DV Forum – Sessions 5 -7

Guiding hypothetical case with targeted questions

A (the left-behind parent), has made an application under the 1980 Child Abduction Convention seeking the return of C (the child) by B (the taking parent).

B has objected to the return of C on the grounds of Article 13(1)(b) of the 1980 Convention, alleging that, if returned, C would be at a grave risk of exposure to physical or psychological harm or otherwise be placed in an intolerable situation, due to the domestic violence B has suffered at the hands of A.

Both State X and State Z are Parties to the 1980 Convention and have both designated Members to the International Hague Network of Judges (IHNJ).

The facts:

A and B, both habitually resident in State X, have been married since 2015. A is a national of State X and B is a national of State Z. Their only child, C, was born in 2020 and has dual nationality of State X and Z.

While A was away from home for a few days on a work trip, B took C and fled to State Z in July 2025. A suspected that B had taken C to State Z and made a return application to the Central Authority of State Z for the return of C to State X.

The allegations:

B (taking parent):	A (left behind parent):
Since the beginning, the relationship between A and B has been turbulent, with instances of abuse and intimate partner violence. Soon after A and B began living together, A began intermittently displaying some degree of controlling behaviour, in particular with regards to B's social life and the frequency of contact with B's family in State Z.	
After the birth of C in 2020, A insisted that B stops working and remains at home full-time to care for C, which B eventually agreed to do.	A refutes all the allegations made by B and insists that it was B's idea to stop working and care for C full time.
In early 2025, A's behaviour became even more abusive, on some occasions resulting in A physically assaulting B while C was in the home with them. On one such	A does not dispute that police were called to the home on one occasion and does not dispute the existence of the report. However, A argues that the police were

occasion, police were called to the home and a police report was filed.	called primarily due to B's turbulent behaviour. A adds that B is being treated for mental health issues.
As B's family and friends were all in State Z, B had no social / family support system in State X and did not have the tools to seek help there, primarily due to a language barrier and the fact that A supervised B's movements at all times.	A also alleges that B had been wanting to return to State Z (with A and C) for a very long time, which had become the main subject of their increasingly frequent and volatile arguments over the years.
B argues that, due to no longer being exposed to A's violent behaviour, C has excelled in pre-school activities and has rapidly made new friends. B has provided a report from C's pre-school to attest to this claim.	A disagrees with B's assertion and has provided one of the report cards from C's pre-school in State X, to show that C was doing well there.

Session 5 – Assessing allegations

1. In your jurisdiction, what procedures have been adopted and what services are available to assist with the expeditious determination of an application under the 1980 Convention, including where allegations of domestic violence have been made in the context of the Article 13(1)(b) exception?
2. Does your jurisdiction consult / follow the GGP in cases such as the one described above?
3. What steps would you follow in order to assess the allegations of domestic violence made in this case? How do you distinguish between issues relevant for the return proceedings versus issues relevant to any possible subsequent custody proceedings?
4. How do you assess whether these allegations amount to a grave risk for the purposes of the exception under Art. 13(1)(b)? What factors would you take into consideration in this assessment?
5. Would you consider the availability of protective measures at this stage?
6. What are the challenges in your view about the process of assessing allegations of domestic violence in your jurisdiction?

Session 6 – Obtaining Evidence of DV

For the purpose of this Session, please take into account the following factor in addition to the facts provided above:

Before B left State X with C, a welfare investigation was launched by the social services of State X, into the welfare of C, in response to anonymous reports.

1. What role would the International Hague Network of Judges (IHNJ) play in facilitating the collection of evidence in a case like this?
2. What role would the Central Authorities in both State X and State Z play in facilitating the collection of evidence in a case like this?

3. What role would social and law enforcement services in State X (Art. 13(3)) and State Z play in assisting with the collection of evidence in a case like this?
4. What are the challenges in your view in obtaining evidence of DV in child abduction cases?

Session 7 – Protective Measures

For the purpose of this Session, please take into account the following factor in addition to the facts provided above:

As a condition to the possible return of B with C, A has committed to move out of the family home, change the locks and give B the only set of keys.

1. What protective measures would you consider appropriate for this case, if any? How and at which stage(s) of the proceedings would you approach the issue of protective measures, including assessing and ensuring their availability and effectiveness?
2. How would you go about providing for effective protective measures for the return (e.g., conditional order, mirror order, directly in the return decision)? Would you make use of the GGP in this endeavour?
3. Please elaborate on your experiences with the use of 1996 Convention when implementing protective measures in cases like this.
4. Please elaborate on your experience when the 1996 Convention is not available when implementing such protective measures.
5. What are the challenges of using protective measures in return cases?