



Rede Brasileira de
Juizes de Enlace para a
Convenção da Haia



PODER JUDICIÁRIO
TRIBUNAL REGIONAL FEDERAL DA 2ª REGIÃO

LETTER OF RIO DE JANEIRO

FIRST REGIONAL MEETING OF JUDGES OF THE INTERNATIONAL HAGUE NETWORK - LATIN AMERICA AND THE CARIBBEAN

Rio de Janeiro - May 2024

The Liaison Judges participating in the 1st Regional Meeting of Judges of the International Hague Network - Caribbean and Latin America, held by the Federal Regional Court of the 2nd Region (TRF2) and The Brazilian Network of Liaison Judges, on May 15, 16 and 17, 2024, at the Army Historical Museum, in Forte de Copacabana, Rio de Janeiro, after discussing aspects of the 1980 Hague Convention on the civil aspects of international child abduction and recognizing regional peculiarities as worthy of reflection and action to ensure the best interests of the child, set out the following:

IN CONSIDERATION OF the 1980 Hague Convention on the Civil Aspects of International Abduction of Children, incorporated by local rules of the State Parties in Latin America and the Caribbean;

IN CONSIDERATION OF the fact that the Convention applies to any child under or up to the age of 16 with habitual residence in a Contracting State immediately prior to the violation of custody or rights of access;

IN CONSIDERATION OF the fact that the members of the International Network of Hague Judges from Latin American and the Caribbean States recognize that the discussion of regional issues on procedures, norms, doctrine and judicial precedents regarding the application of the 1980 Hague Convention benefits all those involved in litigation, prevents situations of vulnerability of children and guarantees the right to family life;

IN CONSIDERATION OF the commitment of Latin American and Caribbean States to respond to requests for the return of the child within the six-week period established by the Convention (article 11), and the need to observe a judicial procedure compatible with this determination;

IN CONSIDERATION OF the fact that the immediate return of the child is the measure provided for by the Convention that best serves the interests of the child in the event of his/her unlawful transfer or wrongful retention (Article 1(a));

IN CONSIDERATION OF the fact that in 2023 the Inter-American Court of Human Rights carried out an unprecedented and important analysis of the links between the violation of rights and the guarantees established in the 1969 American Convention and the 1980 Hague Convention, ruling that the delay in returning the child after a court decision constituted a violation of the 1969 American Convention on Human Rights;

IN RECOGNITION OF the fact that human mobility, the debate on the well-being of children in the event of parental separation and the reporting of domestic violence and its repercussions on family life, with direct effects on children are issues that bring peculiarities when discussed and addressed by Latin American and Caribbean states; and finally,

The Liaison Judges of Latin America and the Caribbean identify the following as **challenging elements** of a regional nature to be observed in the performance of their duties:

1. Attention to child protection in harmony with the rights of the family, within the framework of human rights, applying a gender and children's perspective;
2. Special attention, in judgments in 1980 Hague Convention cases, to the migration and financial requirements and restrictions of the States involved in the child return

litigation, since such impositions should not, in practice, constitute an obstacle to children living with both parents;

3. The particular concern, in judgments in 1980 Hague Convention cases, that the abductor may be held criminally responsible for the abduction of the child in the State of his or her habitual residence, which may be contrary to the best interests of the child;
4. The need to comply with the six-week deadline for the effective resolution of the dispute in the Requested State, which requires faster procedures and measures in cases of international child abduction;
5. The need to encourage the use of alternative dispute resolution, especially in cases subject to the 1980 Convention;
6. The importance of employing more comprehensive mechanisms and institutes for the protection of abducted children beyond the 1980 Convention;
7. The finding that some Latin American and Caribbean countries have not adhered to the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of parental responsibility and measures for the protection of children.

Faced with these challenging elements, the Latin American and the Caribbean Liaison Judges **propose**:

1. Continuing and deepening discussions, within the judges of the HCCH International Network, on the issues of violence of all kinds that arise as exceptions in abduction cases, in order to analyse them in a way that guarantees the rights of all parties and most importantly those of the child;
2. The distinction as to when the exception in Art. 13(1)(b) of the 1980 Convention should apply because there is no other way to protect the child (recognising that in certain circumstances the mother must be protected in order to protect the child) and when it is possible to protect the child through return to the State of habitual residence with the provision of safe return measures;



PODER JUDICIÁRIO
TRIBUNAL REGIONAL FEDERAL DA 2ª REGIÃO

3. The holding of an Open Forum within the International Hague Network of Liaison Judges to discuss the return of children to States that make it difficult to issue residence visas or to regularize the migration of the abducting relative who has taken them to the Requested State;
4. The holding of training courses for Latin American and Caribbean justice system actors who work on Hague Convention cases between states in the region, under the responsibility of the Judiciary of each State Party;
5. The creation of a Working Group in each Latin American and Caribbean State Party to identify the obstacles to resolving disputes within the conventional timeframe, in order to send suggestions for improving the justice system to local institutions in cases under the 1980 Hague Convention;
6. The formation of an inter-institutional Working Group in each Latin American and Caribbean State Party to assess the advisability of suggesting its adherence to the 1996 Hague Convention on Parental Responsibility and Child Protection Measures.