THE SOCIO-LEGAL FRAMEWORK OF THE 1996 CONVENTION

Practical operation of the 1996 Convention

Co-operation provisions: art. 29 et seq. (Chapter V)

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CHILD PROTECTION: A SOCIO-LEGAL INTERVENTION

- Counselling
- Mediation
- Welfare check
- Home visits & assessment
- Empowerment
- Early intervention
- Protection measures & statutory intervention

CHILD

PARENTS

FAMILY

SOCIAL SERVICES

Psychosocial
- Legal

JUGE / COURT

Cross-border situations → specific vulnerabilities
MANDATORY DUTIES OF CO-OPERATION AND PROVISION OF INFORMATION

- Art. 30: General mission of co-operation and information
  → must co-operate to achieve the purpose of the Convention

- Art. 31: CA “must either themselves or through public authorities or other bodies take all reasonable steps “
  To facilitate communication/ to facilitate agreed solution/ to provide assistance...

- Mandatory duties: placement of a child abroad/ provision of information where a child is in serious danger and changes residence
  Art. 33 - [ art. 23(2)(f) ] / Art- 36

- Discretionary duties: requests for information and reports
  Art. 32, 34 & 35 (37, 40)
CHILD PROTECTION MATTERS COVERED BY THE CONVENTION
FIELDS AND LEVELS OF INTERVENTION

- Cross-border family disputes (custody/access/relocation)
  Art. 31 (b), 34, 35 & 40
  Mediation based approach – Family Counselling/Home visits & assessment reports

- Cross-border child welfare and protection
  Art. 32, 34, 35 & 36 (-37)
  Welfare check/Home visits & assessment/protection measures (enforcement)

- International alternative care (placement/Kafala)
  Art. 33 - [art. 23(2)(f)]
  Home visits & assessment/consent to placement or provision of care
  ➔ Best interest of the child as a primary consideration
CHALLENGES OF INTERNATIONAL CO-OPERATION & COMPLEXITY OF CROSS-BORDER INTERVENTION

- **Channels of co-operation** - means of communication and level of intervention of the CA: **resources and powers** of CA, flexibility: **direct practice, assistance & facilitation** or **delegation** to “other bodies”

- **Expertise in cross-border child protection**: multidisciplinary and consistent approach / competent, collaborative and responsive actors

- **Expeditious procedures**: procedures or processes regarding or impacting children must be prioritized and completed in the shortest time possible (+ all decisions / support must be reviewed periodically)
CROSS-BORDER CASE-MANAGEMENT IN COMPLEX SITUATIONS

- Promotion, facilitation and **effective practice of mediation in cross-border family disputes**

- Coordination and professional expertise in child welfare and protection and in the undertaking and preparation of **assessments reports** with recommendations for the welfare of children and families

- Coordination and professional expertise in international placement of a child in a foster family or institutional care (ensuring also following support and monitoring)
RECOMMENDATIONS FOR THE EFFECTIVE IMPLEMENTATION OF THE “SOCIAL” FRAMEWORK OF THE 1996 CONVENTION

- To improve the practical **implementation** of the Convention **at the level of the social services agencies**

- To evaluate the **feasibility and scope of cooperation between CA, competent authorities and “other bodies” with expertise in cross-border child protection field**

- To develop **best practices in international social work**