

**15 Years of the HCCH Washington Declaration
Progress and Perspectives on International Family Relocation**

2-4 April 2025

Embassy of Canada, Washington DC

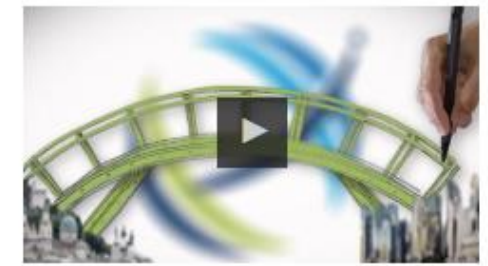
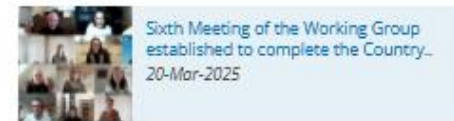


International Family Relocation - HCCH Tools

Laura Martínez-Mora, First Secretary, HCCH

www.hcch.net

Sections:
Child Abduction
Child Protection



SEE ALL NEWS

HCCH VIDEO



- Adoption
- Child Abduction
- Child Protection
- Child Support
- Divorce
- Form of Wills
- Protection of Adults

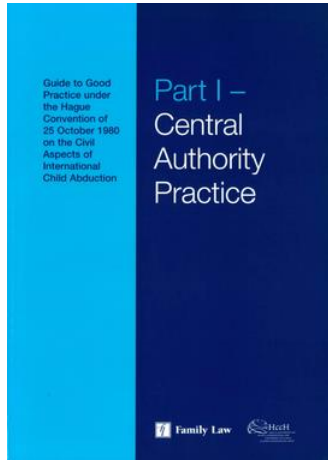


- Access to Justice
- Apostille
- Choice of Court
- Evidence
- Judgments
- Service

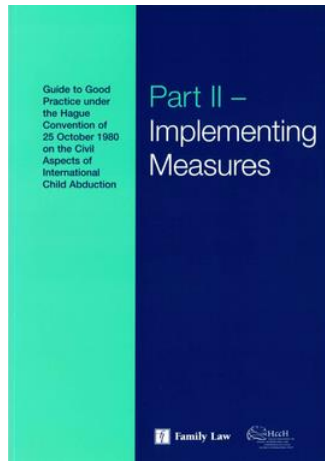


- Choice of Law in International Commercial Contracts
- Securities
- Trusts

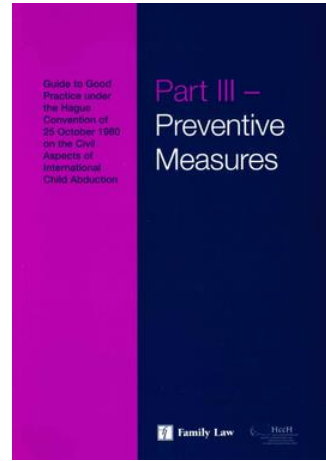




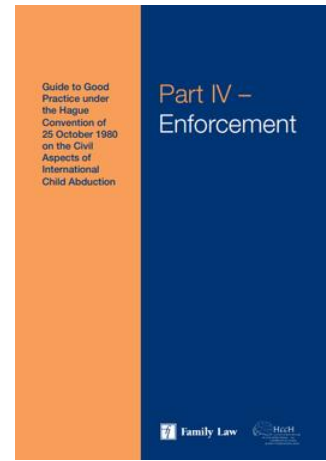
2003



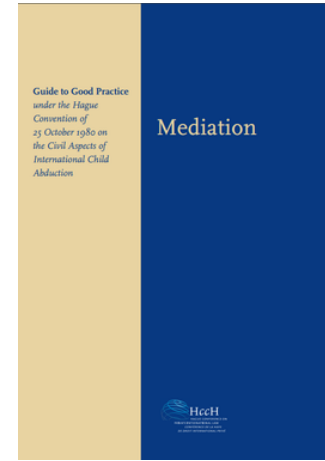
2003



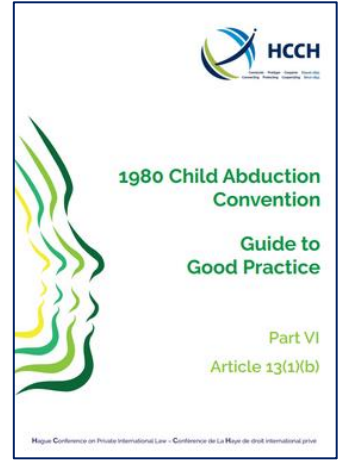
2005



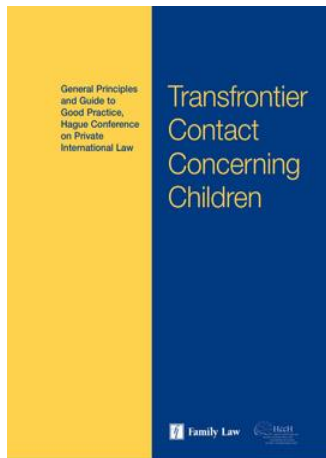
2010



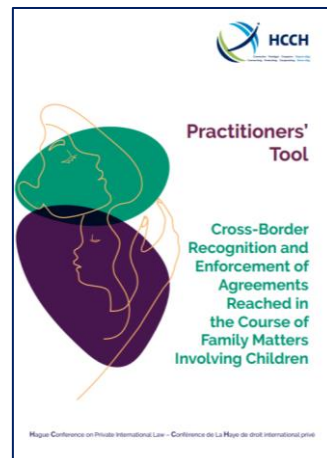
2012



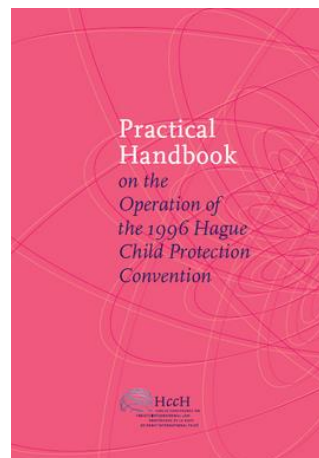
2020



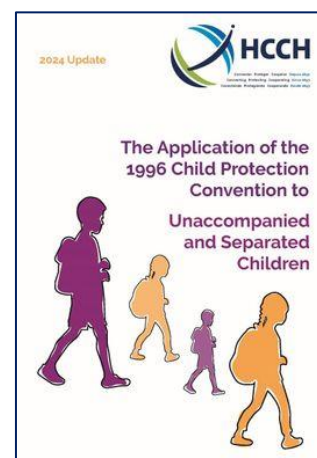
2008



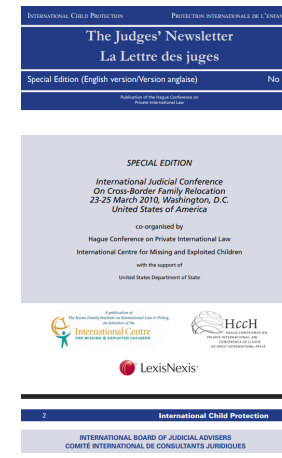
2022



2014



2024



2010



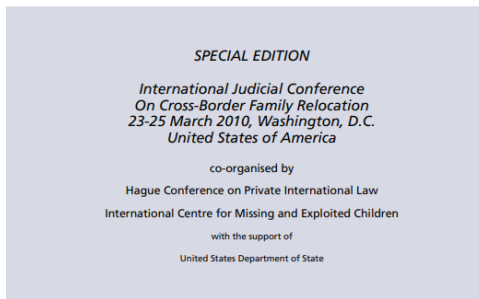
2010 Washington Declaration



2010

- **Availability** of Legal Procedures Concerning International Relocation
- Reasonable **Notice** of International Relocation
- **Factors** Relevant to Decisions on International Relocation
- 1980 Child Abduction and 1996 Child Protection **Conventions**
- Promoting **Agreement**
- **Enforcements** of Relocation Orders
- **Modification** of Contact Provisions
- **Direct Judicial Communications**
- **Research**
- Further **Development** and **Promotion** of Principles

The Judges' Newsletter



SPECIAL EDITION

International Judicial Conference on Cross-Border Family Relocation

23-25 March 2010

Washington, D.C.

United States of America

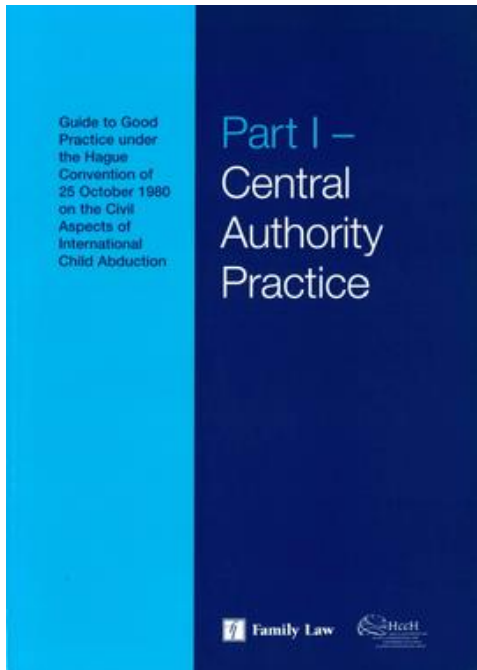
2010

GGP Part I – Appendix 1 (C&R of 2001 SC)

C&R of the **Fourth Meeting of the Special Commission (SC)** to review the operation of the 1980 Child Abduction Convention (**2001**)

Decisions on relocation

- 7.3 Courts take significantly **different approaches** to relocation cases, which are occurring with a **frequency** not contemplated in 1980 when the Convention was drafted.
- It is recognised that a **highly restrictive approach** to relocation applications may have an **adverse effect** on the operation of the 1980 Convention.



2003

GGP Part III – Chapter 2: Proactive Measures

Chapter 2: PROACTIVE MEASURES

2.2 Relocation

A highly restrictive approach to relocation may:

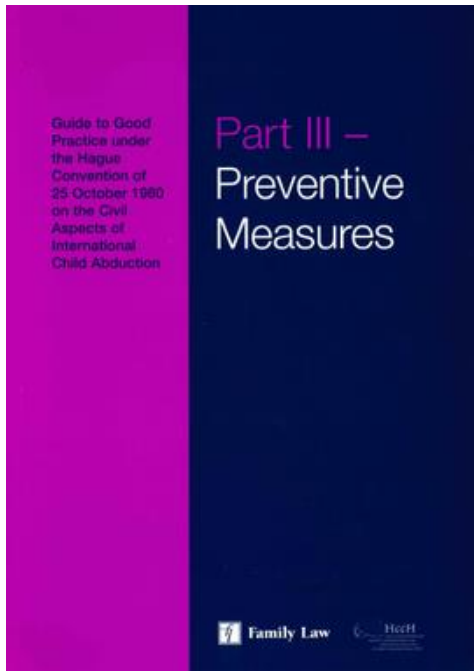
- have an **adverse effect** on the operation of the 1980 Abduction Convention
- **encourage abduction**

2.2.1 Safeguarding the rights of the contact parent during relocation

Legal provisions and decisions on transfrontier contact/access should take into account the risk of international child abduction

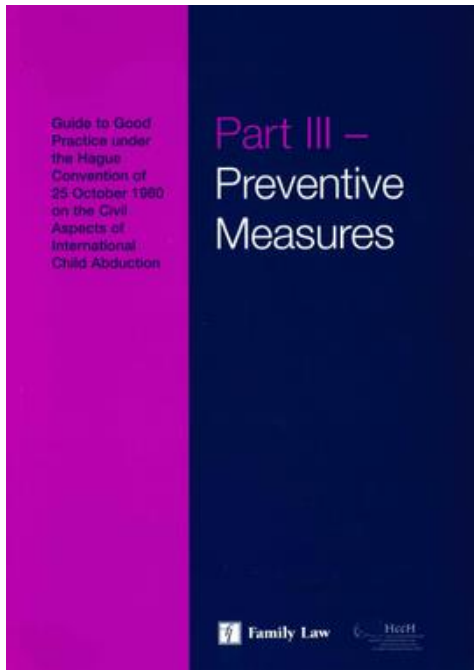
Legal safeguards helping to guarantee the effective exercise of transfrontier contact/access may help to prevent abduction

Benefits of being Party to multilateral instruments seeking to regulate transfrontier contact/access issues (e.g. **1996 Child Protection Convention**)



2005

GGP Part III – Chapters 2, 4 and 5



Chapter 2: PROACTIVE MEASURES

2.2.2 Safeguarding the rights of the custodial parent when a child is involved in contact/access visits abroad

Legal provisions on transfrontier contact/access should include **safeguards** to reduce the risk of **wrongful retention** of a child during **contact/access visits abroad**

Chapter 4: PROVISION AND DISSEMINATION OF INFORMATION

Raising awareness of protective measures

Chapter 5: TRAINING AND COOPERATION

Training to act proactively

GGP – Transfrontier Contact: Chapter 3

CHAPTER 3: THE FRAMEWORK FOR INTERNATIONAL COOPERATION

3.3. A common approach to jurisdiction

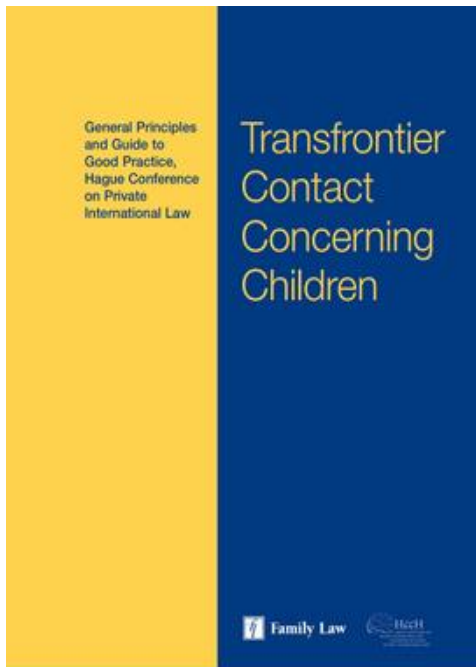
Caution before exercising jurisdiction to set aside established conditions of contact where relocation occurs

In relocation, **jurisdiction moves**

- from the originating court to the court of the country to which the custodial parent has relocated
- as soon as the child establishes a habitual residence in that country

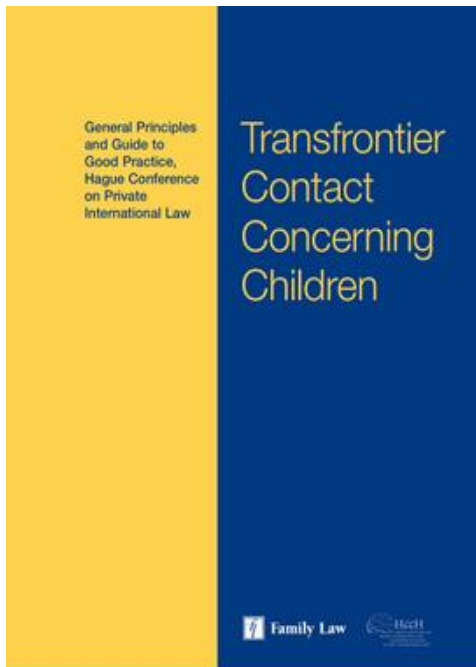
The fact that habitual residence, and hence jurisdiction, may change quickly in relocation does **not entail**

- that a judge in the new jurisdiction should or would **quickly change the conditions of contact** set by the judge who authorised relocation



2008

GGP – Transfrontier Contact: Chapter 3



CHAPTER 3: THE FRAMEWORK FOR INTERNATIONAL COOPERATION

3.4 The recognition and enforcement of decisions concerning contact

Advance recognition can provide a guarantee that contact orders will be complied with

Provisions should be made for obtaining advance recognition of a contact or custody decision in any country to which the child will travel, whether

- in the context of relocation, or
- for the purpose of visiting the non-custodial parent or for other purposes

GGP – Transfrontier Contact: Chapter 8

CHAPTER 8: RELOCATION AND CONTACT

8.1. Decisions on relocation

Concern about the approach taken by the court in **guaranteeing and securing the contact rights** of the “left-behind” parent

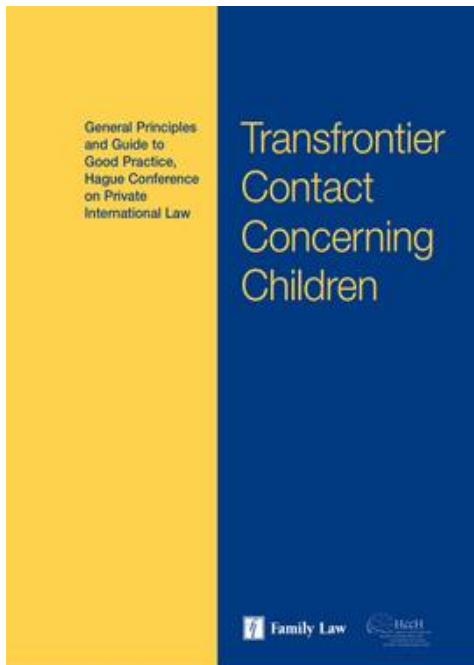
8.2 Respect for terms and conditions

Ensure a **maximum respect** in the country in which relocation occurs of the terms and conditions of a contact order made in the context of relocation

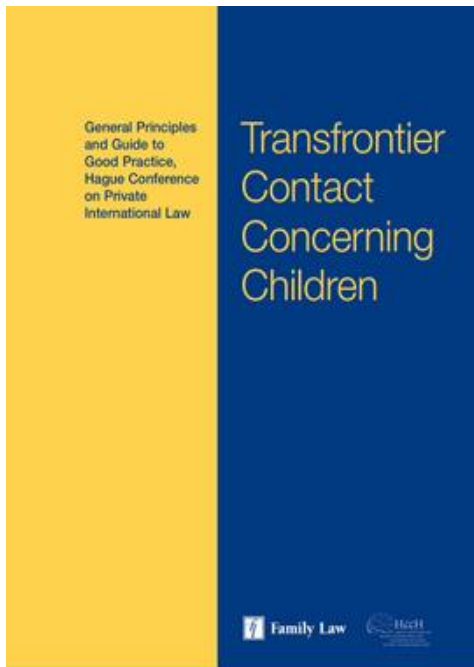
8.3 Advance recognition

Contact orders made in the context of relocation should be entitled to be **recognised and enforced** in the country of relocation

There should be provision for advance recognition of such orders



GGP – Transfrontier Contact: Chapter 8



CHAPTER 8: RELOCATION AND CONTACT

8.4 Mirror orders and direct judicial communications

Where advance recognition is not possible:

- an application in the country of relocation should be possible for an order which **“mirrors” the contact** arrangements ordered by the judge deciding upon relocation

This implies that it should be possible to **exercise jurisdiction** to make a “mirror” order before the child has entered the country

Consider whether the obtaining of a mirror order should be made a **condition** of relocation

Direct judicial communication may play an important role in this area

GGP – Transfrontier Contact: Chapter 8

CHAPTER 8: RELOCATION AND CONTACT

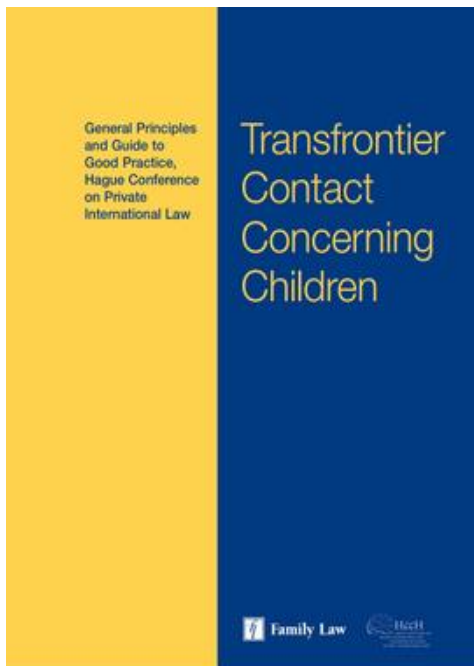
8.5 Applications to vary contact conditions and the 1996 Convention

The contact order should **continue** to be enforced:

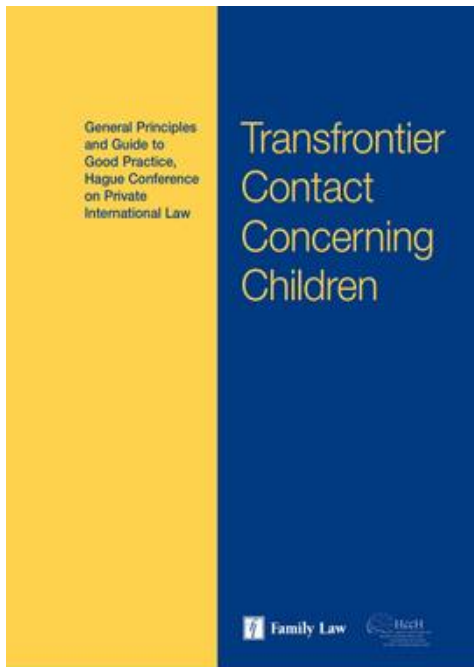
- even after the child's habitual residence has changed and
- until such time as the courts in the country of the child's new habitual residence order otherwise

The court of the Contracting State to which a child is relocated

- should allow review and variation of contact orders of another Contracting State **only in the circumstances in which it would allow such review or variation of its own domestic orders**
- should be **very slow to disturb arrangements concerning contact** made by the court which decided upon the relocation, if the 1996 Convention applies



GGP – Transfrontier Contact: Chapter 8



CHAPTER 8: RELOCATION AND CONTACT

8.5 Applications to vary contact conditions and the 1996 Convention

Considerations for the court

Even in situations where the 1996 Convention does not apply:

- consideration should be given to the importance of **recognising recently made contact orders** from foreign jurisdictions, and caution should be exercised before disturbing their essential elements

GGP Part V – Introduction

INTRODUCTION – SOME TYPICAL EXAMPLES

Mediation may be helpful where, in a case of international child abduction, the left-behind parent is, in principle, **willing to agree to a relocation** of the child, provided that his / her contact rights are sufficiently secured

An agreed solution can **avoid the child being returned** to the State of habitual residence **prior to a possible subsequent relocation**

At a very early stage in a family dispute concerning children, mediation can be of assistance in **preventing abduction**

Where the relationship of the parents breaks down and one of the parents wishes to leave the country with the child, mediation can **assist the parents in considering relocation and its alternatives**, and help them to find an **agreed solution**



2012

GGP Part V – Chapters 1, 2, 5 and 13



CHAPTER 1: The general importance of promoting agreements in cross-border family disputes over custody and contact

Advantages of agreed solutions

All appropriate steps should be taken to **encourage the parties** to a cross-border family dispute concerning children to find an agreed solution to their dispute.

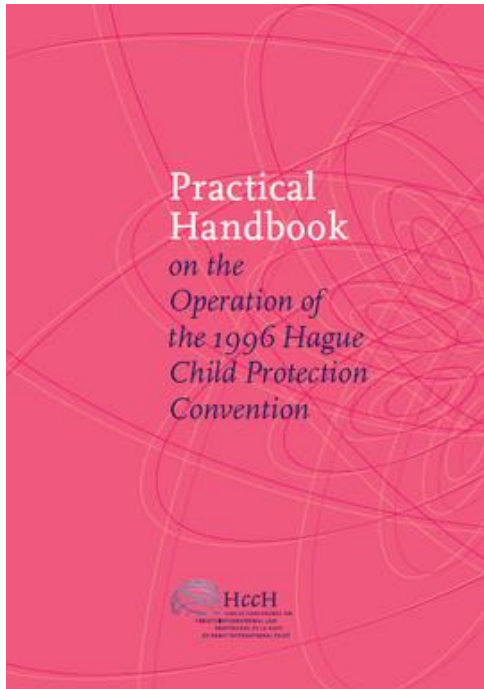
CHAPTER 2: The use of mediation in the framework of the 1980 Abduction Convention – An overview of specific challenges

CHAPTER 5: Scope of mediation in international child abduction cases

Focus on the issues of **urgency**

CHAPTER 12: Rending the agreement legally binding and enforceable

Practical Handbook on the 1996 Convention



2014

INTRODUCTION

The **children** who could benefit from an implementation of the 1996 Convention include [...] those **who relocate** internationally with their families

CHAPTER 13: SPECIAL TOPICS

Access / Contact – International Relocation

Problems surrounding international relocation, what it involves and the result

Terms and conditions of an order regarding access / contact made in the context of an international relocation

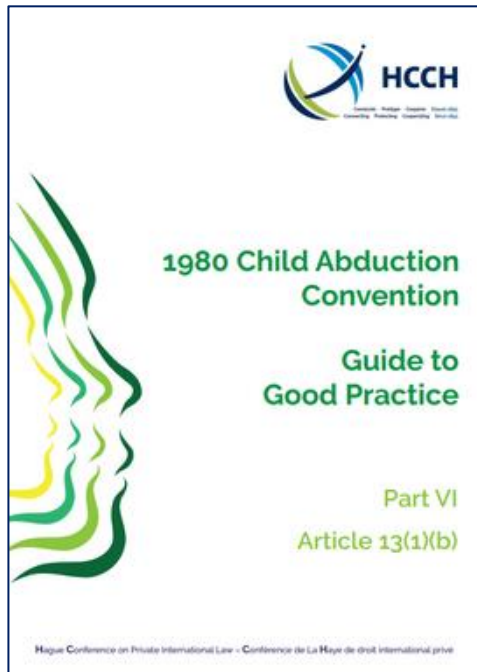
Recognition of orders under Art. 23(1)

Concern: **change of habitual residence** – relocating parent taking advantage

Advance recognition

GGP Part VI – Chapter I

CHAPTER I: ARTICLE 13(1)(B) AS PART OF THE FRAMEWORK OF THE 1980 CONVENTION



2020

1. The principle: return of the child

Purpose and underlying concepts of the Convention: Authorities of the State of habitual residence are best placed to decide custody and access

The return of the wrongfully removed or retained child to his or her State of habitual residence:

- restores the status quo ante
- allows for the resolution of any issues related to the custody of, or access to, the child, including the **possible relocation** of the child to another State, by the court that is best placed to assess effectively the child's best interests

GGP Part VI – Chapter III

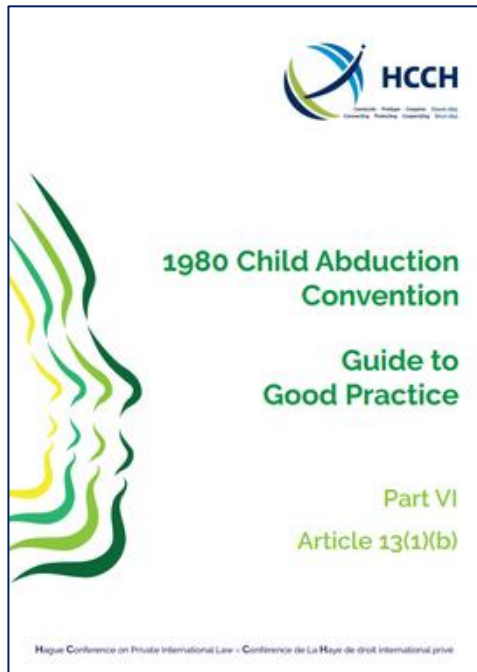
CHAPTER III: Good practice for courts in Article 13(1)(b) cases

2. Good case management practices

b. Amicable solutions

Depending on the relevant laws, procedures and practices of each State, mediation or other forms of alternative dispute resolution mechanisms may be available to

- **assist parents in agreeing** on the arrangements for the child's **return** or non-return, and
- if appropriate, on substantive matters, which may include arrangements for the **relocation** of the child to the requested State and contact with the left-behind parent



Practitioners' Tool – Chapter II

CHAPTER II: HCCH CONVENTIONS

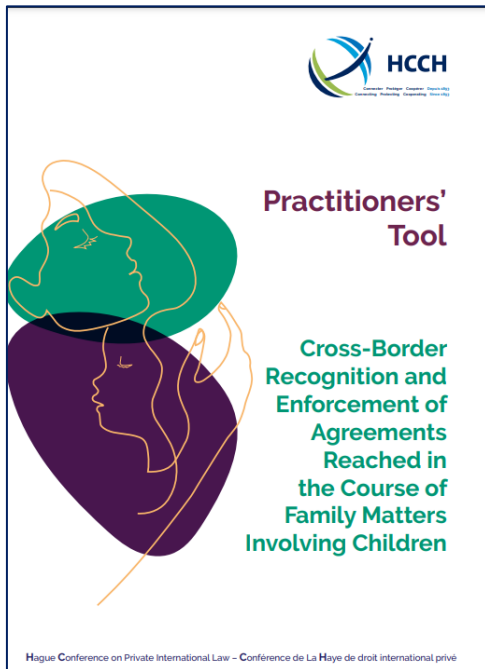
1980 Abduction Convention

It is possible that the **return of the child** is followed by a **lawful relocation** to the State that had ordered the return

The **family agreement**, whether it provides for the return of the child to their State of habitual residence immediately prior to the removal or retention, or for the relocation of the child in the new State, **can bring an end to the dispute** between the parties under the Child Abduction Convention.

1996 Child Protection Convention

In cases where one parent envisages relocating with the child to another State, the agreement could address **how to finance any future cross-border parent-child contact**.



2022

Practitioners' Tool – Chapter IV

CHAPTER IV: TYPICAL CROSS-BORDER SITUATIONS THAT MAY INVOLVE FAMILY AGREEMENTS

Cross-Border Relocation

Example of a typical case that may involve family agreements

Process of rendering a relocation agreement legal binding and enforceable depends on the procedural law of the State where it is sought to give legal effect to it

Agreement includes **consent for relocation**, and likely **contact arrangements** and other matters on parental responsibility

Requirements for the agreement to be **recognised and enforced** under the **1996 Child Protection Convention**



Practitioners'
Tool

Cross-Border
Recognition and
Enforcement of
Agreements
Reached in
the Course of
Family Matters
Involving Children

Direct judicial communications

Some examples of direct judicial communications in the relocation context:

- to establish a relocation order
- to recognise and enforce a relocation order
- to replicate a relocation order
- where necessary, and where possible, to **modify** a relocation order





Thank you for your kind attention

secretariat@hcch.net

www.hcch.net