The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

Why a Girl Tore Her U.S. Passport

By Alexander Winning

February 21, 2013



10-year-old Sara ripping apart her U.S. passport outside the U.S. Consulate in St. Petersburg in December. **Alexei Danichev**

Muffled in a light-blue coat and with downcast eyes, 10-year-old Sara ripped apart her American passport outside the U.S. Consulate in St. Petersburg.

With photo cameras snapping and television cameras rolling, Sara defiantly said she had no intention of living in the U.S.

Standing nearby, her mother, Russian emigre and Harvard graduate Marianne Grin, voiced support for legislation banning Americans from adopting Russian children — the reason for the rally in late December.

"The way that America betrayed us has led us to despair," Grin said by phone Thursday, explaining her daughter's actions.

State media lapped up the scene of a child rejecting her father's U.S. heritage in favor of her

mother's Russian roots. The image of Sara tearing up her passport — albeit it was expired — appeared on television and in newspapers and blogs as the country debated the Jan. 1 ban on U.S. child adoptions.

Sara's theatrical gesture, however, casts the spotlight on a less visible sore point in U.S.-Russian relations where children are also suffering: child custody disputes.

A legal battle between Grin and Michael McIlwrath, a U.S. lawyer based in Italy, over Sara and her three siblings is indicative of the fraught nature of international custody disputes. But what makes this case more distressing are fears that the father is being punished because of a recent upswing in anti-American sentiment in Russia, said Alexander Khazov, McIlwrath's St. Petersburg-based lawyer.

After the couple divorced, an Italian court initially awarded custody to Grin in 2009. But another court in Florence, where three of the children were born and raised, ordered psychological tests on all family members and ruled in December 2010 that the children should move in with their father.

That arrangement remained in place until August 2011, when Grin took the children from Florence to St. Petersburg, unbeknown to her former husband.

She has not returned to Italy since and has lodged appeals with Russian courts to overturn earlier verdicts placing the children, now aged 6 to 15, with their father, to deprive him of his parental rights and to secure alimony payments.

On Jan. 25, about a month after Sara defaced her passport, the St. Petersburg City Court sided with Grin, overruling Florentine court decisions and saying that Russia doesn't extradite its citizens.

The ruling came despite bilateral children's rights agreements that oblige Russia and Italy to recognize analogous verdicts passed in either country.

In comments to journalists before and after the hearing, Grin described herself as a put-upon Russian mother forced to flee an abusive American husband. Her ex-husband's lawyer noted, however, that she only renewed her Russian citizenship in 2007, after letting her Soviet-era passport expire, and has offered no evidence that McIlwrath mistreated their children.

'Politically Motivated' Justice

In a series of lengthy interviews, lawyer Khazov said Grin was playing on the fact that local courts are reluctant to rule against Russian nationals in international disputes and described her efforts to reverse Italian verdicts as "forum shopping."

"We believe that the latest ruling is politically motivated. The children are being treated as Russian even though they've only lived in Russia since Marianne abducted them, and people in Russia have acted negatively toward Michael because Marianne made accusations that he constantly beat the children, which are not true," he said.

"The Russian court should never have heard this case because according to the Hague Convention on Parental Responsibility and Protection of Children, which Russia and Italy

have signed, if there is an analogous ruling in another signee's country, that ruling should be observed," he said.

Khazov noted that a psychologist told an Italian court in September last year that Grin's relationship with the children posed a "strong psycho-pathological risk" and that Grin herself was "guided by paranoid fantasies."

These "fantasies" drove Grin to repeatedly take the children to Italian hospitals, saying that McIlwrath had harmed them, Khazov said, adding that local doctors never found the slightest scratch on them.

Speaking by phone from St. Petersburg, Grin told a vastly different story of years of domestic abuse and biased Italian courts swayed by her husband's close connections with local lawyers.

"The St. Petersburg ruling was the first time that my former husband wasn't able to bribe a court. In Italy, he managed unbelievable things. Almost all the lawyers in Florence were his employees or colleagues," she said.

"Now unfortunately their father can't understand our position. He dug his own grave. None of the children want to see him, and he can't understand that he won't get the children out of here."

Grin said Russian authorities have "morally supported" her case and that she was "98 percent sure" the children would remain with her. She vehemently rejected Khazov's claim that she was using her Russian citizenship as a weapon to gain sole custody rights over the children and said the U.S. Consulate in Florence refused to look into claims that McIlwrath abused their children.

McIlwrath, contacted by e-mail, referred all questions about the case to his lawyer.

No Binding Agreements

Grin has received high-level support at home. In October, children's rights ombudsman Pavel Astakhov declared that the children should remain in Russia.

"The children's rights ombudsman believes that the children are Russian citizens and are on the territory of the country completely legally," Astakhov's office said in a statement on its website.

The statement said Astakhov had taken the situation under his personal control, although his office didn't reply to questions e-mailed on Jan. 31.

But Alexei Golovan, who served as Moscow's children rights ombudsman from 2002 to 2009, said the dispute reflected an urgent need for clear legislation on international custody disputes.

Although Russia and Italy have signed the 1980 Hague Convention on Civil Aspects of International Child Abduction and the 1996 Convention on Parental Responsibility and Protection of Children, there are no binding agreements between the two countries since Italy hasn't recognized Russia's accession to either accord. Russia only signed

the conventions in 2011 and 2012, respectively.

The first prescribes that in cross-border abduction cases, the child should be returned to their country of habitual residence, where courts are best placed to decide on their future domicile. The second states that court rulings in one member state should be observed in others. Prominent children's rights advocates including Golovan had campaigned for Russia to sign both conventions for almost a decade.

"In Europe, every fifth marriage is mixed, people move around Europe very actively, so the Hague Conventions are an important step," Golovan said. "If other member states don't accept Russia's membership, many children will suffer."

Explaining Italy's apparent reluctance to ratify Russia's accession to the Hague Conventions, Olga Istomina, a family lawyer and former chief counsel to the Education and Science Ministry, said Rome was waiting for Moscow to provide details of how Italian court rulings would be enforced in Russia.

For such details to be finalized, alterations must be first be made to Russian law, Istomina said, adding that the Education and Science Ministry was drafting federal legislation that would allow for the implementation of the Hague conventions.

The legislation will supplement the Administrative Code, clarify which courts should hear custody cases and provide a mechanism for extraditing children abducted by one of their parents, she said.

Golovan said Russia needed to gain experience in applying the Hague conventions and noted that the European Union had funded local projects to prepare judges, assist ministerial departments and apply international best practices to handle custody disputes.

He also conceded that "there is a tendency in Russia to believe that foreigners mistreat us." But both he and Istomina stopped short of calling the verdict politically driven.

A Pressing Issue

At present, 89 countries from all six populated continents have signed up to the 1980 Hague Convention on child abduction. Russia was the 86th country to accede to the convention, although only 16 member states, including six Eastern European countries, China, France and Spain, have recognized Russia's accession. Just 39 states have acceded to the 1996 convention.

In 2008, the last year for which data is available, almost 3,200 children were involved in Hague Convention child-abduction applications, a more than 30 percent increase over 2003, when applications were filed for roughly 2,200 children.

Bearing in mind that the conventions still don't cover vast swathes of Asia and Africa, experts believe that the real number of cases could be far higher.

The Education and Science Ministry asked that a request for statistics on child-abduction cases or international custody disputes involving Russian parents be submitted by e-mail. No reply had been received by Thursday to a request sent Jan. 31, and follow-up phone calls did

not yield the information.

The ministry is the government body charged with fulfilling Russia's obligations as a Hague Convention member state.

Russian nationals have been involved in a number of high-profile international child custody disputes in recent years.

In 2009, a French court charged Irina Belenkaya with abducting her daughter twice after custody was awarded to the girl's French father. After abducting her daughter for the first time, a Russian court ruled the girl should live in Russia.

But the father snatched the daughter back to France, and Belenkaya was later prevented from taking the girl to Russia when she was intercepted by Hungarian authorities acting on an Interpol warrant.

Another Russian mother, Irina Bergseth, was deprived of her parental rights by a Norwegian court last April, allegedly because she wanted to spirit her 5-year-old son away to her home country. Astakhov described that ruling as biased.

Lawyer Istomina said tackling child abduction and ensuring better enforcement of custody rulings are pressing issues in Russia, where visiting rights are poorly enforced for the parent who loses out in the custody battle.

"Custody disputes are sensitive, and there remain gaps in our laws. Border guards have a regularly updated list of children who aren't allowed to leave Russia without both parents' permission, but parental visits are a different matter," she said.

She said that to her knowledge the Hague Convention has not been applied in Russia so far.

On a domestic level, Istomina said, Russian courts usually grant custody to the mother when the children are younger than five but that once the children start attending school, the court assesses both parents before making a decision.

In reality, in cases where a parent abducts a child, the abductor often wins the right to raise him, said Golovan, the former children's rights ombudsman.

"The children become hostages in this situation. The abductor determines the future of the children, who become used to the company of one parent over the other," he said. "This can cause serious psychological damage, as the children feel betrayed and their sense of worth is hit. It can determine the ultimate character of the children."

Khazov, McIlwrath's lawyer, said he had appealed the St. Petersburg court ruling on Feb. 7 and was optimistic about the outcome of the case. The St. Petersburg City Court is expected to review its ruling next month.

Contact the author at a.winning@imedia.ru

Related articles:

- Russian Orphan Was 'Found Unresponsive'
- Child Welfare Bill Sparks Fears Among Parents
- Official: Moscow Must See Child Adopted by U.S. Lesbian Couple

Original url: https://www.themoscowtimes.com/2013/02/21/why-a-girl-tore-her-us-passport-a21771