



International Social Service Crossborder Casework in 1996 Hague Convention matters

Content

1. ISS and 1996 Hague Convention
2. Co-operation between ISS and Central Authorities
3. ISS service delivery

1. ISS and 1996 Hague Convention (HC)

For over 90 years, International Social Service (ISS) has been serving the needs of families and children in the areas of cross border custody, child protection and child abduction. ISS' work in these matters has primarily taken the form of individual case-management with families and national authorities. Likewise ISS has contributed to legislative, advocacy and policy development in cooperation with national, regional and international bodies in cross-border family disputes and child protection.

ISS' work centres on implementation of international standards such as the CRC, Guidelines for the Alternative Care of Children, and Hague Conventions including the *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (hereafter 1996 HC).

Through its network ISS focuses on the "need to improve the protection of children in international situations" (preamble 1996 HC). On the ground, ISS ensures that families and children benefit from coordinated legal and social support. This occurs by facilitating communication among professional stakeholders who

support individuals affected by cross border issues - crucial for protecting and promoting the safety and well-being of vulnerable individuals and families.

However, co-operation and coordination among stakeholders in finding optimal solutions in 1996 HC matters may be challenging:

- Few States are signatories;
- Legal application can take precedence over ethical social work practices; and/or
- Existing social service providers such as ISS, are under utilised especially in cases where Central Authorities (CA) have limited resources etc.

Despite this challenging context, given the scope of 1996 HC and cross-border nature of related matters, ISS remains uniquely placed to provide case-management services to families, authorities and courts. Particularly relevant are the ISS network's use of a mediation-based, child focused methodology in cross-border family disputes, as well as professional expertise in undertaking child protection assessments. Likewise, ISS specialises in the preparation of reports and recommendations for the welfare of children and families and has capacity to facilitate cross-border cooperation. ISS remains committed to providing all of its services with utmost excellence.

ISS is an international NGO

founded in 1924 and thanks to its presence in more than 120 countries, is a global actor promoting child protection and welfare, particularly across borders. ISS helps approximately 75,000 families in the world each year. Likewise ISS provides training and undertakes advocacy work to better respect children's rights.

ISS' added value for 1996 HC:

- Decades of proven know-how on cross border child protection and family conflict
- Established social work and legal expertise
- Multi-disciplinary approach in complex case-management
- Extensive capacity for liaison through an expansive network, including beyond 1996 HC countries
- Access to in-house/external international family mediators
- "Guide" for professionals/clients with a child focused approach
- Multiple language capacities
- Single point of contact for CAs seeking cross-border psychosocial assistance

The 1996 HC places extreme importance on co-operation, especially between Central Authorities - whereby facilitation of communication, drafting of social reports (assessments), agreed solutions and tracing occurs through "other bodies". The 2014 Hague Conference's handbook on the Convention states "Central Authorities will have recourse to bodies of uncontested competence in the field, such as the International Social Service"

1996 HC and co-operation with bodies such as ISS (Articles 31 and 32)

- facilitation of communication between authorities and/or other bodies involved in cases where the authority best situated to act in the child's best interest must be determined (art 31a)
- identify agreed solutions for the protection of a child or their property, via mediation, conciliation or other means (art 31b);
- provide a report concerning the situation of a child within the scope of 1996 HC (art. 32 alt a);
- at the request of the responsible Authority in a Contracting State, facilitate tracing the location of a child for whom concerns exist (art 31 c);
- assess the need to take measures for the protection of a child (art. 32 alt. b)

It is incumbent on States to ensure that essential services in cross border situations are available, either within authorities or outsourced to competent bodies such as ISS. Clear funding, contractual arrangements, access to networks and access to information are essential in ensuring that work undertaken by competent bodies is appropriately resourced and valued.

1996 HC and co-operation with authorities

- co-operation between Central and Local Authorities of prime importance
- several duties may only be discharged by central authorities (art 30 – e.g.: provide information about national laws)

2. Co-operation between ISS and CAs via 3 levels:

2.1 Direct co-operation

On a case-by-case basis, an ISS member and a CA in the same or another country may co-operate.

2.2 Institutional cooperation between ISS member and national CA

Through formalised contracts, memoranda of understanding (MOU), formal meetings, discussions and informal arrangements a very strong working relationship can be built. Facilitating the conduct of holistic cross-border interventions for children and families. For example a MOU can outline the tasks which each entity agrees to perform, referral protocols, and any accountability measures required.

2.3 International cooperation with Permanent Bureau on advocacy and policy

Based on ISS' expertise in issues of cross-border child protection, and family separation and conflict, the ISS network is ideally placed to offer expert advice and consultation to the Permanent Bureau on practical and psychosocial aspects of 1996 HC through the General Secretariat and national ISS members.

3. ISS service delivery via 2 channels:

3.1 ISS member to ISS member

Cases which may be expedited through the ISS network without CA involvement:

- Parent(s) separated across borders engage ISS by requesting social work or mediation to develop an agreement about their child's relationship with the parent in whose country they do not reside.
- A child protection agency requires a home study or crossborder mediation. ISS prepares case referral, facilitates case management, contacts the foreign social service directly, or through its ISS partner etc.

*Note CA would be involved if legal intervention is necessary

3.2 Dual channel involvement of both CA and one or more ISS members

Dual case handling may be helpful when CAs are involved in administrative and legal processes enforcing a guardianship/protection order (e.g.: transferring a child from one country to another). In parallel ISS may be involved in the preparation of an assessment report or home study of a potential carer, or be contracted to intervene at the commencement of the placement to provide follow-up.

4. ISS Service principles

ISS members provide services in cases where they can ensure:

- The best interest of the child is the overriding principle
- Only professionals with the appropriate expertise to handle cases are used
- In-house linguistic capacity exists to facilitate direct communication with child's family, rather than reliance on interpreters/translators
- Interventions are prioritised according to case urgency. Whilst hasty and ill-planned responses are not helpful, neither are long delays.
- Effective co-operation with authorities and other bodies