Conclusions and Recommendations

From 21 to 23 October 2015, more than 190 experts from around the world attended the conference on "Cross border child protection: Legal and social perspectives – Towards a better protection of children worldwide – The 1996 Hague Child Protection Convention in practice" which took place in the Centre Œcuménique, in Geneva, Switzerland.

The following Conclusions and Recommendations were generally endorsed at the end of the conference:

General aspects

1. The participants welcomed the opportunity to discuss the practical operation of the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* ("1996 Convention"), including the practical implementation of its provisions concerning jurisdiction, applicable law, recognition and enforcement of measures concerning the protection of children and their property.

2. The participants also welcomed the consideration of co-operation provisions in the 1996 Convention as well as its relationship with *Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000* ("Brussels IIa Regulation").

3. The participants appreciated the sharing of information, experiences and best practices about the practical operation of the 1996 Convention in order to improve the effective and consistent application of the Convention.

4. The participants noted that the 1996 Convention gives practical effect to some of the provisions in the *United Nations Convention of 20 November 1989 on the Rights of the Child* and noted the important role of the Committee on the Rights of the Child in emphasising the relationship between the two instruments and promoting the ratification of or accession to the 1996 Convention by non-Contracting States.

5. The participants recognised that the 1996 Convention offers effective provisions for the protection of children worldwide, particularly for vulnerable children such as refugee, displaced, unaccompanied and separated children, children caught in cross-border family conflicts and those in need of alternative care.

6. The participants noted the importance for all actors involved in the operation of the 1996 Convention, such as Central Authority personnel, social workers, private practitioners, enforcement officers, judges, and representatives from governmental, intergovernmental and non-governmental organisations as well as academics, to learn from each other and to collaborate in order to improve the protection of children.

7. The participants welcomed the progress made by some non-Contracting States towards ratification of or accession to the 1996 Convention and encouraged non-Contracting States to become parties to the Convention.

8. The participants endeavoured to raise awareness and disseminate information about the utility of the 1996 Convention in their States.

9. The participants noted the importance of an interdisciplinary approach for the successful application of the 1996 Convention, in particular involving lawyers, social workers and mediators.

The 1996 Convention in international custody, access and relocation cases

10. The participants recognised the value of the 1996 Convention as a unique instrument comprehensively regulating the rules of private international law and co-operation mechanisms on child protection in order to ensure the primary nature of the best interests of the child.

The 1996 Convention in international child abduction cases

11. The participants emphasised the benefit that the 1996 Convention brings in ensuring the safe return of the child under the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* ("1980 Convention").

12. The participants noted the possibility of ordering urgent protective measures in the State to which the child has been abducted under Article 11 of the 1996 Convention. The 1996 Convention enhances the efficacy of such urgent protective measures ordered by a judge when returning a child to the State from which the child was abducted, by making those orders enforceable in that State until such time as the authorities there are able to put necessary protections in place. The 1996 Convention enables access arrangements to be made for the left-behind holder of parental responsibility in the State in which the child is present.

13. The participants encouraged judges to make use of Article 11 as explained in the Practical Handbook on the operation of the 1996 Convention.

The protection of particularly vulnerable children, including refugee and displaced children, unaccompanied and separated children, and victims of trafficking, sexual exploitation and other forms of abuse

14. The participants acknowledged the role of the 1996 Convention in relation to the increasing number of unaccompanied and separated children crossing borders and finding themselves in vulnerable situations in which they may become subject to exploitation, abuse or other risks. The participants noted the practical examples shared during the conference concerning the use of the 1996 Convention in relation to these children, such as obtaining a welfare report on the child from a State with which the child has a substantial connection (Art. 32) or by arranging a cross-border placement of the child in another State (Art. 33).

International co-operation among judges

15. The participants recognised the value of having a sitting judge with expertise in international child protection cases designated to the International Hague Network of Judges and other relevant networks of judges.

16. The participants recognised the value of concentration of jurisdiction and specialised judges.

17. The participants recognised the benefits of direct judicial communications in the context of international child protection. The participants took note of the Hague Conference's publication "Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for Direct Judicial Communications in specific cases, within the context of the International Hague Network of Judges".

Central Authorities, other authorities and bodies

18. The participants encouraged enhanced international co-operation between authorities including Central Authorities, local authorities, Consulates and Embassies.

19. The participants acknowledged the key role played by Central Authorities and emphasised the need for States to provide them with adequate resources and appropriately qualified personnel.

20. The participants urged enhanced co-operation between Central Authorities and bodies competent in the area of child protection, for example the International Social Service in accordance with Articles 31 and 32 of the 1996 Convention.

Relationship between the 1996 Convention and the Brussels IIa Regulation

21. The participants took note that, in the context of cross-border child protection, the Brussels IIa Regulation was to a great extent inspired by the 1996 Convention. Therefore, the practice in relation to the Brussels IIa Regulation within the European Union, in a significant number of matters, is helpful to the understanding of the 1996 Convention. Participants noted the benefits of the 1996 Convention supplementing the provisions of the Brussels IIa Regulation, for example, the Convention's provisions on applicable law.

Mediation

22. The participants acknowledged the great significance of mediation in solving and preventing cross-border family disputes. They noted that through mediation, parents can find a holistic solution to their dispute in a non-confrontational way. The participants urged that the mediation process should take full account of the best interests of the child as required by the 1996 Convention.

23. The participants took note of the ongoing work of the Hague Conference on Private International Law in the area of international family mediation, including the activities of the Working Party on Mediation established in the framework of the "Malta Process" and the Experts' Group on cross-border recognition and enforcement of agreements in international family disputes involving children.

24. The participants also welcomed the additional efforts to promote and facilitate international family mediation by the International Social Service, other mediation entities and mediators.

Next steps

25. The participants emphasised the importance of information and training sessions for government officials, judges, social workers and other professionals involved in the operation of the 1996 Convention.

26. The participants welcomed the plans of the Hague Conference on Private International Law to organise a Special Commission in 2017 on the practical operation of the 1980 and 1996 Conventions, subject to the decision of the Council on General Affairs and Policy, the governing body of the Organisation.

27. The participants expressed their interest in and support for other conferences on the 1996 Convention and the cross-border protection of children.

At the conclusion of the conference, participants thanked the International Social Service, the Hague Conference on Private International Law, the University of Geneva, the Swiss Central Authority and others for their financial and other support in relation to the organisation of the conference, and to all speakers and participants for their contribution to its success.