liberty is only a means of committing this criminal act, is not acceptable." […] in that case, taking a minor by using coercion, or depriving him/her of freedom, would be privileged, for which there is no reason". According to Stojanović, there would be a separate criminal offence of coercion.

Scholars also make a distinction between this crime and the crime of kidnapping[3]. "The basis for the distinction is the motive for committing the offence since, contrary to kidnapping, the abduction of a minor is not aimed at the deprivation of freedom of movement and the decision of a passive subject." […] we believe that one of the key bases for distinguishing is the fact that the abduction of minors is a long-term, even permanent retention of a passive subject, while in the case of the general criminal offence of kidnapping, this retention is one-time and temporary" (Milošević, 2008: 18-19). In the theory of family law, it is stated that "a modern problem arising from the exercise of parental rights, which affects the child's interest in growing and developing with both parents, occurs in the case of child abduction by one parent, who illegally takes the child out of the country, hides the child from the other parent and prevents contact between the child and the parents" (Cvejić Jančić, 2009: 320). It should be noted that this does not consitutute the criminal offence of kidnapping, but the criminal offence of abducting a minor.[4]

Abducting a minor is an action of a parent by which the passive subject is taken from the parent who has sole custody. Some legal scholars believe that coercion must not be used (as in the case of detention), but it does not mean that the minor must consent to being taken or detained. As to a minor's consent for removal or detention, it is considered that "if a minor leaves the person to whom he/she is entrusted on his/her own initiative and voluntarily resides with another person, the offence has not been committed." In that case, the usual failure to hand over the minor to the person who holds custody is not sufficient for the existence of coercion, i.e., it cannot be considered coercion" (Stojanović, 2020: 634). On the contrary, "a criminal offence also exists when a minor is

[3] See: Kovačević, M. (2018). Detaining a Minor: Criminal Code Sanctions. *Novi Sad Faculty of Law Journal*, 4, 1731–1746.

[4] For international child abduction, see: Stanivuković M. & Đajić S. (2022). The right of parents to return to their country of origin in light of the Hague Convention on the Civil Aspects of International Child Abduction and the European Convention for the Protection of Human Rights and Fundamental Freedoms. *Annals of Belgrade Law Faculty*, 1, 123–158; Kovaček Stanić, G. (2012) Family and Law Aspects of International Child Abduction by Parents. *Annals of Belgrade Law Faculty*, 2, 74–94.

detained with his/her full consent, even on his/her initiative (judgment of the Supreme Court of Serbia Kzz. 53/91). In that case, when determining the punishment, these circumstances can be taken as mitigating circumstances" (Mrvić Petrović, 2019: 149). The analysis of two recent decisions of the Supreme Court in the following section revealed that the highest court has made completely opposite decisions regarding the existence of minor's consent in the case of detainment or abduction.

Detaining and abducting a minor are both offences that must be undertaken unlawfully. The legislation introduces illegality as an element of the existence of a criminal offence, which means that for a criminal offence to exist, actions must be taken against legal authority – in this case, by the parent who, according to the court decision, does not have legal custody. When it comes to the consent of a parent holding sole custody, in theory it is considered that "in those cases, the parent who has sole custody agreeing to let the minot stay longer with the other parent excludes the existence of the criminal offence" (Mrvić Petrović, 2019: 149). As the analysis of court practice will show, this opinion is in accordance with the actions of the courts. The penalty for this basic form of crime is a fine or imprisonment for up to three years.

The second basic form of this criminal offence is undertaken by the person "who prevents the execution of the decision of the competent authority, which determines the manner of maintaining personal relations of a minor with a parent or other relative" (Criminal Code, Article 191, Paragraph 3). Everything stated for the previous form of criminal offence applies in this case as well. The only difference is who can be the perpetrator: this form of criminal offence, although it can be committed by anyone, is most often committed by the parent holding sole custody, and the victim is the parent who does not have sole parental rights independently, but the court decision regulates the manner of contact between the minor and the parent. This protects the child's right to maintain personal relations with the parent with whom he/she does not live, which is determined by Art. 61 of the Family Law. Using examples of court decisions, the paper shows how the parent who has sole custody can be the perpetrator of this form of criminal offence. The penalty for this form of crime is a fine or imprisonment for up to two years.

The criminal offence has two more serious forms: "if the offence referred to in paragraph 1 was committed against a newborn" (Criminal Code, Art. 191, para. 2) and "if the offence referred to in paragraphs 1 and 2 is committed for gain or other base motives, or the offence results in serious impairment of health, care or education of the minor, or where the offence is committed by an organized criminal group" (Criminal Code, Article 191, para. 4). Also, an optional basis for exemption from punishment is prescribed, in the sense that "the perpetrator of the offence from para. 1, 2, and 4. who voluntarily surrenders a minor to the person or institution to which he is entrusted or facilitates the execution of the decision on the entrustment of a minor, the court may exempt him from punishment" (Criminal Code, Article 191, paragraph 5). Further, para. 6 Art. 191 stipulates that "if the court pronounces a suspended sentence for offences specified in paragraphs 1 through 4 of this Article, the court may order the offender to hand over the minor within a set period of time to a person or institution having custody of the minor, or to comply with enforcement of the decision granting custody of the minor to a particular person or institution, i.e. the decision stipulating the manner of maintaining personal relationship between the minor and a parent or other relative."

## 3. Abducting a Minor: Judicial Practice

The analysis of some recent court decisions, in comparison with some earlier decisions, provides a basis to better understand how courts interpret this criminal offence and to determine which actions can lead to criminal liability. Analyzing the decisions of the courts, we can see to what degree the courts make opposing or unanimous decisions, as well as to what degree the judicial practice is harmonized with the legal doctrine. Of course, this analysis is not a final judgment as to which potential actions consitute the act of committing a criminal offence; however, it provides a clearer insight into how the court interprets and applies this criminal offence. The court decisions that have been analyzed are all publicly available judicial proceedings.

Before analyzing these court decisions, and for the sake of a clearer insight, it is necessary to present statistical data regarding the criminal offence of confiscation of a minor. According to the latest available Bulletin of the Republic Institute of Statistics "Community perpetrators of criminal offences in the Republic of Serbia, 2022. Reports, accusations and convictions", 304 persons were reported for the criminal offence abducting of minor, 51 persons were accused, while 37 persons were found guilty. Cases against two persons were suspended during the criminal court proceedings. Of the total number of persons who were found guilty, two persons were sentenced to three to six months in prison, seven persons were sentenced to a fine, 27 persons were given a suspended sentence, and one person was sentenced to community work.

The Supreme Court of Cassation decided with the judgment Kzz 565/2022 of June 1, 2022, on the request for the protection of legality, which is against the final judgments of the Basic Court in Kraljevo K 13/21 of November 24, 2021, and the High Court in Kraljevo Kž1 18/22 of February 22, 2022, filed by the defense attorney of the defendant, due to a violation of the criminal law. The verdict rejected the request for protection of legality as unfounded. The first-instance verdict found the defendant guilty of committing the crime abducting a minor under Art. 191 st. 1 of the Criminal Code by preventing the execution of the judgment. The second-instance verdict confirmed the first-instance verdict. The legally binding verdict established that the defendant, in the period from 04/20/2018 to 03/15/2019, prevented the execution of the legally binding and enforceable judgment of the Basic Court in Kraljevo P2 463/16 of 10/19/2017, which the exercise of parental rights entrusted to the mother and in such a way that he kept the minor son with him, accepting his wish not to return to his mother. It is interesting to note here that the court subsumed the action of detainment under the action of preventing the execution of the decision, even though the action of detainment represents an independent prescribed action for the execution of this criminal offence. The Supreme Court of Cassation concluded that the fact that the defendant, as the father, agreed to the minor staying with him, after the minor left his mother, who was entrusted with parental supervision over him, was sufficient for the retention and thus the impossibility of the execution of the court decision. It clearly

follows from this example that the court usually qualified the agreement that a minor resides with the defendant as sufficient in order to commit this criminal offence, which has been shown to be disputable.

The completely opposite opinion can be found in an earlier decision of the highest court of Serbia. Namely, the Supreme Court of Serbia, in its decision Kžm 141/2009 of September 14, 2009, took the position that it is not enough to simply fail to hand over a minor to a person entrusted with it in order to commit detainment. The court ruled that more than simple agreement is necessary in order for this to be a crimimal offence. The Supreme Court states that detainment assumes that the perpetrator prevents the minor from returning to their guardian(s), i.e., refuses to hand them over, and that the minor voluntarily came to the perpetrator, which is not the case. The will to keep a minor should be expressed either towards the minor or towards the person who has custody. This position of the Court coincides with the opinion of some scholars.

In the next decision of the highest court of Serbia, i.e. the judgment of the Supreme Court of Cassation Kzz 257/2022 of April 21, 2022, the request for the protection of the legality of the defendant's defense attorney against the final verdicts for the offence from para. 3 art. 191 of the Criminal Code, preventing the execution of the decision of the competent authority, which determined the way of maintaining contact between a minor and a parent or other relative. The factual situation is such that the defendant is the mother of a minor and that she was granted sole custody by the court verdict of the litigation court, while the manner of maintaining contact between the father and the minor was regulated by the same decision. The contested verdict found the defendant guilty of the act of not handing over the minor to the grandfather. The Supreme Court of Cassation overturned the legally binding verdict with the explanation that there is no objective element of the criminal offence because the verdict, which regulated the way of maintaining personal relationships, did not establish that the minor should be handed over to the grandfather, but that the way of maintaining contact between the minor and her father, and therefore there is no crime. For the existence of a criminal offence, it is necessary to prevent contact, in this case it was the father and not any other relative. This judgment shows

that, according to the opinion of the highest court, the act of handing over must be performed to a person specified by a court decision, that it is not enough that it was done to some other person for whom that right has not been established and who acts instead of the person specified by the decision.

The following example is relevant to the subject of this paper because it shows the court's attitude towards the detainment time required to commit the criminal offence of preventing the execution of the decision of the competent authority, which determined the way to maintain contact between a minor and a parent or other relative. The interesting thing about this case is that the defense referred to an act of minor importance as a basis for excluding the illegality of the criminal offence. Namely, "a criminal offence is an offence set forth by the law as criminal offence, which is unlawful and committed with guilty mind/mens rea" (Criminal Code, Article 14, paragraph 1), and illegality is an element of the criminal offence that is assumed. It is allowed to establish that there is no element of illegality, as a general element of a criminal offence, in which case there is no existence of a criminal offence. An offence of minor significance is that in which the degree of the offender's responsibility is not high, if consequences are absent or insignificant or eliminated by the offender, and where the general purpose of imposing criminal sanctions does not require sanctioning" (Criminal Code, Article 18, para. 2) and if it is about acts for which a prison sentence of up to three years or a fine is prescribed. Thus, the second-instance judgment of the High Court in Čačak Kž 81/2022 dated April 21, 2022 established that "the first-instance court assessed in detail all the circumstances of the specific case, primarily that minor children are under the special protection of the social community, which provides them with protection always when the interests of the children require it, and parents exercise their rights and duties regarding the care, upbringing and education of their children in accordance with the needs and interests of the children, which means that legally binding judgments of the courts must be respected regarding the model of seeing a common minor child, and when the defendant kept the minor injured party longer than allowed according to the verdict, thereby doing something that is illegal and hidden and thus prevented the execution of the court decision" (Higher

Court in Čačak, 81/2022). The court determined that the length of detainment is not relevant to the existence of a criminal offence, but that the standard of the best interest of a minor child was violated by the action of the defendant, and that it cannot be a case of minor importance. In this case, according to the court's opinion, there is a criminal offence.

In contrast to the previous example, we will show a completely different stand of the Appellate Court in Belgrade in judgment Kž1 5368/2012 of October 31, 2012, in its somewhat earlier decision, on an identical issue. In the decision, this court found that the father kept his minor children a day longer than the time determined by the legally binding court decision, and that there is no criminal offence of abducting a minor in connection with the exercise of parental rights, because there were no adverse consequences for the minor children. The court found that the legal representative of the minor victims "[…] filed a criminal complaint against the defendant on September 1, 2011, i.e., eight days from the day when the defendant was supposed to return the children to her, that due to the non-return of the children, she did not contact the police or social services, that, as she herself stated, already on August 27, 2011, she knew that the minor victims were in S., that the defendant, by detaining the minor victims for a day longer, did something that was illegal, but agreed to it because of their comfort, that there was no harmful consequence for the minor victims, and for the victim it was insignificant (considering that she was effectively prevented from exercising her right over the children for one day), and that the degree of guilt of the defendant in the specific case is low, considering that the harmful consequence is absent or insignificant, and that the general purpose of the sanctions in this case does not require the imposition of a criminal sanction" (Appellate Court in Belgrade, 5368/2012). In this example, the court is of the opinion that one day of delay in acting on a court decision represents an offence of minor importance, due to the absence of harmful consequences, as a result of which there is no criminal offence in the specific case.

The following example shows us that the criminal offence of preventing the execution of the decision of the competent authority, which determines the way of maintaining personal relations of a minor with

a parent with whom he does not live, from para. 3 art. 191 of the Criminal Code can be executed by a parent having sole custody. Thus, the High Court in Čačak, in its judgment Kž 120/2020 of October 1, 2020, rejected the appeal of the defendant's defense attorney and confirmed the first-instance verdict, which found that the judgment of the civil court entrusted the defendant with the independent exercise of parental rights, while it was established with the father way of maintaining contact, that the defendant took the child with her on the day when she was supposed to hand over the child to the father, without the father's consent, thereby preventing the father from spending time with the child as determined by the court decision, thus failing to comply with the established model of visitation. The court further noted that the defendant was aware that she did not have the father's consent to the change in the visitation model. Thus, the court concluded that "all of the above indicates that the defendant knowingly, without the consent of her ex-husband, who made it clear to her on several occasions via telephone messages that he did not agree to take the child with him, all as a consequence of the obviously bad relations between the ex-spouses after divorce, and the fact that the child after returning from V.b. stayed with his father for a few days without the established model of visitation, has no influence on the different role of the court in this criminal matter" (Higher Court in Čačak, 120/2020). In this example, we also see that the act of committing a criminal offence from para. 3 can be taken by taking the minor to another place from the place of residence. Another thing that is interesting to note is that the defendant was declared guilty because she did not have the consent of the father to take the child outside the established pattern of contact, although after that the child spent several days with the father also outside the established pattern of contact. The difference is that the defendant agreed to spend the child with the father for a few more days beyond the established model of visitation, thereby ruling out the illegality of the criminal act, while she did not have such consent from the father.

In judgment Kž 266/2015 dated August 25, 2015, the High Court in Niš ruled that the change of the child's residence and taking him to another country by the defendant, without the consent of the father, as preventing the decision of the competent authority, which determined

the method of contact. Thus, the court states that, according to the Family Law, a parent who does not exercise parental rights has the right to decide on issues that significantly affect the child's life jointly and by agreement with the other parent, and that the same law stipulates that the change of the child's residence is considered an issue that significantly affects the life of the child. The court states that the defendant did not initiate proceedings for the deprivation of the father's parental rights, and there is no such decision, and that she was obliged to inform the father about this important issue in order to make a joint decision on the change of residence.

## 4. Conclusion

Analyzing the criminal offence of abducting a minor from the aspect of non-compliance with the judgment of a litigation court in situations where, after the termination of the cohabitation with the children of two people, the court determines by its decision which parent will be entrusted with the child and regulates the way of maintaining personal relations of the minor with the other parent. We examined to what extent the courts, when applying this criminal offence to concrete situations, act in an equal way and whether there is a deviation on some issues in the understandings of the courts, which creates legal uncertainty.

Upon analyzing the legal features of the criminal offence, the theory of criminal law, and seven court decisions characteristic of the issues raised, the conclusion is that there is a deviation in the practice of the courts in the analyzed situations, and that even the same court in a period of time deviates from its own practice on an identical issue, whereby the initial hypothesis of the paper was confirmed.

Thus, when it comes to the defendant's agreement with the stay of a minor, contrary to the decision that decided on the independent exercise of parental rights, the highest court in the country has two completely different positions. Even in the theory of criminal law, this issue is debatable. In judicial practice, it is a disputed question whether there is a deed of minor importance in a situation where a minor is detained slightly longer than the way it is regulated by a court decision.

All these examples of judicial dichotomy confirm that there is legal uncertainty when it comes to the actions of the courts when applying the criminal offence to specific life situations. The aim of the paper was to emphasize the differences judicial practice on certain identical issues with concrete examples. Legal uncertainty in criminal law should not be tolerated since criminal law may deprive a person of the most important human values, if they are found guilty.

## References


Cvejić Jančić, O. (2009). *Porodično pravo – 1. Izdanje*. Pravni fakultet u Novom Sadu.

Kovaček Stanić, G. (2014). *Porodično pravo: partnersko, dečje i starateljsko pravo.* Pravni fakultet u Novom Sadu.

Kovaček Stanić, G. (2012). Porodičnopravni aspekti međunarodne, roditeljske otmice dece. *Anali Pravnog fakulteta u Beogradu*, 2, 74–94.

Kovačević, M. (2018). Oduzimanje maloletnog lica i krivičnopravna reakcija. *Zbornik radova pravnog fakulteta u Novom Sadu,* 4, 1731–1746.

Milošević, M. (2008). Oduzimanje maloletnika kao vrsta otmice i samostalno krivično delo. *Nauka, bezbednost, policija,* 3, 7–22.

Mrvić Petrović, N. (2019). *Krivično pravo: opšti deo – 5. Izdanje*. Pravni fakultet Univerziteta Union i Službeni glasnik.

Mrvić Petrović, N. (2019). *Krivično pravo: poseban deo – 6. izmenjeno i dopunjeno izdanje*. Pravni fakultet Univerziteta Union i Službeni glasnik.

Stanivuković M. i Đajić S. (2022). Pravo roditelja na povratak u zemlju porekla u svetlu Haške konvencije o građanskopravnim aspektima međunarodne otmice dece i Evropske konvencije za zaštitu ljudskih prava i osnovnih sloboda. *Anali pravnog fakulteta u Beogradu*, 1, 123–158.

Stojanović, Z. (2020). *Komentar Krivičnog zakonika*. Službeni glasnik.

Šarkić, N. i Vavan, Z. (2021). Postupci izvršenja sudskih odluka u porodičnim odnosima. *Izbor sudske prakse: stručno-informativni časopis,* 2, str. 17–21.

Vavan, Z. (2020). *Izvršenje sudskih odluka iz odnosa roditelja i dece*. Doktorska disertacija. Pravni fakultet Univerziteta Union u Beogradu.

**Legal Acts**

Krivični zakonik, (*Sl. glasnik RS*, br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019). [Criminal Code of the Republic of Serbia]

Porodični zakon, (*Sl. glasnik RS*, br. 18/2005, 72/2011 - dr. zakon i 6/2015). [Family Law]

UN Convention on the Rights of the Child, UN doc. GA/RES/ 44/25 (20. November 1989).

**Judicial Practice**

Presuda Vrhovnog kasacionog suda Kzz 565/2022 od 01. 06. 2022. godine.

Presuda Vrhovnog kasacionog suda Kzz 257/2022 od 21. 04. 2022. godine.

Presuda Višeg suda u Čačku Kž 81/2022 od 21. 04. 2022. godine.

Presuda Višeg suda u Čačku Kž 120/2020 od 01. 10. 2020. godine.

Presuda Višeg suda u Nišu Kž 266/2015 od 25. 08. 2015. godine.

Presuda Apelacionog suda u Beogradu Kž1 5368/2012 od 31. 10. 2012. godine.

Rešenje Vrhovnog suda Srbije Kžm 141/2009 od 14. 09. 2009. godine.

**Internet sources**

https://www.stat.gov.rs/sr-latn/vesti/statisticalrelease/?p=13628&a=18&s=1804?s=1804, Accessed 1st February 2024

https://publikacije.stat.gov.rs/G2023/Pdf/G20235702.pdf, Accessed 1st February 2024