



Second Forum on Domestic Violence and the 1980 Child Abduction Convention

With a focus on the Operation of Article 13(1)(b)

Fortaleza, Brazil, 27-30 October 2025

Opening address of Dr Christophe Bernasconi, Secretary General of the HCCH

Dear Solicitor General Calixto,
Dear Secretary Uema,
Honourable Justices,
Distinguished participants,
Dear colleagues, ladies and gentlemen,

Good morning and welcome once again. It is a privilege to address you at the beginning of this Forum and to try to set the stage for our upcoming discussions.

As you know, this is the second time that the HCCH has convened such a Forum. In Sandton last year, we laid the foundation – bringing together, for the first time, all relevant voices to engage in an open and constructive dialogue on the operation of the Child Abduction Convention in cases involving allegations of domestic violence. I am proud of what we achieved in Sandton. It was a historic event that laid the foundation for a meaningful, respectful, and inclusive dialogue.

Here in Fortaleza, we build on that foundation. This second Forum is about going deeper. It is about translating discussion into practice – identifying concrete and workable approaches to ensure the effective operation of the Convention, in particular Article 13(1)(b), in situations where domestic violence is alleged. So, the purpose and goal of this Forum are different – but it remains, and that is crucial, a platform for an open, inclusive, and respectful dialogue.

The recent decision of the Brazilian Constitutional Court has reminded us how visible and important this subject matter is in Brazil. The Court's

confirmation of the Convention's constitutionality is obviously important. But its judgment also reminds us how complex and difficult these issues remain – and how vital our discussions are. From what we have read, the decision of the Constitutional Court specifies many areas in which further work is necessary. We hope our discussions over the next three days assist in that endeavour.

The starting point is the recognition that a child is also a victim of domestic violence when such violence is exercised against one of the parents – typically the mother. There is no doubt that Article 13(1)(b) covers these situations, and indeed all forms of domestic violence. The main challenge, however, lies in how to apply and operate this provision properly when domestic violence is alleged.

Simply alleging domestic violence is not enough. Allegations must be substantiated. The judge must be sufficiently convinced that domestic violence has indeed occurred and, as recommended by the Guide to Good Practice on Article 13(1)(b), that no protective measure upon return would be sufficiently effective to protect the parent – and by extension the child – from continuing harm. That is our task: to continue developing a shared understanding that allows us to identify the cases that warrant the application of Article 13(1)(b). As I said in Sandton, the Convention's proper application is what matters most. The measure of its effectiveness lies not in the sheer number of return orders. A carefully reasoned non-return, grounded in Article 13(1)(b), can be just as faithful to the Convention's purpose as a return order.

In recent years, however, we have too often heard that a return order is somehow synonymous with being wronged – with having been “Hagued”. I find this troubling. Of course, whenever I learn that a return has exposed a parent – most often a mother – to renewed violence, sometimes with tragic consequences, I am genuinely distressed. We all agree that such tragedies must be prevented and addressed.

But as Secretary General, I also remain concerned about the wider perception of the Convention – of one of our most impactful and important instruments. It is essential to remember what the Convention stands for. It is the only global framework devoted to addressing international child abduction. Its very existence prevents abductions. We must not forget: a wrongful removal or retention is also a form of violence.

This brings me to another point. It relates to a recent line of argument I have seen online – the suggestion that we distinguish between “harmful

abductions” and so-called “protective abductions”, as though only the former fall within the scope of the Convention. I respectfully disagree with this distinction. Let us be clear: when custody rights are violated, the removal or retention is wrongful. An abduction inflicts harm. Domestic violence inflicts harm. Both are wrong. Both cause trauma. But two wrongs do not make one right. The Convention does not begin with labelling some abductions as “protective” – it begins with the rule that abductions are wrongful, followed by the question of whether an exception to the principle of a return applies.*

The Convention, if properly applied, promotes peaceful, lawful, and cooperative solutions. It can produce outcomes that serve the best interests of children – outcomes that are balanced and grounded in respect for the law, judicial cooperation across borders and cultures.

At the same time, we must recognise that the world in which the Convention operates has evolved. Situations involving domestic violence have clearly come to the forefront, revealing complexities not fully contemplated when the Convention was drafted – more than 45 years ago. Our collective task is therefore to ensure that the Convention continues to operate effectively in this changed environment. When properly applied, and depending on the circumstances of each case, the Convention serves the child’s best interests either through the return mechanism or through a justified non-return that protects victims of domestic violence from renewed harm.

To be applied correctly, the Convention requires careful, balanced, and principled application – for the sake of the children at its heart, for the victims of violence whose lives may depend on it, and for the left-behind parents whose rights and responsibilities also deserve respect.

Now allow me to recall Article 19 of the Convention, which reminds us that a decision on the return of a child is not a decision on custody. The Convention leaves that determination to the competent court in the child’s State of habitual residence, which is best placed to take it. By drawing a

* As I conveyed in my remarks during the closing session, following valuable discussions during the Forum, I wish to clarify that my comments on “harmful” and so-called “protective” abductions were not intended to minimise the difficult circumstances in which some parents – most often mothers – decide to remove or retain a child. Such actions may indeed be prompted by a genuine and instinctive – often motherly – desire to protect the child from perceived or real harm. However, under the Convention, a removal or retention in violation of custody rights remains *wrongful* (Art. 3). The Convention does not distinguish between types or motives of abduction; rather, it provides a framework to determine, in each case, whether an exception to the return obligation applies, including where allegations of domestic violence are raised.

clear procedural line between return and custody proceedings, Article 19 ensures that the custody determination can take place where it properly belongs. At the same time – and this is important – it is not because the child is sent back that the taking parent will necessarily lose custody rights, or indeed that the left-behind parent will necessarily keep custody. The judge in the State of habitual residence will decide the custody issue in light of all relevant circumstances and guided by the best interests of the child.

Ensuring that the custody issue can be decided in the State of habitual residence also requires ensuring that the taking parent and the child can return there safely. This is what we refer to as a soft landing – protective measures and/or arrangements that facilitate a safe, humane, and dignified return, both legally and practically. Such measures may include temporary accommodation, legal assistance, or restrictions on contact with an abusive partner. A soft landing is essential to make the Convention work as intended: it should allow the judicial process to unfold where it should – in the child’s State of habitual residence – without exposing those involved to further harm. Protective measures must thus be appropriate and actually do what they are supposed to do. And we know and acknowledge that this is not always the case. More work is needed on that front too.

When taking parents know that the custody issue will be determined fairly and objectively by the courts of the State of habitual residence – rather than prejudged in the return proceedings – they may be more willing to agree to a return without lengthy litigation. Conversely, if they believe they will be punished upon return, they are likely to appeal any possible decision, or even to hide and resist the execution of a return decision. The result is an escalation of conflict, delays, and ultimately more harm to the child – precisely what the Convention seeks to avoid. And in this context, left-behind parents and prosecuting authorities are to be reminded of the possible adverse effects that criminal proceedings against taking parents may have when they are linked to the operation of the Convention on *civil* aspects of international child abduction.

The best approach is to prevent abductions in the first place. Prevention largely depends on the structures that States put in place to protect victim survivors of domestic violence. Effective prevention and intervention mechanisms at the domestic level will help victim survivors access the crucial support they need, and will hopefully assist in fostering the sense that a wrongful removal is not the only way to ensure their safety or that of their child. In other words, coping effectively with domestic violence is not

only a matter of applying the *Convention* correctly. It also requires strong domestic legal frameworks and accessible support services – shelters, counselling, legal aid, and protection mechanisms – that give victims confidence in the system. At a broader level, this also calls for a continued shift in mindset: one that listens carefully to victims, takes their accounts seriously, and acts before it is too late. We must recognise that the challenges we face are not only legal or procedural, but also deeply rooted in systemic inequalities that have too often silenced or disbelieved victims of domestic violence. During this Forum, we will hear about measures adopted by States, which I hope will inspire others.

If an abduction does take place and the Convention applies, the procedure must be organised so that a decision can be taken swiftly and in the best interests of the child. As I already said in Sandton, the biggest enemy of the Convention is... time. Return proceedings must remain swift and effective, even in complex cases, because delay itself can harm the child and undermine trust in the process. At the same time, working under time constraints must not come at the expense of substance: judges need to engage meaningfully with the allegations before them, and to do so with an informed understanding of how patterns of abuse may arise and manifest. All of this without sliding into a full best-interests analysis – because that is not what the Convention was designed to do.

But our task also continues after the return or non-return decision. Much less is known about what happens afterwards – about the consequences of return, or of non-return, for children and parents alike. We need more research into these outcomes, so that we can better understand the long-term effects of the Convention's operation in cases involving domestic violence. Only with such knowledge can we evaluate whether our practices truly serve the best interests of children and refine our approaches where necessary.

Since this is an informal meeting, we will not adopt Conclusions and Recommendations. Instead, the Permanent Bureau will prepare a neutral report that will summarise and reflect what has been said during each session – without additional analysis or comment. This report will later be shared with the Members of the HCCH as part of CGAP 2026.

This Forum, like the one in Sandton, is about listening to all perspectives, showing empathy, and respecting one another. *All* voices are relevant. Without your *collective* input, there cannot be what I call a meaningful, continuing evolution of the Convention in an environment that has

obviously changed. It is important that we hear from those who have lived through abduction and domestic violence, from those who have applied the Convention in practice, from those who have studied it, and from those who advocate on behalf of victims and of left-behind parents. Only by hearing and weighing all these voices can we ensure that the Convention operates effectively, even in the most difficult circumstances.

Before I conclude, I want to emphasise the importance of maintaining a safe and respectful environment throughout the Forum. This is crucial, particularly as we hear from victim survivors of domestic violence and their advocates who have bravely agreed to share their real-life experiences, and from left-behind or seeking parents who will also share their perspectives. I am personally committed to ensuring that this Forum remains a safe and secure space for all, and I implore everyone to honour and respect the safety, dignity, and feelings of all participants.

Ladies and gentlemen, let us continue the important journey we began in Sandton. Let us learn from each other, deepen our understanding, refine our approaches, and find practical ways forward.

Thank you again for your presence, your commitment, and your willingness to engage in this important dialogue. I very much look forward to the discussions that lie ahead. – Thank you.