crayons . . . and then to either sit on the floor or sit on a little chair or stool like I do now . . . and to ask them what they would like to play with. As they are playing find out -- for example, one of my favorite ways of doing it is to pretend.

(A336). Similarly, in his report, the psychiatrist stated:

Though we could, and at times did, raise direct questions with Marie-Eline, we were aware that an interview limited to questions and answers could easily go beyond Francois's and Marie-Eline's expected, age-appropriate cognitive capacity. Furthermore, from our clinical experiences, and from published literature, we were aware that direct questions from friendly strangers can be experienced by young children as a test for which the interviewer has a correct answer in mind. The child then tries to please the adult interviewer by providing the "correct" answer . . . .

(A121-22). In sum, her own expert testified that Marie-Eline is not old enough to testify under oath, or even in a question-and-answer format. A fortiori, the child could not be viewed as having a “sufficient age and maturity” under the Convention.

In addition, in weighing the testimony of a younger child, a court should consider carefully whether it reflects the child’s views, or an attenuated version of the abducting parent’s. 51 Fed. Reg. at 10,510. Applying this standard, courts have found that children aged nine and ten have been sufficiently influenced by their abductors that their views on return should not be taken into account. See Sheikh v. Cahill, 546 N.Y.S.2d 517, 521-22 (Sup. Ct. Kings County 1989); In re Robinson, 983 F. Supp. 1339, 1343-44 (D. Colo. 1997).

In August 1998, the district court concluded that Marie-Eline, then seven, had been “prepared, to a degree,” for a conversation with the court concerning her views on return. Blondin I, 19 F. Supp. 2d at 128. Moreover, in December 1999, the psychiatrist readily admitted that some of Marie-Eline’s “spontaneous” expressions of abuse, such as a fear of her father strangling her, or living in a shelter, could have come only from descriptions of abuse given to her by her mother, since such incidents occurred when Marie-Eline was too young to remember them. (A348-50). Notwithstanding this testimony, the district court summarily concluded that it did not believe Marie-Eline's statements were influenced by her mother. Given the circumstances, it is extremely unlikely that Marie-Eline's views could have been sufficiently free of her abducting parent’s influence to amount to an objection properly cognizable under the Convention.

We do not suggest that the testimony of a younger child cannot be considered as evidence that abuse has occurred or that return to the immediate custody of an abusive parent would pose a grave risk of harm. That is different, however, from giving effect to a carefully considered “objection” by an older child to returning to her former country of residence, based on her independent and mature assessment of her own interests.

**CONCLUSION**

T**he judgment of the district court should be reversed.**

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**Certificate of Compliance**

Pursuant to Rules 29(c), (d), and 32(a)(7)(C) of the Federal Rules of Appellate Procedure, the undersigned counsel for the United States hereby certifies that this brief complies with the type-volume limitation of Rule 32(a)(7)(B). As measured by the word processing system used to prepare this brief, there are 6964 words in the brief.

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