

International Social Service (ISS) interventions as an observer in the HCCH Special Commission (SC) 10th to 17th October 2023

For this SC, ISS developed two **Position Papers** summarising ISS' activities and challenges related to the 1980 and the 1996 conventions. ISS' Position Papers have been shared with the Permanent Bureau (PB) ahead of the SC and made available in paper format to the delegates during the SC proceedings.

All documents are available on the [ISS website](#) (Advocacy > Advocacy Position Statements), and on the [HCCH website](#) (Information Documents > [Info. Doc. No 16 of October 2023](#) and [Info. Doc. No 17 of October 2023](#)).

The ISS delegation worked on drafting ISS **statements** and the coordination of agreed interventions. Each delegate helped shape ISS' statements both in its content and its language, resulting in a great team effort and a beautiful representation of the ISS network.

Considering the discussions that took place during the SC, ISS interventions focused on the following agenda items (what follows represent the heart of the message delivered by ISS delegates without transcribing the exact wording used in the statements):

ISS and THC 1980 Child Abduction Convention

- Agenda Item IV. *Relationship with other international instruments – 1989 UN Convention on the Rights of the Child (UNCRC) (10th of October)*

The International Social Service (ISS) is highly concerned about the **misunderstanding around full assessments** of the child in abduction proceedings and the best interests of the child under the UNCRC. In ISS' eyes this discussion is misleading.

The ISS' understanding of the best interests of the child in these cases instead requires:

- Adopting a joint approach between the principles of public international law and the rules of private international law to comply with the Convention on the Rights of the Child and the UN Guidelines;
- Case-by-case-consideration of the single child and their best interests;
- Avoiding unnecessary delays that could prolong the time between the abduction and the implementation of the return/non-return decision considering that delays are central in breaching the best interests of the child;
- Ensuring that each child has a legal representative looking out for their interest;
- Seeing and hearing the child in the procedure.

These elements in ISS' understanding are much more important than the discussion around assessments. ISS is most willing to support in this sense.

- Agenda Item XII. *International family relocation as relevant to the 1980 and 1996 Conventions (see agenda Item XXII) (12th of October)*

The International Social Service (ISS) is grateful that the Permanent Bureau is taking up this matter. In our eyes working on Relocation is one of the central means in terms of preventing abductions.

ISS' experience from casework and counselling shows that often parents leave the State of their habitual residence with their child especially for the following reasons: they feel they can trust another jurisdiction more than the one they are currently in or; it would take too long to obtain a decision from the jurisdiction they are in and then lawfully relocate to another State. Some parents are also unaware that the above actions are in fact against the law and not be in the best interest of their child. Furthermore, States have different rules on relocation and these differences can cause a lot of misunderstanding for parents wishing to relocate with their child.

Taking actions that help parents follow appropriate and lawful relocation of a child from one jurisdiction to another is central to the well-being and best interests of the child. To this end, ISS strongly supports efforts to agree on clear principles on relocation as set out in the **Washington Declaration**. ISS especially supports the aim to **adopt clear rules on relocation**, including an announcement before relocating with the child.

In addition, a focus should be set in finding amicable solutions that help the child to maintain access to both parents and kind.

In ISS' eyes one important element of this topic is **raising awareness** of parents as well as professionals of the existing rules and of best practices. We therefore invite States to consider installing Central Information Points on Cross-border Family Conflicts. Some States already have gone this way. You may know that ISS Germany with ZAnK is such a mandated Information point offering information and advice. Only last year about 800 parents have been informed and advised by ZAnK about appropriate ways to solve their problem in line with the best interests of their child, about 200 of them parents living abroad.

To this end, ISS is well positioned to provide **counselling** to parents as well as professionals about finding agreed solutions. Moreover, ISS through its large network has in the past and will in future promote and raise awareness on good practices about lawful relocation procedures aiming at preventing child abduction.

ISS and THC 1996 Child Protection Convention

- Agenda Item XIV. *Scope of application* (12th of October)

ISS express its supports for the discussed Working Document considering that the concept of measure of protection under the 1996 Child Protection Convention is to be interpreted broadly – as long as it falls under the scope of application of the convention - and that especially those measures under Articles 31(c), 32(b) and 34 should not be limited to situations of urgency.

In order to help each country to get knowledge of child protection measure in other country, ISS would like to **develop a dedicated resource centre on cross-border child protection**, replicating the very successful model of the International Reference Centre for the rights of the children deprived of their family (ISS/IRC), a programme of the ISS GS, with more than 30 years' experience and highly regarded by the HCCH 1993 Adoption Convention Central Authorities worldwide. This centre could help each country to get this knowledge by drafting factsheets similar to the ones done for alternative care and adoption.

Regarding articles 31 and 32, in this 8th Special Commission, ISS wants to recall the view it expressed during the drafting process of the 1996 Child Protection Convention in working document n°16 of the SC on the protection of minors and incapacitated adults in February 1995 according to which while setting up a system of international co-operation, one should make use of the already existing ISS global network giving the fact that the **social, psychological and cultural aspects in the international case are of utmost importance**.

This view has been heard since one of the main pillars of the 1996 Child Protection Convention is **co-operation** and the latter expressly mentions that some tasks can also be carried out by “other bodies”, one of them being **ISS** whose “**uncontested competence**” has been recognised in both the explanatory report and the practical handbook of the convention.

However, ISS, in its daily work, observes that **existing social service providers are underutilised** especially in case where CAs have limited resources, that the legal application is taking precedence over ethical and practical aspects of social work and that social, psychological, and cultural considerations are not enough considered.

To this end, for this Special Commission, ISS produced a comprehensive paper named “**Unlocking the Potential of the HCCH 1996 Child Protection Convention in Cross-Border Casework**” showcasing the added value for Central Authorities of working with ISS.

Based on its long lasting experience of now 100 years, ISS remains at the disposal of the PB and all CAs for:

- Being a cross-border casework facilitator and service provider especially in those States where CAs have limited resources and/or there is not a strong social workforce and with non-Contracting States;

- Providing cross-border casework training to new 1996 Child Protection Convention Central Authorities and the local social service workforce;
- Developing the dedicated resource centre on cross-border child protection that I talked about earlier.

- Agenda Item XIX. *Placement or provision of care of the child in another Contracting State under the 1996 Convention Articles 3(e) and 33 (13th of October)*

International Social Service (ISS) as a professional and **specialised global network** that has been serving the needs of children and families for 100 years, has **extensive experience in cross-border placements**, having dealt with those cases long before the adoption of the 1996 Child Protection Convention. To this end, ISS has been involved in the **drafting of the said convention** and since its adoption, has been **advocating** for its wider ratification and effective **implementation**.

In light of the challenges faced in the implementation of the mechanism foreseen in Art. 33, ISS recalls the unique role its global network plays in enabling the efficient operation of the 1996 Child Protection Convention. Indeed, ISS can contribute to **fulfilling the gap resulting from a lack of information** on the existence and mandatory nature of the mechanism envisaged in Art. 33 by encouraging and providing or developing activities at international, national, and regional levels, including conferences, seminars, and training for Central Authorities, competent authorities, social workers, and lawyers/ jurists.

Furthermore, ISS sees that the consultation mechanism is frequently not put in place prior to the decision on placement leading to different de facto situations, in which the child is already living with their caregivers, sometimes also in the receiving State. This is not only contrary to the purpose, wording, and scope of application of the convention, but also and foremost to the best interests of the child. For years ISS has been advocating for the **adoption of additional criteria** – also in the form of bilateral agreements- to supplement the mechanism foreseen in Art. 33 and to fully respect the rights of the child. To this end, ISS supports additional work that may be initiated and stands ready to be part of such additional efforts. Indeed, as done in the past, ISS can assist Contracting States in developing these additional criteria which should be the result of a joint approach between the principles of public international law and the rules of private international law, as required by the Convention on the Rights of the Child and the UN Guidelines for the Alternative Care of Children.

Where additional safeguards are already in place, ISS can help **disseminate and raise awareness** on the latter through its vast global network of partners with the aim to enable an efficient, expeditious cross-border placement if in the best interests of the child.

All in all, being recognised as a **body of uncontested competence in the field of the protection of children**, ISS can provide assistance in every crucial stage of a cross-border placement and hence ensure the safeguarding of children.

- Agenda Item XXII. *Benefits and use of the 1996 Convention in relation to the 1980 Convention (Mediation) (16th of October)*

ISS cross-border experience shows that Alternative Dispute Resolution is key to supporting parents in finding amicable solutions **to prevent or complement** judicial proceedings, **helps de-escalate family conflicts**, and **prevents child abduction**.

Indeed, Alternative Dispute Resolution has an important preventive function in at least the following aspects:

- Prior to family relocation, to prevent child abduction;
- In a cross-border family context, to prevent the breakup of child/parent relationships across borders;
- Contribute to the safety and the protection of a child in a new State.

ISS conducted, together with all stakeholders of international family mediation, **an eight-year program** to strengthen the establishment of international family mediation. Three important tools are now available to professionals of mediation and parents:

- A **Guide to International Family Mediation** for parents available in nine languages;
- **The Charter for international family mediation processes**, available in five languages;
- A multilingual website with plenty of information regarding topics relevant to the 1980 Child Abduction and 1996 Child Protection conventions.

In **its daily cross-border casework**, ISS also provides pre-mediation services; in house mediation services; referrals to reliable mediation services, including abroad; and information and awareness-raising sessions on mediation for families, administrative and legal authorities.

Lastly, ISS is convinced that empowerment of parents through Alternative Dispute Resolution, mediation-based consultations, and mediation leads to more family agreements and improved parental communication across borders with positive effects on the children involved.

Note

ISS' Position Papers covered, with active links, **the following factsheets and papers developed by ISS working groups:**

- For the 1996 Child Protection Convention: *Children on the Move, Kafalah, Parental Responsibility, Unlocking the Potential of the HCCH 1996 Child Protection Convention in Cross-border Casework, and Equity in Permanency.*
- For the 1980 Child Abduction Convention: *Child Abduction, International Family Mediation, and International Relocation.*

Media Campaign

In parallel, a **social media campaign** was set, and several posts were posted on LinkedIn during the whole SC based on material and pictures provided by the delegates in The Hague.

ISS Delegation to the SC composition:

Overall Coordination: Giovanna Ricciardi (ISS General Secretariat - onsite)

On site: Ursula Rölke, (ISS Germany) – Head of the delegation for the 1980 Child Abduction Convention and Jimmy Messineo (ISS France) Head of delegation for the 1996 Child Protection Convention.

Online: Cilgia Caratsch (ISS Switzerland) Julie Rosicky (ISS USA) Peter Van Vliet (ISS Australia) and Viola Rentzsch (ISS Germany).

All in all, the Special Commission was a great opportunity for ISS to present its substantial work related to the 1980 and the 1996 conventions and the challenges it faces in this work. The SC was a great opportunity as well to connect with international delegates gathering from the four corners of the world and share experiences and current/future common efforts to reinforce child protection.