

**ANDRA MOBBERLEY  
BARRISTER**

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18 May 2017

Commissioner of Police  
Police National Head Quarters  
180 Molesworth Street  
Wellington

Dear Sir

**REQUEST FOR URGENT INTERVENTION AND INVESTIGATION**  
**Abduction of, and conspiracy to abduct, a young person under 16**  
**ss 210(1) and 310 of the Crimes Act 1961**

1. I act for **MR AXEL SCHMIDT** who lives in Germany.
2. Mr Schmidt believes that, in 2015, his nine year old daughter **CLARA LARISSA SCHMIDT** was abducted (by virtue of being 'taken' from Germany and 'detained' or kept in Whitianga) by her mother and stepfather, Ms Lisa Hopfengärtner and Mr Simon Hopfengärtner, contrary to orders of the German courts granting Mr Schmidt sole custody.
3. On 14 February 2017, the New Zealand Family Court issued an order preventing Clara's removal from New Zealand. A copy is **attached** as **1**.
4. I understand that a border alert is in place.
5. Mr Schmidt believes that the family is now preparing to leave New Zealand by yacht and that their departure is imminent. A statement from (former Detective) Bruce Currie is **attached** as **2**.
6. As the German Embassy has revoked Clara's passport, a coastal departure from New Zealand is a realistic prospect.
7. Your urgent intervention is sought to ensure that Clara is not covertly removed from New Zealand.

**BACKGROUND**

8. This matter has a protracted history in the family courts in Germany. Numerous family court orders have been issued. Ms Hopfengärtner has a well established

pattern of repeatedly failing to comply with those court orders. Other orders have also been issued in Germany, including an arrest warrant issued against Clara's stepfather, Mr Hopfengärtner, for a vehicle incident in which Mr Schmidt was injured; three damages orders against Mr Hopfengärtner relating to the vehicle incident; an arrest warrant and a European arrest warrant and against Ms Hopfengärtner for 'breach of trust' in relation to Clara's inheritance money; and a costs awards against Ms Hopfengärtner relating to the child abduction in Germany.

9. The relevant decisions and orders are detailed in the statement of Professor Dr Bernd von Heintschel-Heinegg, counsel for Mr Schmidt in Germany. A copy of his statement is **attached** as **3A**. The annexures to the statement are **attached** as **3B, 3C** and **3D**.
10. In summary, Mr Schmidt and his former partner, Ms Lisa Hopfengärtner (nee Geiringer), have a daughter, Clara Larissa Schmidt. Clara was born on 3 July 2007 in Monchengladback, Germany. Ms Hopfengärtner had lawful custody of Clara until 17 December 2014.
11. On 17 December 2014, the District Court of Fürth, Germany granted Mr Schmidt sole custody of his daughter.
12. Clara disappeared from Germany with her mother, Ms Hopfengärtner and her stepfather, Mr Simon Hopfengärtner. Immigration records show that she arrived in New Zealand on 23 January 2015. A copy of the Immigration NZ Movements Records are **attached** as **4**.
13. Mr Schmidt had no idea where Clara was.
14. He advises that in August 2016, a German television station broadcasted a television documentary about Clara's disappearance. Mr Schmidt received a tip-off from an informant who told him to search for Clara in New Zealand. He discovered that Clara has been living in the Coromandel with her mother and stepfather and has been attending school.
15. Mr Schmidt made an application to the New Zealand Family Court under the Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention) for Clara's return. This matter is before the New Zealand Family Court. The coordinator at the Ministry of Justice is Ms Patricia Bailey [Patricia.Bailey@justice.govt.nz].
16. Mr Schmidt is concerned that Mr Hopfengärtner is currently away sailing and may be making his way to New Zealand with the intention of taking the Clara off shore. As the German Embassy cancelled Clara's passport, a coastal departure from New Zealand is a realistic prospect.

## **REQUEST FOR ASSISTANCE**

17. Mr Schmidt requests your urgent assistance to ensure that Clara does not leave New Zealand.

18. He also requests that you conduct a criminal investigation into the circumstances of his daughter's disappearance from Germany and 'detention' in New Zealand by her mother and stepfather, contrary to orders of the German courts granting Mr Schmidt sole custody [ss 210(1) and 310 of the Crimes Act 1961: Abduction of, and conspiracy to abduct, a young person under 16].
19. The elements of s 210 require intent to deprive a parent or guardian or other person having the lawful care or charge of a young person of the possession of the young person. The *actus reus* involves deliberately and unlawfully taking, enticing away, or detaining (i.e. keeping or hiding) the young person.
20. There may also be a basis for an investigation into whether there was a conspiracy to abduct Clara from Germany to bring her to New Zealand (s 310 of the Crimes Act). As you know, New Zealand courts have jurisdiction over conspiracies even where the agreement to commit a substantive offence is made overseas, as long as some part of it offence is carried out in New Zealand (*R v Sanders [conspiracy]* [1984] 1 NZLR 636).
21. Clara is ten years old on her next birthday. She satisfies the age restriction for this offence.
22. Ms Hopfengärtner was aware of the order made by the District Court of Fürth, Germany, on 17 December 2014 granting Mr Schmidt sole custody of Clara. Ms Hopfengärtner unsuccessfully appealed that decision.
23. Ms Hopfengärtner has had no legal right to the 'possession and control' of Clara since the German Family Court issued its order.
24. Mr and Ms Hopfengärtner left Germany with Clara secretly. Mr Schmidt had no idea that they were leaving. He only discovered where Clara was living after an extensive search and publicity in Germany.
25. Mr Schmidt is of the view that Ms Hopfengärtner and her husband 'took' Clara from Germany and have deliberately and intentionally 'detained' Clara, by keeping her in New Zealand, in order to thwart the lawful custody orders made in his favour.

## CONCLUSION

26. Mr Schmidt requests that you give serious consideration to whether the circumstances of this case require the deterrent force of the criminal law.
27. In the meantime, your urgent assistance is requested to ensure that Clara remains in New Zealand for the time being.

28. I am available to meet with you and other government officials if that would be of assistance.

Yours faithfully

A handwritten signature in blue ink, reading "Andra Mobberley". The signature is written in a cursive style with a light blue rectangular background.

Andra Mobberley  
LL.B, LL.M (Hons) Public International Law  
Barrister