
**DAY 1 - WEDNESDAY, 21 OCTOBER 2015 – MORNING SESSION**

The Conference was opened by Ms. July Rosicky, Director of ISS USA.

Welcome addresses were given by Ms M.J. Alonso Lormand, (Director, Department of International Solidarity of the Canton of Geneva), Mr J. Ayoub (Secretary General, International Social Service ('ISS')), Mr P. Lortie (First Secretary), Permanent Bureau (PB) of the Hague Conference on Private International Law (HCCH), Ms M. McGuinness (MEP), Children's Rights Mediator, via video-message, and Prof G. P. Romano (University of Geneva).

All presenters gave a warm welcome to the participants, thanked the organizers and looked forward to a conference full of fruitful discussions.

**Introduction to the conference and workshop (Session no. 1 – Plenary session)**

Professor M. Cottier (University of Geneva), moderator of the morning session, welcomed all participants - both those attending the conference and those participating in the International Family Mediation (IFM) workshop, running parallel to the conference. This introductory session facilitated all participants being brought together for general information on the conference and the workshop, before the participants split into their respective groups until the final day of the conference.

Mr H. Boéchat, Deputy Secretary General of ISS, introduced organisational and logistic aspects - such as transport and meeting locations.

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1 Authors: Mr V. Bumbaca, Legal Advisor and Regulatory Affairs, and Ms J. Wöllenstein, Children’s Rights Officer, General Secretariat of the International Social Service (ISS), edited by Mia Dambach and Lisa Robinson.
Ms C. Caratsch, IFM coordinator, gave an overview of the IFM workshop. She highlighted the importance of mediation as a mechanism for the resolution of peaceful family disputes and noted the benefit of having a document of reference, such as an International Charter, as a basis to further promote mediation. She raised awareness about the IFM Guide, published by ISS in September 2014.

The Chair thanked the speakers and closed the first session. The group of mediators left the plenary session to work on an International Charter on Family Mediation.

The socio-legal framework of the 1996 Convention (Session no. 2)

Professor M. Cottier introduced the two speakers for the session “The socio-legal framework of the 1996 Convention”.

Mr G.P. Romano, Professor at the University of Geneva, briefly introduced the 1996 Convention and its broad scope, which covers measures of protection for the child and the child’s property.

The Convention deals with jurisdiction, applicable law, recognition and enforcement of administrative and judicial decisions. It plays an important role in cross-border family disputes that relate to children’s custody, visitation and access rights. Relevant cases would include, for example international relocation cases, or cases involving cross border access and visitation rights. The Convention is also applicable in cases of a wrongful removal or retention of a child. Mr Romano mentioned the aspects not covered by the 1996 Convention such as immigration and child maintenance.

Using a case example, he explained that the 1996 Convention brings clarity in cross-border cases in which different courts in different jurisdictions might be competent and where there might be uncertainty about the law applicable to the case.

Mr Romano discussed the interplay between the 1996 Convention and European law, particularly in regards to the definition of the term “habitual residence”. The 1996 Convention does not provide a specific definition of habitual residence, and relies on the facts of individual cases to make this determination.

He also mentioned that the Council Regulation (EC) No 2201/2003 of 27 November 2003 Concerning Jurisdiction And The Recognition And Enforcement Of Judgments In Matrimonial Matters And The Matters Of Parental Responsibility (hereafter Brussels II A) provides a different disposition concerning jurisdiction, as it freezes jurisdiction at the time of seizure while within the 1996 Hague Convention, a change of the habitual residence triggers jurisdiction.

Mr Romano explained the mechanisms employed by Brussels II A and the 1996 Convention, when parallel proceedings are brought regarding a child’s custody in two different countries simultaneously. The 1996 Convention, attempt to avoid parallel proceedings through its “lis pendens provisions”, these are based on the time of Court’s seizure. Brussels IIA is clearer about the lis pendens mechanism, and the recognition of decisions given in parallel in two countries. The 1996 Convention and Brussels IIA do not regulate negative conflicts i.e. disputes which have a potential cross-border issue, but no court process is commenced.

Mr D. Martin, Legal Advisor at ISS Switzerland, gave a brief introduction about the social perspective of the 1996 Convention. He stressed that the 1996 Convention is very clear, but to effectively protect the child, the implementation of co-operation principles and exchange of information across borders, the work and involvement of competent actors is necessary, such as social services.

Mr D. Martin spoke on the importance of improving direct co-operation and communication at an international level. He stressed the importance of a child focused and multidisciplinary team approach to assessing and meeting a child’s needs.

The operation of the 1996 Convention in practice (Session no. 3)
- Custody, access and relocation cases:

Dr A. Boiché, Avocat à la Cour d’Appel de Paris, explained the history of the 1996 Convention and compared it to the 1961 Hague Convention on the Protection of Infants. He emphasised the importance of the provisions of the 1996 Convention in providing legal certainty and continuity in the protection of children, including in particular, those provisions that regulate the mutual recognition of judicial and administrative decisions on measures of protection for the child.

Ms U. Rölke, Director of ISS Germany, emphasised the value of mediation in relation to the protection of the best interests of the child. She described various ISS activities concerning custody, the return of abducted children, contact rights and relocation. She gave concrete examples, describing case studies which show how important direct co-operation and information exchange is in cases concerning children. In this context, she discussed the benefits of the ISS network. She, however, also noted, that the 1996 Convention needs to be made accessible to parents and social workers, who are often the first ones who are concerned with its practical implementation.

DISCUSSIONS:

A representative of the Federal Department of Justice in Canada asked what the procedure would be if a court asked ISS to participate in a hearing. Ms U. Rölke answered that the court should first know if ISS is involved in the case. She stated that often, the court refers people to ISS and mandates ISS to gather more information.

Mr A. Boiché answered a question about the enforcement of a foreign decision on the relocation of a child to another State. He added that in the EU, according to the provisions of Brussels II A, foreign decisions are automatically recognised.

- International child abduction:

Ms I. Pretelli, Legal Advisor at the Swiss Institute of Comparative Law, emphasised the importance of protecting children across borders. She spoke of the significance of the right to life and the right to a safe environment for the child, referring to the provisions of the European Convention on Human Rights (ECHR). Ms I. Pretelli stressed the need to avoid serious consequences for the child and referred to cases included in the EU study “Cross-border parental child abduction in the European Union”. She further expressed the importance of the 1980 Hague Convention in avoiding disparity between legal systems and models of family laws’ seeking to harmonise and unify different legal systems.

Ms I. Pretelli concluded that co-operation between all relevant actors needs to be improved in cross-border child protection and child abduction cases, e.g., by encouraging direct communication between all stakeholders (i.a., Central Authority and judges).

The Hon. Justice V. Bennett, Hague Network Judge, Family Court of Australia, recalled the significance of the study, “Parental Child Abduction: The Long-Term Effects” undertaken by Professor M. Freeman. This study looked at the long-term effects of child abduction on children, considering panic attacks and other effects caused by the serious emotional harm that children suffer when abducted. Justice Bennett highlighted the importance of the role of the social worker, who may be closer to a child’s concrete situation (e.g.: the innovative system Cafcass created in the United Kingdom or ISS itself).

She contemplated that one solution to ensure the best interests of the child is met, would be the establishment of a free contact agency point, easily accessible for the child and electronically accessible for direct communication. Another solution would be to use mediation as a peaceful mechanism of dispute resolution, giving power to families before the law. Lastly, she envisaged to concentrate jurisdictions referring to a multidisciplinary approach taking into account different perspectives.

DISCUSSIONS:

Justice Bennett clarified that Art. 32 of the 1996 Convention, which provides that a report about the situation of child can be completed, can be used to assist the court. She mentioned...
that she has already made use of Art. 24 ensuring that the competent court in the other country will recognise and enforce the decision taken.

The Chair thanked all the previous speakers and closed the morning session at 12.45 p.m.

**DAY 1 - AFTERNOON SESSION**

**The 1996 Convention in today’s world (Session no. 4)**

The Chair, Mr D. Martin, Social worker at ISS Australia, introduced the panellists and opened the session.

**- Promoting the 1996 Convention in non-Contracting States:**

The Chair noted ISS’ extensive expertise and multidisciplinary structure, with around 15 branches and more than 120 correspondents globally. Mr D. Martin spoke of the importance of social workers working in non-Contracting States to the 1996 Hague Convention, especially in international social work cases. He briefly introduced a social case involving Australia and Sierra Leone (Non-Hague Contracting State). In this case, a woman living in Australia was under the impression that her child - who lived in Sierra Leone - was dead. This was not the case. A joint teleconference was organised between the Australian Child Protection Authority, ISS Australia, and ISS Sierra Leone. Through this coordination, the mother was contacted and contact arrangements established. The entire process was free of charge to the mother, the child or any authority.

Mr M. Coffee, Attorney Advisor at the US State Department, noted that there was limited US experience on the application of the 1996 Convention. It was signed in 2010 but has not yet entered into force. The US entirely supports the ambitious scope of the 1996 Convention, in particular to ensure the international recognition and enforcement of custody and visitation orders, to reinforce the 1980 Hague Convention on international child abduction, and to strengthen co-operation in relation to the cross-border placement of children in foster and institutional care. The political and federal structure in the US (Federal and State law) makes the ratification challenging. The Uniform Law Commission modified some provisions of the Uniform Child Custody Jurisdiction and Enforcement Act in order to adapt its provisions to those of the Convention. The US needs to understand the purpose of Art. 6(1) of the 1996 Convention that applies to refugee children in the context existing federal laws applicable to refugees. The US ratification appears to be complex for the moment.

Mr J.F. Zarricueta, Director of Chile’s Central Authority under the 1980 Hague Convention confirmed that the Convention is in force in Ecuador, Uruguay and the Dominican Republic. He discussed recent developments in Argentina (potential ratification in 2016), Costa Rica and Chile (great progress after the Santiago Meeting). In the case of Chile, he added that there was no specific definition of parental responsibility in the Chilean Family Law and that a modification may be required in order to determine the competence of the judge in this regard.

**DISCUSSIONS:**

Mr M. Coffee explained the process of transforming international treaties into uniform state law, for which the Uniform Law Commission was competent.

Mr P. Beaumont, Professor of the University of Aberdeen mentioned that judges should use Art. 11 of the 1996 Convention to facilitate the safe return of the child upholding the objectives of the 1980 Hague Convention.

Mr A. Boiché raised a question about the system of “continuous jurisdiction”, in particular in relocation cases between contracting States and non-contracting States, such as US which may continue to keep its jurisdiction, which could be against the best interest of the child. Mr M. Coffee agreed that this situation causes a practical issue and that, without ratifying the 1996 Convention, a State Court in the USA would always keep jurisdiction.

Mr S. Auerbach, Head of the Casework Department at ISS Switzerland, asked the PB of the HCCH to give a brief status report on the promotion of the 1996 Convention, and the future ratification or accession by non-contracting States. Mr P. Lortie, from the PB of the HCCH, explained the current situation in Latin America, Hong Kong and Canada. A representative
from the Federal Department of Justice in Canada confirmed that work on the 1996 Convention is progressing, but an exact timeline cannot yet be provided. An attorney from Japan explained the status of Japan, a non-Contracting State to the 1996 Convention. The difficulty in ratifying the 1996 Convention lies in the enforcement mechanism between Japan and other countries. Another difference exists in protective measures that were not in existence in Japan, and therefore some foreign decisions may not be able to be implemented in Japan. Mr. V. Bumbaca, Legal Advisor Regulatory Affairs at ISS General Secretariat, expressed his concerns about the delay of Italy in ratifying the 1996 Hague Convention. He said that ISS was dealing with several cases between Switzerland and Italy. Mr. P. Lortie said that Italy had already ratified the 1996 Hague Convention. Ms. K. Bartsch, from the PB of the HCCH, added that Tunisia was also studying the 1996 Convention and that the PB had met a delegation from Indonesia where efforts are being made to accede to the 1980 and the 1996 Conventions.

A representative from the Dutch Central Authority explained that in cases with non-Contracting States, the Ministry of Foreign Affairs would be asked to identify the local social services in the absence of Central Authorities in these countries.

- The relevance of the 1996 Convention in Islamic legal systems

The Chair, Ms. A. Reiser, a Swiss Lawyer, opened the debate on Islamic legal systems and mentioned a case dealing with custody rights, in which a judgement given in Switzerland that restricted the visitation and contacts rights of a father in a Muslim country because of his nationality and religious faith. Moreover, another issue was that the country of origin did not recognise the divorce judgement given in Switzerland and, vice versa, Switzerland did not recognise the repudiation judgement given in the country of origin. For these difficult cases Ms. A. Reiser and her client decided that mediation was the only solution to allow for the child to travel between the two States. She said that the 1996 Convention was a perfect tool to initiate the cooperation between very different and opposed legal systems, in the best interest of the child. She introduced the Prof. H. Kotrane and opened the session.

Prof. H. Kotrane, Member of UNCRC, highlighted the important link between the 1996 Convention and the provisions of the UN Convention on the Rights of the Child (CRC), the latter being the most comprehensive law regarding the protection of children’s rights worldwide. Prof. H. Kotrane explained the challenges regarding the rights of a child placed under kafala in Islamic legal systems, such as Algeria, Morocco and Tunisia. He concluded by suggesting that the CRC Committee could recommend the ratification/accession to the 1996 Convention to State parties.

Ensuring the harmonious development of the child worldwide (Round table)

The Chair, Professor K. Hanson, Vice President of the CIDE at UNIGE, opened the last afternoon session of the day, and gave a brief introduction about the Interfaculty Center of Children’s Rights studies, highlighting the importance of the right to be heard and the best interests of the child.

Ms. C. Chinnici, Member of the European Parliament, stressed the importance of the right of the child to be heard in all proceedings. Moreover, she outlined different multilateral agreements ensuring the protection of children’s fundamental rights, such as the New York Convention on the Rights of the Child of 1989, the ECHR, and the European Union Charter of Fundamental Rights under the Lisbon Treaty. Ms. C. Chinnici emphasised the importance of the 1996 Hague Convention and Brussels Regulation IIA, which set out important substantive and procedural principles intended to guarantee that the best interest of the child is taken into account in cross-border situations. She concluded by underlining the importance of this Conference for the future work on this matter at the European Parliament.

Mr. G. Malinverni, Former Judge at the European Court of Human Rights, provided an analysis of the jurisprudence of the European Court of Human Rights (ECHR) concerning the best interest of the child. He mentioned, in particular the cases "Neulinger and Shuruk v. Switzerland" and "X. vs. Latvia" in which the European Court of Human Rights dealt with international child abduction under the 1980 Convention.
The Hon. Judge F.J. Forcada Miranda, Hague Network Judge and Spanish Contact Point of the European Judicial Network (EJN), spoke on behalf of Ms. M. Tuite, the European Commission Coordinator, who was unable to be present at the Conference. He mentioned that the child’s right to be heard is implemented differently in different EU Member States. Mapping of children’s rights systems has been completed by the Fundamental Rights Agency (FRA), regarding the best interest of the child, and national best practices. This project aims to draft 10 principles towards a better integrated, coherent and comprehensive approach to child protection.

Prof. H. Kotrane reminded the participants about the key provisions of the UNCRC. He drew attention to the UNCRC General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the purpose of which is to ensure the application of and respect for the best interests of the child by the States parties to the CRC. To this end, the commentary defines the requirements for due consideration, especially in judicial and administrative decisions as well as in other actions concerning the child as an individual, and at all stages of the measures concerning children.

DISCUSSIONS:
A representative of the Czech Central Authority asked how it is possible for ECtHR judges to assess the best interest of the child without discussing the merits, as sometimes they need to discuss the merits in order to assess the best interest of the child. Prof. G. Malinverni answered that in order to rightly assess the best interest of the child - different criteria may apply on a case by case basis. The timeframe as well as specific circumstances between one judgment and another is of peremptory importance for the final solution. Prof. H. Kotrane suggested that judges should have specific training, and clarify in each judgment how they assessed the best interest of the child. The UNCRC obliges all State Parties to this Convention to ensure that procedures are applied in the best interest of the child. Judge F.J. Forcada Miranda affirms that there should be just one interpretation of the best interest of the child. Moreover, it is very difficult for a judge not to discuss the merits and the substance of the matter because the timeframe is not defined. Prof. P. Beaumont recalled the case “X v Latvia” when the ECtHR says that in order to determine the best interest of the child, it needs to apply the provisions of the 1980 Convention and that there is no free standing notion from the judge, who just needs to apply the provisions of the relevant multilateral agreements. The return of the child equals the best interest of the child unless the one of the exceptions, provided by Art. 13 of the 1980 Convention is established. Only the competent court to determine custody rights will be entitled to discuss the merits, and not the ECtHR. Prof. N. Lowe, University of Cardiff, highlighted a specific prohibition on discussing the merits in both conventions, the 1996 and 1980. The ECtHR is subject to a real criticism that delays the procedures and the problem reflects on the timeframe, which should be fast and immediate in order to avoid different situations and new circumstances.

Conference Day 1 was closed at 5.50 p.m.

**Day 2 - Thursday, 22 October 2015 – Morning Session**

Mr V. Bumbaca and Ms J. Wöllenstein from ISS General Secretariat opened Day 2 of the Conference and provided a brief overview of the key points mentioned during Day 1.

Mr F. Skiotis, ISS PAC member and Director of ISS Australia, welcomed all participants as the moderator.

The operation of the 1996 Convention in practice (Session no.1)
Mr P. Lortie chaired the first two thematic topics, dedicated to the issue of international co-operation among two key stakeholders: Central Authorities and judges.

- **International co-operation between authorities:**
Ms J. Schickel-Küng, Co-Head of the Private International Law Unit at the Federal Office of Justice, described the particularities of the Swiss system in relation to the implementation of the 1996 Convention. She explained that there is one Federal Central Authority and 26 cantonal central authorities. This system requires close co-ordination among all authorities,
and allows the central authorities to be closely connected to the different local child protection authorities. Nevertheless, several challenges arise with regard to the operation of the 1996 Convention, namely: lengthy communication processes and the necessity of translations; the lack of clarity regarding cost issues (Art. 38); and diverse legal systems and protection measures. According to her, the latter especially, requires expedited information exchange, which could be in form of country profiles. Ms J. Schickel-Küng sees solutions through the use of standardised model forms, for social reports for instance, and believes that lessons can be learnt from the implementation of Brussels II A.

Ms C. Berlie-Bernard, Legal Advisor at Swiss Cantonal Authority (SPMi), shared practical examples on how co-operation is carried out by a cantonal central authority, where 50 % of the dedicated 1996 Convention team are social workers. One challenge is the issue of transferring protective measures from one country to another, especially if the measure is unknown to the other legal system (e.g. curatelle de surveillance des relations personnelles in Switzerland). She mentioned the involvement of other entities, in particular for outgoing cases, such as ISS, embassies or consulates.

Ms M. Novakova, Deputy Director of the Central Authority for the 1980, 1993 and 1996 Conventions and ISS correspondent in the Czech Republic, explained how the Central Authority functions in relation to incoming and outgoing cases under relevant Hague Family Law Conventions and Brussels II A. The Central Authority's team is mainly composed of lawyers and psychologists. By providing practical case examples, Ms M. Novakova presented the complexity of cross-border cases, especially regarding unaccompanied and separated children. She also referred to custody and access cases. Furthermore, she highlighted the important role that mediation, counselling and communication (including communication across borders via skype or other means) play to solve incoming child abduction and access cases, and to assist in custody proceedings. Regarding the placement of a child in a foreign State, she explained that Arts. 8 and 15 of the 1996 Convention provide solutions as the Czech national legislation prohibits the placement of a child under the custody or in foster care of a person living in a third country, in order to prevent illegal adoptions.

DISCUSSIONS: A representative from Consular Affairs in Canada asked about the role that diplomatic and consular bodies could play in cross-border cases and whether their involvement would be dependent upon a child’s nationality, as they are bound by their responsibilities under the Vienna Convention of 1961. Ms J. Schickel-Küng explained that there are no formal co-operation agreements and that their involvement would differ from case to case. Diplomatic missions can be reticent regarding their actions towards local authorities of the country where they are located. Ms M. Novakova added that the Czech Central Authority would often request embassies to assist in outgoing child abduction cases, especially when non-Contracting States to the 1980 or 1996 Conventions are involved. Embassies could help in providing information and relevant documents, or facilitate the return of the child or the placement of the child in alternative care. In addition, Ms G. Dimitropoulou from the EU Fundamental Rights Agency (FRA) asked about the role of Central Authorities in cases dealing with unaccompanied minors, especially if these minors are in conflict with the law. The response was that the Czech Central Authority co-operate with relevant embassies and apply Art. 56 of Brussels II A. Additionally, the question whether diplomatic missions could play a role in promoting the ratification of the Hague Conventions was raised. Mr P. Lortie stated that diplomatic channels and negotiations had played an important role, for example in the case of Japan’s ratification to the 1980 Convention. Ms P. De Luca from the European Commission added that the ratification and accession procedure in relation to the 1980 Convention fell under EU competence and that it was therefore not the role of the European Commission, and not of embassies, to promote such ratification or accession.

Ms A. Wilson from CFAB, ISS UK Branch, asked the panellists about their opinion regarding the recognition and enforcement of a protective measure in a country in which no equivalent measure exists. Additionally, she requested their views regarding the significant differences on how social reports are prepared. She noted that the non-compliance of a social report with national requirements could create an obstacle and prevent authorities from taking a decision in an individual case. All three panellists noted that they were aware of the differences
between national requirements for social reports and agreed on the need for guidelines or specific model forms for social reports.

A representative from the Federal Department of Justice in Canada asked about the involvement of immigration authorities in cases of cross-border placement. Ms M. Novakova explained that immigration issues would not necessarily cause problems within EU countries, but could potentially hinder the placement of a child in a non-EU country if immigration laws are not respected.

- **International co-operation among judges:**

The Chair, Mr P. Lortie, briefly introduced the theme of direct judicial communication within the International Hague Network of Judges (IHNJ) and welcomed the great number of network judges attending the conference. He explained that the IHNJ was created in 1998 by four members and has adopted, in 2011, the *General Principles for Direct Judicial Communication*. He added that the purpose of the General Principles was to strengthen co-operation and communication between the network judges (who are formally designated in each country). The IHNJ now counts more than 100 judges.

The Hon. Judge F.J. Forcada Miranda focused on the many faceted benefits of direct judicial communication in transnational cases, which allows the facilitation, among others things, an assessment of the best interest of the child, transfers of specific cases, the restoration of family ties, and/or the identification of the competent court. A well-functioning and established judicial communication programme is a means to promote a consistent interpretation of legal instruments. This occurs through an exchange of legal questions, encouragement of mediation, or by discussing the involvement of Central Authorities, guardians, social workers and any other authorities. In his view, judicial communication could help tackle certain challenges, such as delayed procedures.

He then mentioned that the HCCH and the Council of Europe play an important role in promoting direct judicial communications and that direct judicial communications are increasingly referenced – such as in Recommendation CM/Rec(2015)4 on Preventing and Resolving Disputes on Child Relocation, prepared by the Europe Council of Europe's Committee on Legal Co-operation (CDCJ), or in national laws for example, in Spain. The Hon. Judge Forcada listed several networks, such as the European Judicial Network in Civil and Commercial matters, the IHNJ and IBER-RED in Latin America. He added that, in general, networking initiatives among those involved in cross-border family law cases are on the rise, such as the LEPCA project (Lawyers in Europe on Parental Child Abduction) which has already created a European network for lawyers.

**DISCUSSIONS:**

Dr. A. Wollner from ISS Australia, raised concerns about whether direct judicial communication could ensure the transparency and safety of communication exchanges. According to The Hon. Judge Forcada, parties are in most cases aware of the communication and of the exchange of documents between the involved judges; 90% of the conversations are included in the case file. Mr P. Lortie added that the Hague Principles on direct judicial communication give clear answers regarding the involvement of the parties. He said that the Principles outline the need to require approval from the parties in some cases, the need for record keeping, and the need to prepare any conclusions arising from direct judicial communications in written form. Another question was raised concerning the need for national legislation on direct judicial communication as it exists in Spain, Hong Kong and Canada. The Hon. Judge Forcada answered that a legal basis at national level was important as it gives judges the capacity to engage in, and to facilitate, direct communication.

**The operation of the 1996 Convention in practice (Session no. 2)**

- **Complementarities and synergies between the 1996 Convention and the Brussels IIA Regulation:**

The Chair, Ms P. De Luca, from the DG Justice at the European Commission, opened the session by briefly introducing the efforts being currently undertaken to review Brussels II A as a result of prevailing obstacles regarding the Regulation’s practical implementation, published in a report of the EU Commission in 2014 (e.g., incompatibility of national
legislations, supplementary requirements for the recognition of judicial decisions, lengthy and costly procedures). The review will be finalised in spring 2016 and the proposal for a revised Regulation would deal with, among others, the child’s right to be heard, the return of the child and the need to accelerate return proceedings.

Prof. P. Beaumont, University of Aberdeen, presented on the relationship between the 1996 Convention and Brussels II A. The latter has been inspired to a great extent by the 1996 Convention and the 1996 Convention supplements its provisions in relation to applicable law. He noted that the application of Brussels II A in relation to the 1996 Convention is regulated by Art. 61 of Brussels II A. Prof. P. Beaumont then focused on two aspects in which Brussels II A provides a more restrictive framework, the transfer of jurisdiction and provisional protective measures. Concerning the transfer of jurisdiction, there are significant differences between Art. 15 of Brussels II A and Arts. 8 and 9 of the 1996 Convention. With regard to provisional protective measures, Prof. P. Beaumont illustrated the differences between Arts. 11 and 12 of the 1996 Convention and Art. 20 of Brussels II A.

Prof. M.C. Baruffi from the University of Verona, focused on parental access rights and its’ regulation under the 1996 Convention and Brussels II A. Both instruments foresee an automatic recognition and a system of enforcement without delay. However, in practice, national legislation often creates obstacles to the enforcement of access rights. Regarding Brussels II A, it has been envisaged to include a reference to the 1996 Convention in the framework of the Regulation’s review. According to Prof. Baruffi, the Brussels II A review should be an opportunity to ensure harmonisation of legislative proceedings in the different national family law legislation within EU Member States.

Ms U. Rölke from ISS Germany highlighted the challenges related to the coexistence of both instruments – the 1996 Convention and Brussels II A – by presenting a practical case example between Germany and Spain. She underlined that, in particular, issues relating to Art. 55 of Brussels II A were in practice not clear to most professionals. Ms U. Rölke raised several questions with regard to Art. 56 Brussels II A and Art. 33 of the 1996 Convention, including among others, whether kinship placement would be considered as a placement under the instruments and whether placements under the instruments would include foster care. Ms Rölke also raised the question of which entity would determine whether a placement is in the best interest of the child. She stressed the importance of a strict timeframe within which the authority of the other country has to give its consent to the placement.

Ms P. De Luca recognised that there is a need for improvements, especially regarding the involvement of social authorities, which is a matter not currently regulated by Brussels II A.

DISCUSSIONS:

Discussions concerned the application of Art. 11 of the 1996 Convention in child abduction cases. Prof. P. Beaumont added that Art. 11 serves the purpose of filling the gap between the jurisdiction of temporary presence dealing with the case, and the jurisdiction of habitual residence. For example, Art. 11 could be applied to ensure the right of access during a return procedure.

- The socio-legal dimension of international child protection (ISS perspective):

The Chair, Mr S. Yau, CEO at ISS Hong Kong, opened the session and briefly presented the added value of ISS’ involvement in cross-border cases. ISS has acquired transnational casework expertise over more than 90 years.

Mr S. Auerbach, Head of Transnational Casework Department at ISS Switzerland, mentioned that due to the high complexity of cross-border child protection cases, a systemic child-centred and multidisciplinary case-by case approach, as well as accelerated procedures to find solutions according to the child’s needs and in his/her best interests, was necessary. ISS has acquired longstanding experience through its casework in Contracting and non-Contracting States. ISS involvement in the 1996 Convention framework is illustrated by different cooperation models with other stakeholders, namely the joint or complementarity model and the outsourcing model (based on Arts. 31 and 32).
Ms M. Ianachevici, CEO at ISS Moldova, explained how transnational cases are dealt with by ISS Moldova and ISS Network members. The ISS Network is dealing with approximately 75,000 cases each year. Although Moldova has not ratified the 1996 Convention, many of its ISS activities fall within the scope of the Convention. ISS Moldova specifically deals with many situations related to children that are left behind when their parents migrate for professional reasons. In such cases, the common approach, based on ISS methodology, is to establish the link between administrative authorities, judicial authorities and child protection services between different countries, but also within one country. Additionally, Ms M. Ianachevici explained challenges that are often faced in practice, such as lengthy procedures – some of these challenges could be addressed if the 1996 Convention were in force and the Convention’s co-operation and communication mechanisms applied.

By providing the example of the New Jersey Training Module, developed by ISS USA, Dr. F. Northcott, Director of External Partnerships and International Services at ISS USA, stressed the importance of adequate and specific transnational training and capacity building for persons involved in these cases - such as judges, lawyers and other practitioners.

Ms A. Yamoah, Technical Advisor for Case Management of ISS West African Network (WAN), explained the activities of the ISS West African Network. This network has established well-functioning intersectional co-operation in 15 ECOWAS countries and Mauritania. It has supported more than 5 000 children since its conception in 2005 by adopting a case-by-case approach based on harmonized standards to identify, protect and reintegrate vulnerable children and young migrants in the host country, their country of origin or in a third country. An individual reintegration project is defined with the young person in line with his/her age and maturity. The network clearly fills a co-operation gap in West Africa by connecting the child protection systems of the region, and is best placed to promote the ratification/accession of the 1996 Convention through existing relations as well as its practical implementation through well-established and proven practices.

Ms M. Dambach, Acting Director of the International Reference Centre and Coordinator of Advocacy and Policy Development Unit at ISS General Secretariat, presented on the importance of promoting the 1996 Convention as an international standard (accession, ratification and implementation) through advocacy and targeted awareness raising activities. She gave several examples of potential efforts that could be undertaken in collaboration with international organisations, such as the UN Treaty bodies, and with national governments in order to explain the added value of the 1996 Convention.

A participant from Canada raised the question on how complex transnational cases might be prevented on a local and global level. Dr. F. Northcott responded that the provision of training and inter-professional information exchange would be useful. She explained that legal and social stakeholders seem too often to be disconnected from each other and that this would need to be changed. The problematic situation of Haitian children crossing borders to the Dominican Republic and living in extremely precarious conditions, often undocumented, was mentioned. For Ms. A. Yamoah, the responses must come from the concerned government that has the obligation to protect its children by implementing measures designed to prevent children from crossing borders in the first place.

DAY 2 – AFTERNOON SESSION

The operation of the 1996 Convention (Session no. 3)

The afternoon session was opened by Mr F. Skiotis and chaired by Prof. N. Lowe.

- The protection of particularly vulnerable children:

Ms M. Sandvik-Nylund, Senior Advisor at United Nations High Commissioner for Refugees (UNHCR) provided recent statistics: within the 14.4 million refugees worldwide, affected children represent 51%. She then recalled the six UNHCR goals concerning refugee children: safety, participation, child-friendly procedures, legal documentation, specific needs and durable solutions in the child’s best interests. To ensure the last goal, Ms M. Sandvik-Nylund explained how UNHCR conducts both “Best-Interest-Assessments” and “Best-Interest-Determinations”. Despite the responsibility of the government to provide protection and care
for these children, based on UNHCR operational experience, she listed major challenges, especially linked to capacity issues, insufficient child protection systems, family tracing, timeframes and a lack of immediate and durable solutions.

Mr K. Neal, Child Protection Specialist at UNICEF Headquarters, focused on the need to protect unaccompanied children, especially given their increasing numbers (106,000 out of 400,000 asylum applications in the EU came from children from January to July 2015; 68 000 in the US in 2015). Currently, most States do not live up to their obligations under Art. 2 of the CRC regarding the protection of unaccompanied and separated children (UASC). He calls upon an enhanced collaboration among all States to allow for informed decisions for individual children. In relation to the 1996 Convention, Mr K. Neal asked whether the determination of a child’s refugee status would be necessary to grant a child the protection safeguards foreseen by the Convention. Mr K. Neal spoke of the critical role immigration authorities of receiving countries play by managing migration and carrying out border control, while ensuring the best interests of the concerned child. Therefore, according to him, it was crucial that competent child protection bodies were involved in evaluating the needs of unaccompanied children and that awareness was raised among professionals on the mechanisms provided by the 1996 Convention (e.g. the co-operation mechanism).

The Chair, Prof. N. Lowe, commented on Mr K. Neal’s presentation that the term “refugee” used in Art. 6 of the Convention was intended to receive a wide application.

Mr C. Braunschweig, Social Worker at the Transnational Case Unit of ISS Switzerland, remarked that responsibilities to address particular protection needs of UASC lie with receiving States. This includes the provision of safe accommodation, the nomination of a legal guardian, the individual assessment of a child’s situation (including his/her family environment), relations and contacts as well as the development of a durable solution concerning education, care and specific life projects for the child. However, Mr C. Braunschweig likewise called for others to assume responsibility, including NGOs, lawyers, doctors, psychologists etc. This could be as simple as assuming the role of a mentor or a person of reference for an unaccompanied child providing him/her some emotional stability. For Mr C. Braunschweig, the relationship of the 1996 Convention and the Dublin III Regulation remains unclear and is an issue that needs to be further addressed. He concluded by raising awareness of a manual developed by ISS Switzerland for practitioners working in the field with UASC and covering all different stages of care.

DISCUSSIONS:
A participant from the UK asked the panellists for recommendations on ways to overcome the disconnect between social services and family courts on one side, and immigration authorities on the other. Mr K. Neal recommended the practical examples given in Safe and Sound, a joint publication of UNHCR and UNICEF published in 2014. Ms M. Sandvik-Nylund added that child protection authorities in Sweden are involved in the assessment procedures at a very early stage. Ms L. Parker, CEO at CFAB, ISS Branch in the UK, raised the issue of lack of funding and capacity – an increase of both would enable child protection services to take a more active role in the procedures. Mr K. Neal suggested convincing governments to invest more in child protection services as this is, in his view, is an essential step towards improving current situation. Ms G. Dimitropoulou from FRA shared examples of different guardianship systems in the European Union Member States, which were included in in the recently published Handbook on Guardianship for children deprived of parental care prepared by FRA in 2014. This handbook identified the effective implementation of existing EU instruments as main challenge.

- Cross-border placement of children in practice:
Dr. R. Fucik, Director of the Austrian Central Authority under the 1980 and 1996 Conventions, explained the different procedural steps foreseen by Art. 33 before a cross-border placement, such as in "foster family or institutional care, or the provision of care by kafala or an analogous institution" can be implemented. The Convention does not explicitly identify a specific procedure, as it is a matter of national legislation. According to Mr R. Fucik, implementation of cross-border placements in accordance with the best interests of the child requires respect of the so-called “three C’s”: international and internal Communication, Co-operation and Compliance.
Through practical case examples, Ms A.M. Hutchinson, Lawyer and Partner at Dawson Cornwell in the UK, raised several issues that she observes as a private practitioner when dealing with cases falling under the 1996 Convention. For Ms A.M. Hutchinson, it remains unclear whether Art. 5 or Art. 11 should be applied to cases were children have been placed in the social care system in a country, which is ultimately not considered their country of habitual residence due to their parents’ doubtful immigration status. In such cases, Ms A.M. Hutchinson sees a necessity for gathering as much information as possible and applying Art. 11. She also mentioned that the framework provided by Arts. 8 and 9 is not frequently used and this can lead to important obstacles in practice, such as delays in final placement orders.

Dr. F. Northcott from ISS USA highlighted the importance of inter-professional co-operation in all matters regarding a child being placed across borders. In order to achieve better outcomes, social workers and legal professionals - often seen in conflict with each other – should join their efforts to find safe and sustainable solutions for the child. In addition to training programs - in order to facilitate the decision-process on cross-border placements (specifically in supporting unaccompanied minors in immigration proceedings) - ISS USA has conducted community surveys. These surveys collect community specific information about the assets and liability of the community that the child came from, and could potentially be returned to.

DISCUSSIONS:
During the discussion, several participants highlighted the necessity to enhance co-operation and communication between social workers and legal professionals. Aside from this, Mr D. Martin from ISS Australia stressed the importance of assessing the child's family situation at an early stage and of providing family-type care to children, which may include measures of care in a foreign country. A representative from the Danish Central Authority raised a question regarding the functioning of Art. 33 in the case of a placement order that foresees a specific treatment for the child, or a guardianship measure, that would not be recognised in the legal framework of the requested State. For Dr. F. Fucik, communication between both States was essential for the recognition and enforcement of a cross-border placement; such communication was also in line with the requirements in Art. 23(1) of the 1996 Convention. The Danish Central Authority representative then clarified that she was referring to cases in which consent by the other State had already been given, the decision was yet to be taken, and may include specific measures. The Chair, Prof. N. Lowe, explained that each State could apply its own law according to the Convention, and even modify the effects of a specific protective measure according to its national legal framework, once transfer of jurisdiction in terms of parental responsibility had occurred. In addition, Ms A.M. Hutchinson stated that there is no consensus among countries whether Art. 33 also applies to kinship placements.

- **Building the bridge between “habitual residence” and “substantial connection”:**
  Prof. P. McEleavy from the University of Dundee explained the significantly diverging interpretations of habitual residence at a national and international level by illustrating three decisive judgments of the Supreme Court of the UK of 2013 and 2014. Inspired by the CJEU case law (Mercredi v. Chaffe (Case C-497/10 PPU)) the established parental rights model was abandoned for an enhanced child-centric model. According to Prof. P. McEleavy, there was no uniform approach on whether habitual residence should be seen as a factual concept or a legal concept due to the existence of an imbalance between factual aspects (e.g. presence of the child or intention of parents/guardian) and policy considerations (e.g. provisional judgement or temporary stay of the child). The technical transfer mechanism of the 1996 Convention could help achieve a balance.

Ms U. Kluth from the German Central Authority under the 1980 and 1996 Conventions presented two case examples that highlighted legal and practical difficulties regarding the relation between Arts. 5 and 8 of the 1996 Convention. In both cases, the cross-border placement of a child was hindered due to uncertainty on which country was to assume the related costs. An alternative to the placement under Art. 33 would have been a transfer of jurisdiction under Art. 8 of the Convention, but this required the acceptance of the relevant
court, which is in practice often refused due to seemingly lacking substantial connection. The question was how to build a bridge between habitual residence and substantial connection based on the best interests of the child. According to Ms U. Kluth, better judicial communication providing more information about the concerned parties would have helped, although she was open to hearing other possible solutions.

**DISCUSSIONS:**
The Hon. Judge J. F. Forcada Miranda commented that the concept of habitual residence could create situations of uncertainty, and therefore requires certain flexibility. In addition, Prof. P. McEleavy mentioned that a previous declaration of both parents regarding the child’s habitual residence, which would have to be binding at least for a period of time, could provide solutions and avoid litigations. Dr. A. Wollner from ISS Australia added that some countries such as South Africa or the Netherlands require letters of consent based on elements of the 1980 Convention if one parent travels alone with the child as a preventive measure.

**The implementation and practical operation of the 1996 Convention – Convention’s potential (Session no. 4)**

The Chair, Prof. J. Pirrung, Honorary professor at the University of Trier and Former Judge at the Court of First Instance of the EU, opened the session by recalling the historical background and great achievements of the 1996 Convention, which was developed to overcome systematic challenges related to the previous 1961 Convention, especially through the development of a strengthened co-operation mechanism between central authorities.

Prof. G.P. Romano from the University of Geneva elaborated on the question of whether the concept of the best interest of the child could prompt judicial arbitrariness. According to him, a conflict around a bi-national child requires the impartial resolution by a bi-national court or other super partes authority.

Judge L. Bianku from the European Court of Human Rights illustrated, using the Court’s case law that the ECHR lacked provisions specifically dedicated to the protection of children, but that such protection could be taken from several articles of the ECHR, such as Arts. 2, 3, 6 and 8. Judge L. Bianku explained that for the ECtHR dealing with children’s rights cases was challenging, due to the Court’s incapacity to discuss the merits of a national decision and long timeframes (exhaustion of domestic remedies is required). This raised the question of effectiveness of Strasbourg judgments, especially as prompt responses regarding a child’s wellbeing are often crucial. ECtHR decisions must be taken according to a teleological interpretation of the Charter provisions and in the light of case-law dealing with Hague Convention situations, while ensuring the best interests of the child.

Justice V. Bennett shared her personal experiences and the benefit of the 1996 Convention through practical case examples, in particular regarding relocation and return cases. Justice V. Bennett mentioned the necessity to enforce national orders under Arts. 24 and 26, making use of the transfer of jurisdiction provisions and applying Art. 11 to address the access rights of the left behind parent.

Ms J. Schickel-Küng from the Swiss Federal Central Authority elaborated on the potential of the 1996 Convention, which can only be effectively used if central authorities are properly staffed and if knowledge and expertise on the 1996 Convention is enhanced. For her, it is also necessary to introduce change to the narrow attitude adopted by some competent authorities towards an expedited integration of international factors. She spoke of the importance of having practical tools, such as country profiles or targeted good practice guides related to specific procedures and articles, such as Art. 33 and Arts. 8 and 9.

Dr M. Wells-Greco, from the University of Maastricht and Partner at Charles Russell Speechlys in Geneva, restated two main aspects regarding the practical implementation of
the 1996 Convention. Firstly, on a national level, States have to allocate sufficient resources and funding to Central Authorities to deal with cross-border cases, which are increasingly gaining importance. He proposed to include the cost issue in updated country profiles (public legal funding etc.). Secondly, he spoke of the importance of promoting mediation as flexible and inexpensive peaceful resolution mechanisms for 1996 Convention cases, but stressed the necessity to improve the enforceability of mediated agreements.

Prof. N. Lowe concluded the panel discussion by making two requests. There is an apparent need for statistical data regarding cases dealt with in relation to the 1996 Convention and for a case law database, such as INCADAT for the 1996 Convention. Furthermore, Prof. N. Lowe raised several questions regarding the scope of Art. 11: e.g. what falls under the definition of “urgent”; can it be applied for return orders or even if Brussels II A is applicable? He noted that a current case before the UK Supreme Court might give guidance on these issues.

Conference day 2 was closed at 6.30 p.m.

**DAY 3 - FRIDAY, 23 OCTOBER 2015 – LAST SESSION**

The Conference was opened at 8.30 a.m. by Mr. H. Boéchat, ISS Deputy Secretary General and started with a review of Day 2, presented by Ms K. Bartsch, Senior Legal Officer at the PB of HCCH.

**The Way Forward (Session no.1)**

The Chair, Ms L. Parker, CEO at ISS UK, introduced the panellists and opened the session.

**- Promotion, development and monitoring of the 1996 Convention: Ideas and vision**

Mr P. Lortie highlighted differences and important synergies between the HCCH and ISS, and drew attention to the MOU signed between both organisations. He then gave a brief overview of ongoing activities and post-convention services, as well as existing tools, such as the Practical Handbook and the implementation checklist that the PB has developed. The overall aim of these activities and publications is to promote the 1996 Convention and facilitate its understanding. He also noted that expert groups on cross-border recognition and enforcement of agreements in international family disputes involving children and on protection orders regarding children have been created. In order to enhance the practical implementation of the 1996 Convention, the PB is organising regional conferences, such as the Santiago Meeting in 2013. Likewise, Mr P. Lortie announced a Special Commission on both the 1980 and the 1996 Conventions planned to take place in 2017.

Considering some of the challenges that had been mentioned at the conference, Ms M. Dambach from the ISS General Secretariat and Ms J. Rosicky from ISS USA presented jointly three goals on which ISS, as a network, would like to focus its future work, together with its partners, such as Central Authorities and / or the PB. Drawing on the three C’s discussed by Dr. Fucik, a variety of existing and potential services were proposed to contribute to accomplishing these goals. Namely: 1) a strengthened collaboration, co-operation and communication mechanisms among all stakeholders; 2) building capacity and proposing targeted trainings on 1996 Convention matters; 3) improved practical and legal compliance through advocacy and research to better secure the best interests of the child.

**DISCUSSIONS:**

During the discussion, Mr M. Coffee from the US Department of State noted that the U.S. will further work towards the ratification of the 1996 Convention. Mr P. Lortie expressed his hope that participants would put into practice what they have learned from others during this conference, such as the work done by the Czech Central Authority. Mr O. Geissler, Director of ISS Switzerland, stressed the importance of seeking co-operation with non-Contracting States. He also emphasised the usefulness of developing new approaches on child protection in Non-Contracting States, as was done for instance by the ISS West African Network through the establishment of common working standards. Mr O. Geissler likewise
spoke of the necessity of addressing the issue of resource allocation. Prof. G. P. Romano reiterated the need for supranational tribunals instead of mono-national judges and legislations to solve conflicts regarding cross-border children. According to him, ISS with international social workers shall be taken as an example. Ms M. Riendeau from Canada recalled the need for further discussions and adequate understanding of the 1996 Convention’s applicability and practical implementation. Mr H. Boéchat referred to the cooperation model established between ISS, the PB and Central Authorities in the area of intercountry adoption that has led to common and ethical approaches. He noted that such a model is needed in the area of cross-border child protection.

- **Recourse to mediation by Hague and non-Hague States in cases of cross-border child protection:**

Ms K. Bartsch referred to the role of Art. 31b of the 1996 Convention in providing strengthened co-operation and facilitating the use of the mediation process in solving family conflicts. Mediation could be used in preventing the lawful removal of the child due to parental conflicts. Mediation could also be of peremptory importance in relation to child relocation, enforcement of a return order, and with regard to custody rights. She noted that mediation was promoted through the Malta Process and the Working Party on Mediation. Through this process central contact points for international family mediation have been established in nine countries, both Contracting and non-Contracting States. These contact points may provide efficient solutions to transnational family conflicts.

Mr P. Segal, Former Senior Legal Counsel and Founder of the National Mediation Centre in the Israeli Ministry of Justice, sees IFM as a possible bridge between civil-democratic legal systems and religious legal systems. For example, Islamic law regulates pre-adjudication family dispute arbitration by relatives of the spouses, who usually strive to achieve a mediated settlement before relying on the courts. IFM overlaps with this legal policy, and therefore is a bridge between the different legal systems. According to Mr P. Segal’s understanding, developing an International Charter for administering IFM would be a soft law source for international mediation contracts, as it supports party autonomy and human dignity in solving family matters.

**Cross-border mediation in 1996 Convention cases (Session no. 2)**

The Chair, Dr A. Wollner, Manager of Legal Services at ISS Australia, stressed the importance of mediation in establishing trust between parents for a child-focused and successful manner of solving family conflicts.

- **The role of mediation in solving international custody, access and relocation cases under the 1996 Convention:**

Throughout a practical example of a case between France and the Philippines employing mediation via Skype, Ms M. Souquet, a French Mediator, showcased that independence and mutual understanding in mediation processes are essential. Based on her experience as an independent practitioner, main challenges encountered were often linked to engaging people in the mediation processes due to prevailing conflicts between them, cost, possible delays, and misconceptions on the concept of mediation. She also mentioned distance between the parties and online communication as barriers, as well as difficulties to deal with emotions and cultural or linguistic differences. For her, adaptability, prevention and dialogue should be seen as crucial keywords when talking about mediation.

Ms E. Pavkova, Mediator at the Czech Republic Central Authority for the 1980 and the 1996 Conventions and ISS correspondent, explained the recourse to mediation at the Czech Central Authority for child abduction, adoption, maintenance and access rights cases. In this country, specially trained mediators provide legal and psychological advice for free. The necessity for interpreters during mediation remains, however, a major challenge.

Prof. T. Shamlikashvili, Academic Chair of the Federal Institute of Mediation and Founder of the Center for Mediation and Law in Russia, raised that Russia is a Contracting State to the 1980 and 1996 Conventions – although not many States have accepted the accession of Russia to the 1980 Convention and therefore the 1980 Convention was only in force between
Russia and a few States. She stressed that mediation is a concept that is not well-known in Russia and that there is a need for awareness raising among beneficiaries and professionals. Prof. T. Shamlikashvili sees NGOs as potentially best placed to create cross-border liaisons between authorities and trained mediators. Although important nowadays, online mediation can also raise certain ethical problems.

DISCUSSIONS:
A question was raised from a representative of ISS Hong Kong on how to promote mediation within the population where there are a lot of cross-border family cases, but official channels take quite some time. She wondered if the involvement of educational authorities would help. A fact confirmed by Prof. T. Shamlikashvili who shared that – for prevention purposes – the acquisition of mediation skills was introduced into the educational program of for example, law schools. This idea was also shared by Ms M. Souquet. Dr. A. Wollner then wondered what to do in countries where mediation was not an accepted concept? Prof. T. Shamlikashvili believes that cultural differences must be taken into consideration in this regard. Ms M. Souquet added that, in China for instance, mediation was provided through non-formal channels and that an understanding of their methods must be acquired through dialogue, without trying to impose any established views. Mr. S. Auerbach from ISS Switzerland highlighted the need to adopt flexibility in mediation to ensure child-focused solutions. Ms P. De Luca from the European Commission noted the European efforts made to encourage mediation as resolution mechanism, as well as co-operation among non-Contracting and Contracting States. She also spoke on the EU Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. Furthermore, she shared with the audience that Russia’s accession to the 1980 Convention will soon be recognized by all EU Member States. A Dutch private practitioner mentioned the advantages of using online mediation, especially in cases where cost and distance issues hinder the mediation process. He further warned the audience on the use of the word “Skype” in any mediation agreement, for intellectual property reasons, preference should be given to term “videoconference”. Responding to a question from Mr. J. F. Zarricueta from the Chilean Central Authority for the 1980 Convention, Ms E. Pavkova explained that the established mediation system at the Czech Central Authority was used for incoming and outgoing cross-border cases.

- Mediation in international child abduction cases (Plenary session with the IFM Workshop):

The Hon. Judge A. Olland, Department of Juvenile and Family Law in the Netherlands, stressed the importance of a strict timeframe in child abduction cases and illustrated the proceedings developed in the Netherlands in handling such cases. Since 2012, all incoming abduction cases are centralised at the Hague District Court and dealt with in a “six weeks scheme”, giving space and time for mediation between the pre-trial and the full court hearings, and handing down of the final decision.

Mr M. Storm, International Child Abduction Centre, Centrum IKO in the Netherlands, presented the IKO, an NGO funded by the Ministry of Safety and Justice among others. IKO conducts mediation following the concept of “co-mediation” that employs a professional with legal background and a mediator, as well as a specialized mediator in case where children are involved in the mediation. By using this mediation model, agreements between the concerned parents could be reached in two thirds of cases.

Ms F. Ergun, Mediator and Intercountry Social Worker at ISS Australia, discussed the benefits of using IFM as a resolution mechanism for international child abduction cases, but mentioned also practical and legal challenges encountered in her daily casework. Ms F. Ergun called for a closer co-operation between central authorities and mediators, especially with regard to public funding for international family mediation.

Workshop on International Family Mediation: General briefings and findings (Session no. 3)
Mr P. Segal, member of the IFM Advisory Board, elaborated on the elements of the International Charter, stating principles and good practices of IFM as well as criteria for international family mediators. The principals and good practices elaborate on internationally accepted rules of family mediation process, which approve party autonomy and the children's best interests in family disputes. The criteria for international family mediators are based on accreditation systems used worldwide, and emphasize openness to cultural and religious traditions as an inevitable part of accreditation. Therefore, Mr Segal considers the International Charter as fundamental for the globalization of IFM.

Ms C. Caratsch shared the outcomes of the workshop and the developments on the IFM Charter with the audience. Through a participative process in facilitated discussions and different working groups, 52 mediators from 23 countries adopted 10 key principles, developed more than 25 promising practices to aid in fulfilling these principles, and shared their understanding regarding the required qualifications and standards of accreditation for mediators. According to Ms Caratsch, this collaborative process will continue and, for her, it represented a crucial step to reaching professionalization and better recognition of IFM practice. She expressed hopes that professional mediation would be made more accessible to a wider range of concerned families.

Conference – Conclusions and Recommendations (Session no. 4)

- **Recommendations – next steps:**

The Chair, Prof. P. Beaumont, thanked all the participants and introduced the Conference Drafting Committee for the Conclusions and Recommendations.

Mr F. Skiotis and Ms K. Bartsch listed the Conclusions and Recommendations.

The Conclusions and Recommendations were endorsed by all participants, after some amendments requested among the audience, on 23 October 2015 in Geneva.

**Concluding remarks:** Mr P. Lortie thanked all participants for attending the conference, expressed his gratitude to ISS, and gave wishes for the joint organisation of future events. He hoped participants could use the information received at this conference to better respond to the needs of children and families in crisis. Mr J. Ayoub emphasised the presence of numerous ISS Network members as well as conference or workshop participants who have come from very far to assist to the event. He addressed his gratitude to the PB, the Swiss Confederation, Republic and Canton of Geneva, the City of Geneva, the University of Geneva and other donors whose precious collaboration and efforts had made this international event possible. He then thanked the ISS General Secretariat Team for all its efforts in organizing the event.

**Conference day 3 was closed at 2.00 p.m.**