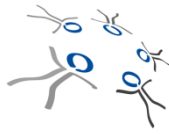




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CHILD CENTRE
Expert Group for Cooperation on
Children at Risk, EGCC



Child Exploitation – Cross-National Child Protection in Practice

‘PROTECT Children on the Move’

Fourth Expert Meeting

Transnational Child Protection: The role of judges, social services and central authorities

Riga, Latvia

25-26 May 2014

Summary Report

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Background and introduction

In 2014 and 2015, the Council of Baltic Sea States (CBSS) Children's Unit is coordinating the implementation of the project 'Child exploitation: Cross-national child protection in practice', with funding from the European Return Fund and the CBSS. The project was renamed to 'PROTECT children on the move'. It is implemented in cooperation between the CBSS, the Central Board of the State Border Guards in Latvia, the State Child Rights Protection and Adoption Service in Lithuania and the Stockholm Social Emergency Authority in Sweden. The project partners organised a series of five expert meetings with representatives from the eleven CBSS Member States, national governments, specialised national and regional institutions, UN agencies and organisations in Europe and beyond.¹ The overall aim of the project is to identify child rights standards and key agencies responsible for protecting children exposed to exploitation and trafficking in cross-border situations and children at risk. The project's website on the CBSS homepage offers an overview of the activities and progress made thus far and the material and documents from the expert meeting series.

The project will produce a set of guidelines on the human rights and best interests of children in transnational situations, an analytical report reflecting the discussions and learnings from the expert meeting series, and an online tool for transnational cooperation on child protection. The project team will develop an online tool as a Wiki that provides an overview and quick access to laws, policies, procedures, contacts and other information relevant for handling transnational child protection cases. The outcomes, in particular the guidelines, will form the basis for training initiatives in the region.

Thus far, the expert meeting series has yielded important learning. By addressing the sensitive and highly politicised issue of return, we have developed an understanding that it is necessary to focus more on children's rights in return procedures, in addition to matters concerning their reception. We need to consider return in relation to the best interests of the child, care plans and durable solutions, including the child's family situation and the wider context of the country of origin. In practice, return raises questions related to the child's safety, well-being, development and opportunities. Return has to be considered not only with regard to the costing of meaningful policy approaches but also from an investment perspective. The amount of public funds spent on time-limited reception and returns is significant. Evidence and experience tell, however, that the outcomes for children are not always sustainable and in line with the child's best interests.

A transnational perspective in responding to the cases of children on the move holds strategic opportunities and advantages to the benefit of the boy or girl concerned, the receiving state and the child's country of origin. Transnational cooperation is essential for multi-agency cooperation for gathering and sharing information and training professionals working with and for children on the move. There is a need for protocols and MOUs that involve all groups of

¹ The five expert meetings focused each on specific thematic areas relevant for the broad area of cross-border cooperation in child protection cases. The first expert meeting took place in Stockholm in January 2014 and focused on "Case assessment and best interests' determination: Special considerations and procedures in transnational cases of children exposed to exploitation, trafficking and children at risk". The second meeting was convened in Riga in May 2014, under the title "Returns and Transfers: International and European standards, procedures and safeguards for children exposed to exploitation, trafficking and children at risk". The third meeting was entitled "Returns and Transfers in Practice: Case examples of children exposed to exploitation and trafficking and children at risk" and took place in Vilnius in September 2014. The fourth meeting took place in Riga to discuss the role of judges, social services and central authorities in transnational child protection. The fifth and final meeting will take place in Stockholm in March 2015 and will offer a platform for reflections and discussions from the expert meeting series and the way forward.

child protection actors and assign each a clear role and responsibility. Connecting national child protection systems across borders is essential to strengthen the contacts and the operational collaboration between authorities and service providers in the country of arrival and departure, which is highly complicated as countries around the world have different positions in global power structures. We need central authorities in national child protection systems with broad mandates. Central authorities act as first points of contact for transnational cases and coordinate national and cross-border measures. We need to ensure that a continuum of services for prevention, protection and empowerment is in place to safeguard children on the move, and that referral mechanisms operate effectively within countries and across borders. A human rights-based approach, rooted in the UN Convention on the Rights of the Child, should be cutting across the mandates and activities of all relevant actors, including child protection and social services, law enforcement, border guards, immigration authorities and the judiciary. Although we are discussing the challenges in safeguarding children on the move, we should not be only problem-focused but look out for solutions and opportunities, identify and evaluate them and bring the successful and innovative ones to scale.

Key Note Speech by Philippe Lortie, First Secretary, Hague Conference on Private International Law: Direct Judicial Communications within the International Hague Network of Judges in the context of the 1980 and 1996 Hague Conventions and Brussels IIa

The Hague Conference on Private International Law (HCCH) promotes transnational child protection through an organic approach specifically in matters concerning private law regulating child protection and family matters in cross-border situations. On the basis of practice and experience, soft laws and norms have been developed that states are nowadays implementing into their procedures. These could be replicated in other thematic contexts as well. Of particular relevance and innovative power are the direct judicial communications practiced through the International Hague Network of Judges in the context of the 1980 and the 1996 Hague Convention.

For judges who are trying a transnational case, it is not always clear whom to contact abroad in order to obtain information they require for the case. In international parental child abduction cases, custody procedures may not have been initiated before the child was taken abroad. In response to this experience, the Hague Network of Judges was established with a group of four judges in 1998 and today, the network has 99 judges who have been formally appointed from 90 countries. We can see that the countries all have a different approach to nominate judges into the network. In some countries, the judge is appointed by the Supreme Court and in others, by the relevant ministry. Within the CBSS region, it would be important that Lithuania and the Russian Federation designate judges to the Network.

The network handles up to 100 or 200 cases a year. The objective of this transnational cooperation of judges is to give legitimacy to judicial communications. States are invited to designate one or more members of the judiciary to act as a channel of communication and liaison with their National Central Authorities, with other judges within their jurisdictions and judges in other Contracting States.

In 2012, the HCCH issued the 'Emerging Guidance' regarding the development of the

International Hague Network of Judges. They provide basic principles and guidance for designating judges into the network. Judges in the network have to be specialised and experienced in family law, with adequate authority, who are well regarded by their peers and provide leadership within the judiciary of their countries. The judges should have taken responsibility for international child protection matters. They should be sitting judges rather than representatives from ministries. The process for designation should respect the principle of independence.

When making direct judicial communications in transnational cases, judges need to respect the rule of law and the national law of their countries. When communicating, each judge should maintain his or her independence in reaching his or her own decision on the matter. When judges communicate directly, there may be a range of discretion as to what kind of information should and can be shared, and the communication should be limited only to information about procedures.

In Contracting States, in which direct judicial communications are practised, the following are commonly accepted procedural safeguards: Transnational child protection cases such as international child abduction require prompt decisions and quick action. Nonetheless, the judge has the obligation to keep a due record and to allow the parties to look at it. Parties should be notified of the nature of the proposed communication. Any conclusions reached should be in writing. The procedural safeguards have been commonly accepted by the International Network of Judges. They shall however not prevent a judge from following rules of domestic law or practices which allow greater latitude.

Under the current scope, direct judicial communications under the 1980 and 1996 Hague Conventions have been used for the following purposes:

- a) Scheduling the case in the foreign jurisdiction: i) to make interim orders, for instance support or measures of protection; ii) to ensure the availability of expedited hearings.
- b) Establishing whether protective measures are available for the child or the other parent in the State to which the child would be returned and, in an appropriate case, ensuring the available protective measures are in place in that State before a return is ordered.
- c) Ascertaining whether the foreign court can accept and enforce undertakings offered by the parties in the initiating jurisdiction.
- d) Ascertaining whether the foreign court can issue a mirror order, i.e. the same order valid in both jurisdictions.
- e) Confirming whether orders were made by the foreign court. The judge responsible for taking a decision on enforced return under the Hague Convention needs to assess if rights of custody have been breached. The judges need to know how to establish rights of custody and if this has already been established by a court. If there has been a breach of custody rules, the judge can turn directly to the judge in the other state instead of going through the Hague Network.
- f) Verifying whether findings about domestic violence were made by the foreign court.
- g) Verifying whether a transfer of jurisdiction is appropriate.

- h) Ascertaining the application / interpretation of foreign law in order to assist in establishing whether removal or retention has been wrongful.
- i) Ascertaining that the abducting parent would have due access to justice in the State to which the child would be returned, for instance, where necessary, access to free legal representation, and other forms of support.
- j) Ascertaining whether a parent will be subject to civil / criminal sanctions when returning with a child to the State of habitual residence.
- k) Resolving issues of parallel proceedings and the taking of jurisdiction. When we consider the increase of these cases, a growing number of children and parents with dual nationalities, people moving a lot, it would be worthwhile to look at the possibilities of having joined hearings. This could be interesting for the future also in relation to relocation issues.

Direct judicial communications are still not very well known, so it is important to give this more standing in law. Some countries have integrated the principles of direct judicial communications into their rules and procedures or at least have them as guidelines for their judges. Taking the extra step to introduce the general principles for direct judicial communications into national law would be important and we would like to encourage the CBSS region to support and promote this process.

During the discussion, the participants noted that the application of the 1996 Hague Convention is still not being used effectively for the protection of 'children on the move'. It is still a rather recent Convention with a limited number of State Parties. The Convention has a lot of potential that is not yet fully exploited, judges need to be encouraged to start using it more and the Hague Secretariat could promote a more proactive application of the Convention. The Convention offers a range of action to know more about the identity of children on the move, including unaccompanied children, to make sure the information about children who are missing is communicated to the competent authorities and to take more concrete action when they go missing. These are all issues that need to be looked into in the future as they do concern not only the authorities of the country where the child is found but also the authorities in the country of habitual residence.

The HCCH will hold a Special Commission in 2016 that will focus on the 1996 and the 1980 Conventions. In preparation for this event, the Secretariat has started to look more into the issues of unaccompanied children. The numbers are very high, considering that there are an estimated 15,000 children moving in Europe. The national state systems may not be prepared to address the situation of these children, which should not be treated only as a migration issue but as a child protection issue.

The role of the central authorities in promoting cross-border cooperation in child protection matters

The Baltic States are experiencing flows of emigration to other European countries. Children are leaving alone or with their families and the central authorities are handling in a growing number of transnational child protection cases.

Central authorities are ensuring that the relevant international, regional and national standards are applied in practice and that transnational cooperation on child protection cases is effective. The Brussels Regulation states that EU Member States shall designate at least one central authority as a competent body handling cases under the Regulation. The specific duties are listed in Article 55. The main function of a central authority is to help ensure effective communication between child welfare authorities in Member States. The 1996 Hague Convention refers to authorities having the jurisdiction to take protection measures for a child. A central authority under the Hague Convention provides assistance in locating a child.

The caseload handled by central authorities includes child abduction cases, social cases and migration cases where citizens need support abroad or are to be returned, the placement of children in alternative care, as well as cases of violence, abuse and neglect and family matters concerning custody, contact, visiting rights and maintenance.

The legal framework for handling transnational child protection cases is rooted in the CRC, the 1996 Hague Convention on Child Protection, the 1980 Hague Child Abduction Convention and the Brussels II bis Regulation as well as the practice of the European Court of Justice.

It is important to obtain an overview of the applicable standards and rules concerning transnational child protection cases. What is common between these legal acts? All these regulations mention that institutions working in child protection have to be guided in their decision making processes by the best interests of the child, as afforded under CRC Article 3. In its Preamble, the 1996 Hague Convention recalls "... the importance of international cooperation for the protection of children, confirming that the best interests of the child are to be a primary consideration". The Brussels Regulation II bis provides that "... the grounds of jurisdiction in matters of parental responsibility established in the present Regulation are shaped in the light of the best interests of the child".

When assessing the best interests of the child in a transnational situation, cross-border cooperation is essential. The best interests of the child shall be a primary consideration when we are exchanging information about a child, preparing a report about a child's situation, ordering protective measures in child welfare and seeking consent for the placement of a child abroad or asking for transfer of jurisdiction.

Cooperation is critical for making international agreements work in practice. Cooperation must be internal and external. The central authorities in Latvia and Lithuania cooperate nationally with local authorities, social services and the 'orphans' courts' (in Latvia) as well as with central and local authorities and other partners abroad. When receiving requests from abroad, central authorities often have to conduct assessments from a social and from a legal perspective. This multiple combined approach of internal and external cooperation is a key for creating a strong safety net for children.

The Lithuanian central authority is keeping a special registry of families who are considered 'dysfunctional'. When social workers who are in contact with these families find out that they move to another country, they send the information to the central authority, which sends a request to the central authorities in other countries to locate the families there. When these families return to Lithuania, having access to this information has been fundamentally important in some cases and has helped us to save children's life.

Cross-border cooperation is often time consuming. When a request for information comes in from abroad, the central authorities are often asked to send a response within 48 hours but it is hardly possible to make all the assessments in such short time. Central authorities may have to work with incomplete information as there is no common standard information form. The conclusions and decisions taken on the basis of the relevant case assessments are not necessarily shared in both countries and different interpretations might prevail. Another challenge is that social workers from abroad do not necessarily trust the central authorities and sometimes the social workers from abroad notify the central authority of another country that they plan to travel to that country to make the assessments themselves. It is however not clear if and how their assessments and decisions are admissible at court. So it would be important to invest in cross-border cooperation in order to strengthen the mutual trust and common standards for making assessments and taking decisions.

It would further be important to make sure that central authorities, where they exist, are used more consistently and contacted by the authorities abroad in all cases concerning the children who are identified in that country. There have been cases of children with clear indications of trafficking but the children were returned without prior notification by the authorities abroad and without any investigations into the suspicions of child trafficking.

Challenges in handling transnational child protection cases

Many countries have a decentralised structure in which the competence for child protection and social welfare lies with local authorities. Although many European countries experience an increase of transnational child protection cases, the caseload is generally rather low and the cases are often complex so that small municipalities and local social services might not have developed the relevant experience and routines in handling cross-border cases. The role of the central authorities is therefore particularly important when it comes to providing technical expertise, disseminating information, developing guidance and offering training.

Another challenge lies in the coordination of national laws of the two countries involved in a transnational child protection case in line with the standards afforded under the Brussels II bis Regulation, the Hague Conventions and other relevant international and regional standards. Due to the process of ratification and transposition, the national laws are closely aligned and reflect the international and regional standards. Nonetheless, there are still significant differences in concepts and definitions, procedures and regulations. There is still a need to develop the relevant procedures more specifically in practice, gaining more experience and routines with their implementation and application in practice.

A challenge with the 1996 Hague Convention is that central authorities cannot make any investigations of parents or children on behalf of the authorities of another country. Central authorities can only work with local services to gather information and pass it on.

Under Article 33, the 1996 Hague Convention provides for the placement of the child in a foster family or institutional care in another Contracting State. In some countries, however, this is not considered possible under the national law, as is the case in Denmark, for instance. There are unresolved matters of financing and supervising these care arrangements. The authorities of one state are usually not able to identify and appoint a foster family in another state. So in these cases, the other Contracting State needs to take over the full responsibility and the jurisdiction for the child.

The mandate of a central authority who arranges for the return of a child ends usually when the child arrives in the country of habitual residence. It is however important to offer follow-up services as are provided, for instance, by the ISS. National branches of ISS can provide support with the practical arrangements for the return of the abducting parent and the child to the country of habitual residence, translation of social evaluation reports and providing expert opinions.

Partnership and cooperation within countries and across borders

The 1996 Hague Convention on Child Protection sets out the objectives of the Convention in Article 1, which include to establish "... co-operation between the authorities of the Contracting States as may be necessary in order to achieve the purposes of this Convention". Articles 31 and 32 specifically provide that services be delegated or outsourced to "other bodies". In practice, many states cooperate with the ISS as service provider.

There are different channels of how transnational cases are managed. Some cases are handled through embassies, others through central authorities, and yet others through municipal authorities and social services that get directly in contact with their counterparts abroad.

At the national level, there are usually a range of different actors involved. At the central level, these include relevant ministries, such as ministries of justice, social affairs and foreign affairs. Central authorities for transnational child protection are often administratively located within or attached to a national ministry. In addition, municipal authorities and local social services are usually actively involved in responding to requests and managing cases. In general, central authorities cannot decide what national or local authorities have to do in a specific case, but they provide technical expertise, information and guidance.

The judiciary is commonly involved in transnational cases when it comes to taking decisions in relevant proceedings, establishing or transferring jurisdiction and ordering the enforcement of decisions. The police get involved in a case when children are reported missing, when criminal charges are filed and when court decisions have to be enforced. Social insurance institutions might be involved when there are needs of social assistance and benefits or compensation for victims of crime. In many countries, NGOs are providing support to children and parents in transnational family conflicts, including mediation, counselling and psychological support. In addition, there are individual professionals involved who have an important role in transnational child protection cases such as mediators, lawyers, guardians and representatives of children, psychologists and other experts who prepare opinions on cases.

Considering the high numbers of institutions, officials and professionals involved in transnational child protection cases, fostering trusted partnership and cooperation within countries and across borders is an imperative.

The judges' perspective on establishing jurisdiction, gathering and validating information and hearing the views of the child

Establishing and transferring jurisdiction

Establishing jurisdiction is a precondition for an international case to be tried by a court.

Under the Brussels II bis Regulation, Article 15, the court of a Member State may raise the question of transfer of jurisdiction where this is in the best interest of the child, when that Member State becomes the habitual residence of the child; when it was the former habitual residence; when it is the country of the child's nationality; when it is the habitual residence of a holder of parental responsibility or when it is the country where the child's property is located. Under the 1996 Hague Convention Article 8, the authority of a Contracting State may consider the transfer of jurisdiction if they consider that the authority of another Contracting State would be better placed to assess the best interests of the child, when it is the state of a child's nationality or where the child's property is located or where the child has substantial connections.

When a case is passed to the court and the court finds that they have no jurisdiction to take a decision in the case, Article 17 of the Brussels II Regulation applies. It affords that the court declares that it does not have the jurisdiction and notifies the authorities in the child's country of habitual residence. The notification is usually sent through the central authority.

Based on the experience of central authorities, it would be important to develop clearer guidelines on how to transfer the jurisdiction under the 1996 Hague Convention. Currently, the Convention is not yet applied consistently by courts and it is not always accessible on what basis decisions are taken.

Gathering information

The inquiry by the judge (inquiry *ex officio*) is the most important means in proceedings concerning children in cross-border situations. It involves, among others, the inquiry, written evidence, court hearings, including in-person hearing of the parents and the child, hearing the guardian ad litem of children, the youth office, seeking expert opinions, and other sources, such as reports from the school or kindergarten, the central authority or contact point, direct judicial communications, and the ISS. The experience and practice of requesting social reports from the authorities abroad are still limited, although they could constitute an important source of information. The reason for refraining from this source of information are mainly time concerns, as decisions in international child protection cases usually have to be taken promptly.

The inquiry starts with the pleadings of the lawyers. In many countries, there is only a limited number of lawyers who are specialised on transnational child protection cases. It would therefore be important to strengthen the capacity of lawyers, to guarantee high quality representation for the parties involved.

When the court receives a case from the central authority, the information that is considered necessary for the court has usually already been gathered and compiled. If the court needs further information, it can ask the central authority to gather and provide that information. In international cases, courts usually work with written evidence provided by the central authority,

statements from foreign countries and oral hearings. The court and the judge have also the possibility to seek information from the foreign country through the HCCH Secretariat or through the central authorities. There is the possibility of direct judicial communication and contacts through the network judges in the Hague Network.

Guardian ad litem for minors – Example from Germany

The guardian ad litem is not a representative of the child but a professional who is independent, appointed by the court to represent the interests of the child. This function is sometimes taken on by a lawyer, sometimes a psychologist, social worker or other professionals with a relevant background and qualification. The guardian ad litem shall determine the interests of the child and shall assert these in the court proceedings. The guardian shall inform the child of the object, course, and potential result of the proceedings in an appropriate way, and accompanies the child to the in-person hearing by the judge. Overall, the guardian ad litem secures that the constitutional rights of the child are respected. The guardian ad litem usually speaks to the child in person and might also seek to speak to relevant professionals such as the teacher. When the child is heard at court, the guardian is the only person allowed to accompany the child. The child is not present at the hearing at court, but the guardian ad litem is and keeps the child informed. Parents often have confidence in the guardian ad litem and respect his or her views.

In Germany, the courts are obliged to appoint a guardian ad litem only in rare cases, but in return cases, a guardian ad litem should always be appointed to safeguard the best interests of the child. The underlying assumption is that abducting parents can generally not be assumed to have the best interests of the child in mind.

Hearing the child

The right of the child to be heard is afforded under Article 12 of the UN Convention on the Rights of the Child, Article 24(1) of the Charter of Fundamental Rights of the European Union and many other international and regional standards. The right to be heard is strongly promoted by the UN Committee on the Rights of the Child, including in its general comment. The Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice of 17 November 2010 also provide for the right to be heard and offer specific guidance.

The in-person hearing of the child is important because the proceeding is essentially about the child. It is usually easier for a judge to come to a decision when taking into account the view of a child. In addition to hearing the child in person, it can be important to get a report from the social services or child protection services and other relevant authorities or experts as well as the child's guardian or representative.

The national laws on hearing children at court differ between countries and the practice varies according to the case and the procedures and facilities available at the court. In Germany, children as young as three years old can be heard at court. The child should be informed of the object, course, and potential result of the proceedings in a way that is appropriate for the child's age provided that there is no risk that the hearing might cause harm or another negative impact to the child and his or her development, education, or health.

Hearing the child in international parental abduction cases is not primarily aimed at gathering facts. It is about ensuring that the views and perspectives of the child are being taken into

consideration as they are critical for taking a decision. The judge will not ask about the child's relationship to the mother or father, but will enquire about the child's views of the living situation and his or her relationship to other family members. When a judge understands the views and feelings of the child, it is easier to work with the parents to find a solution. The child might therefore also be asked to speak about their own ideas on how situation could be. That can sometimes help to mediate between the parents.

It is important to conduct the hearing in an appropriate environment and through trained professionals. There is still need for training of judges, including training by psychologists. There are important topics about direct and indirect influence by the parents over the child. There are small things that help managing the situation and establishing a positive atmosphere in the hearing, for examples not sitting in front of the child but around the corner of the table, keeping good time management to not keep the child waiting in the court building, providing a child friendly environment, to inform the child and make the process transparent. Sometimes, children may be afraid to talk about the details, for instance they talk about the new partner of the mother and they are afraid that that will be mentioned to the mother later on. So it is up to the judge's discretion in which way and to what detail the parents are informed and it is good to be transparent about that with the children.

The Brussels II bis Regulation provides for the right of the child to be heard in family proceedings,² without however imposing any specific methods for hearing children. The Regulation does therefore not modify the national procedures, which differ across the EU Member States. There are different approaches as to who conducts the hearing, it can be a child psychiatrist, a trained court officer, a social worker, a trial judge, the hearing can be held in the court room, in chamber or in a special child-friendly room. Many EU Member States have introduced new legislation on the child's right to be heard but there is currently no uniform approach. This can lead to conflicts where the court of enforcement is obliged to enforce the decisions taken by another court abroad and has no power to oppose, even if the standards for hearing the child abroad are considered inferior to the national standards guiding the court of enforcement.³

Overall, the speakers and discussants noted that the participation of children in judicial proceedings still needs to be strengthened throughout Europe, including through a reform of the relevant national laws and practice. Professionals and officials working in this sector have a need for more training and specialisation and need access to useful tools and methods on how to hear children. In particular, multi-disciplinary approaches need to be strengthened. There are still cultural barriers and resistance to involving children actively and in a non-discriminate manner, in line with ethical standards. There may be an imbalance of power that is negatively impacting the hearing or the way that the child's statements and views are taken into account. The risk is that adults might only hear what a child is saying when they agree with the child's statement. Overall, there is a need to monitor how the standards for hearing children in judicial proceedings are currently being applied in practice and to measure also progress made in this regard.

The use of communication technology for taking evidence

In some cases, the presence of the child or a parent at court may not be possible, for instance

² See Brussels II bis Regulation Recital 19 and Article 23 (a) and (b), Article 41 (2)(c); Article 42 (2)(a); Article 11 (2).

³ See for instance: ECJ Case C-491/10 PPU Aguirre Zarraga vs. Pelz.

when custody proceedings concern an abducted child who is not present. The Recital 20 in Brussels II bis provides for the possibility that the child be heard by using the means laid down in the Council Regulation (EC) No 1206/2001 on the taking of evidence. This regulation provides for the main objective to ensure an improved, simplified and accelerated cooperation in the taking of evidence in cases with a cross-border element. It affords a possibility to employ communications technology, in particular videoconferencing (Article 10 (4)). The Practice Guide for the application of the Regulation offers more detailed guidance on how this could be handled in practice. Many judges are however uncertain and concerned about using videoconferences for taking evidence as this is not part of the daily work and routines. There is need for further experience with these techniques.

Regional and international networking and judicial cooperation relies strongly on modern communication technologies. In order to safeguard data protection and confidentiality of the parties concerned, these technologies have to be used wisely and in a sensible way. There is still need for more information and awareness on safe communication channels, in particular there are doubts as to if and how the current e-mail communication technologies are offering a satisfying standard of security and reliability of communication.

Concentration of jurisdiction

In countries with a decentralised jurisdiction, local or district courts may only rarely have to try transnational child protection cases under the Hague Conventions. When the experience with these often complex cases is limited, it would be important to consider a stronger concentration of jurisdiction to few local or district courts and appeal courts. Concentrated jurisdiction would benefit the handling of the cases in practice.

Direct judicial communications

Direct judicial communications are very useful as there are many scenarios where judges have the need to consult a judge in a different country. Judges can consider to take recourse to direct judicial communication in a broad range of cases, including to resolve *lis pendens* (a notice of pending action) and related action cases; to resolve cases involving concurrent proceedings at the same time in different jurisdictions; and to avoid irreconcilable judgements given in different jurisdictions. Direct judicial communications can also be used to transfer a case to another court that may be better placed to hear the case; to find out which is the competent court in another country when a case has to be transferred abroad; and to deal with child abduction and custody proceedings within the scope of the Brussels II bis Regulation and the 1996 Hague Convention where direct judicial communications are regulated.

Mediation in transnational child protection cases

Mediation is a structured process whereby a mediator facilitates the communication between the parties to a conflict, enabling them to take responsibility for finding a solution to their conflict. The mediation process is based on some fundamental principles and rooted in international standards. Mediation has to be a voluntary process to which both parties give their informed consent. The mediator has to take a neutral role, be independent, impartial and fair. The process is based on confidentiality and consideration for the interests and welfare of the child. These principles are provided for in the Guide to Good Practice in relation to the

1980 Hague Child Abduction Convention, available from the HCCH Secretariat.⁴ The HCCH Guide to Good Practice has been translated into many different languages, including Russian and Arabic. It offers very useful guidance on how to start international mediation and how to implement the agreement resulting from the mediation.

Mediation offers many advantages. In practice, however, it remains a challenge to convince parents in the situation after an abduction that mediation could help to resolve the case and that it is worthwhile to consider mediation as an alternative to court proceedings. Some parents are inclined to reject the mediation process due to the high costs related to it.

When parents are occupied with court proceedings in different countries and their own perspectives and arguments in the case, mediation can help to focus on the best interests and the well-being of the child. Mediation has also procedural advantages as it helps to maintain the tight time-frame of six weeks afforded under Article II of the Brussels II bis Regulation to resolve a case (Article 2 of the 1980 Hague Convention). The left-behind parent can, during this period, spend time with the child.

It is important to work with trained and qualified mediators who have different cultural backgrounds, language skills and professional areas of specialisation, such as lawyers, social workers or psychologists. Co-mediation would be useful but is rarely available in practice. Co-mediation is considered important to offer bi-lingual, bi-national and bi-cultural mediation, to ensure a gender balance in mediation and to combine different professional backgrounds of the co-mediators.

It can be useful to provide parents and lawyers who are involved in a transnational conflict with standardised written information on the mediation process, ideally with translations into the main languages of the parents. Experience shows, however, that personal information about the benefits of mediation works best. Financial support from the government could help to promote mediation as a viable alternative to court proceeding. It is often difficult to mediate a case when the parties are not at the same place. Telephone calls, skype and on-line mediation can help to overcome the distance.

In Germany, a pilot project for Mediation in Court (MiC) has yielded positive outcomes in Berlin. There are many mediators in Berlin who are able to mediate in different languages and cultural contexts. The pilot project provides that mediators come to the first court hearing on a Hague return case when both parties are present. At this hearing, there is the possibility to make contact arrangements, to provide information about mediation, to check the documents and see if further documentation is required and to check if an arrest warrant has been issued. A second court hearing is immediately scheduled for 7-10 days later. A mediator attends the first hearing and in the time leading up to the second hearing, there is room for mediation. The mediator is provided by the specialised NGO MiKK and should speak the common language of the parties.

The advantages of this pilot project is that both parties are together in the same room. The judge explains the benefits of mediation to the parents and they can ask questions. The parents meet the mediator in person. Mediation becomes thereby a more concrete and realistic option in the emotionally charged and challenging situation. There is overall a greater transparency

⁴ See: http://www.hcch.net/upload/guide28mediation_en.pdf

as all the parties are involved and informed from the beginning, i.e. the parents and their lawyers, the guardian ad litem of the child, the youth office staff and interpreters, if required. The mediation agreement is documented at the second court hearing. The parties have to inform the court whether a solution could be found through mediation. During mediation, the mediators and the courts do not exchange information, but the agreement reached in mediation is communicated to the court. The court reviews the agreement.

A mediated agreement is usually more sustainable than a court order. A mediation agreement, approved by the court or a court decision based on a mediated agreement will be recognised and enforceable in all other contracting states of the 1996 Hague Convention (as afforded under Articles 23 and 28). When the two parties strongly distrust each other, the court can make the mediation agreement enforceable in both countries. It would be important to consider working with mirror orders in mediation as there may be problems with adhering to the mediated decision.

Even if the mediation did not lead to a final agreement, the mediation process usually changes the relation and communication between the parents and improves them. The parents are usually better aware of different ways of solving the situation and they better understand the consequences of their decisions and action for the child. They take on more consciously their own and joint responsibility for the child. Depending on the age of the child, the child might be involved in the mediation as well, to bring the child's opinion into the mediation process. The parents might start to trust each other again, because it may be the first time that they actually start talking again to each other and to listen. So the mediation process may also generally prepare the grounds for the parents to respect and adhere to court decisions if mediation does not lead to a decision, and to refrain from appealing against the court's ruling.

The EU Parliament has recently requested that a study be conducted on the implementation of the EU Mediation Directive in EU Member States. The study shall assess the impact of the Directive and propose measures to increase the number of mediations in Europe. The 2008 Mediation Directive provides, among others, for social assistance for mediation, including in family matters. The study findings evidence a paradox. There is a broad-based consensus on the advantages of mediation, but mediation is not yet being used and promoted effectively as an alternative channel of dispute settling in European countries. It would be important to strengthen mediation and to introduce a mitigated form of mandatory mediation, which might be the only way to make mediation eventually happen in the EU.

The long-term effects of parental child abduction

Research into the impact of parental child abduction reveals dramatic long-term effects on the children.⁵ Many children who have experienced parental abduction are suffering even in adulthood the effects of the abduction and of the return experience.

Adults who experienced parental abduction as a child describe problems of loneliness, self-harm and insecurity, entirely attributable to this experience. After parental abduction, children experience problems at school, subsequent problems with violence and alcohol abuse and

⁵ See research conducted by Professor Marilyn Freeman and published by reunite and the International Centre for Family Law Policy and Practice, UK. Freeman, Marilyn, Parental Child Abduction, The Long-term effect, December 2014, available from: <http://www.famlawandpractice.com>. This study was based on a small sample of 34 adults who had experienced parental child abduction as a child.

long-lasting depressions. They feel extreme confusion and guilt towards the abducting parent as well as shame and self-hate emanating from the abduction. The children testified that they have been adversely affected in different ways regardless of their age and stage of development.

There were several recurrent issues that came up through the research. They include a feeling of numbness, and blocking out, insecurity, difficulties of trusting other persons, low self-worth and difficulties of describing the personal identity as the person feels to be entirely defined by and through the experience of abduction. The respondents reported mental health issues, depression and suicidal tendencies. Personal relationships were impacted by the abduction experience as the respondents, as adults, had difficulties letting people in, engaging in intimate relationships and believing in lasting relations. The child respondents felt angry and confused by the court proceedings and the insecurity of their living arrangements. Their trust in one of their parents, and sometimes both, was compromised.

When children are returned, the fighting between parents often continues and the children dislike being caught up between the fighting parents, they do not want to be exposed to negative statements about the other parents, and they do not feel that they are taken seriously or that their views carried much weight. Parents felt there was a lack of post-return support for the children. It is important to understand that the case does not simply end when the child is returned. Being returned can be as upsetting and stressful an experience as the abduction.

The best interests of unaccompanied and separated children in transnational cooperation

Within the EU, approximately 12,000 unaccompanied asylum seeking children are registered each year. Considering these high numbers, there is an urgent need to operationalise the best interests' principle in all actions concerning these children. Therefore, UNHCR and UNICEF departed on a project to develop a guidance document on the best interests' principle, based on previous work on best interests assessments published by UNHCR. For 2014 and 2015, UNHCR is planning to engage with states to roll out this guidance.

Children migrate with their parents, regularly or irregularly. Unaccompanied and separated children are moving for purposes related to education and employment, survival in situations of conflict, poverty and environmental degradation, and family reunification. Children are also moving as victims of exploitation, including in the context of trafficking. An unaccompanied child is travelling without the presence of any adult to look after them, whereas the separate child is not travelling with parents but has an accompanying adult. Unaccompanied children tend to be in the older age groups whereas separated children are often young and very young children. Transnational child protection concerns also children left behind by migrating parents and children born in another state who are denied citizenship and risk statelessness.

It is important to introduce the standards afforded under the CRC into public policies that concern migrant children and their families, including CRC Article 3 on the best interests of the child and Article 2 on the right to non-discrimination. Article 3 is relevant for each law concerning children and impacts, directly and indirectly, each decision taken on behalf of a child. Article 2 states that all the rights of the Convention shall apply to all children under the jurisdiction of the state. There are however many potential grounds of discrimination that derive

from a child's migration, including the child's nationality and national origin (for instance the nationality of the parents), the migration status which might be key to accessing certain services and entitlements, and the possibilities for children to participate in decisions that concern them as afforded under CRC Article 12.

States are therefore not allowed to discriminate children on the grounds of their status or that of their parents and the same standards should apply for national and migrant children. Lots of governments have reservations against this and aim to arrive at a balance between migration policy and children's rights. In order to balance the perspectives of countries of origin and destination and to safeguard the rights of the child, it would be important to develop a coherent, long-term approach to children's migration, reframing migration in and of itself as neutral and an act of agency and choice. Within a coherent and rights-based approach, guarantees for safe return procedures that are fully in line with the best interests of the child, constitutes an important element.

Promoting and safeguarding the best interests of migrating children means the following:

- An individual assessment of the child's situation needs to be conducted on a case-by-case basis, guided at all times by child welfare authorities, not immigration authorities.
- Child-sensitive due process safeguards and child-rights impact assessments should be conducted in a manner appropriate to the age, gender and culture of the child and within a child-friendly environment.
- Immigration or asylum status interviews with children need to follow special protocols and be conducted by officials with the skills and experience to talk and listen to them.
- Children should have access to free legal counsel and, if unaccompanied, to a legal guardian. They must always be given the opportunity to be heard and express their views freely in all decisions that affect them or their parents.

A formal best interests' determination (BID) is not required for all decisions that are affecting children but all decisions must include an evaluation of the possible impact on the child. The best interests' determination is a deeper and more formalised assessment compared to best interests' assessments, which are made more frequently.

It is important to include into the asylum procedure a multi-disciplinary assessment that is holistic. The asylum decision has to demonstrate and document that the child's best interests have been a primary consideration. The BID should consider a range of solutions and be conducted as an independent process respecting all due process safeguards. The BID should be informed by the CRC and ensure the participation of the child through child-friendly procedures and proper information and support.

Procedural safeguards

In order to ensure a well-functioning child protection and asylum and immigration system in receiving countries that respect the best interests of the child from arrival and identification to a durable solution, there is a need for procedural safeguards. Procedures have to be child sensitive, including the interviewing techniques. Child specific country of origin information needs to be developed and used, recognising child-specific forms of persecution. Credibility

assessments of children's asylum claims need to be improved, departing from a culture of disbelief around claims lodged by children.

Safeguards derive partly from the CRC and other international standards as well as European law. They include the following:

- An independent representative or guardian needs to be appointed (recast Asylum Procedures Directive, recast Reception Conditions Directive, Dublin III, Anti-Trafficking Directive)
- Child-friendly information enabling the child to express his or her views (CRC General Comment No. 14)
- Interpretation (Asylum Procedures Directive, Dublin III Regulation)
- Priority processing in the best interests of the child, so the time factor is pertinent but that does not imply that the application is handled through an expedited process
- Appointment of a legal counsel (APD, Dublin III, RCD, ATD)
- Written, reasoned decisions (CRC GC 14)
- Review of decisions (CRC, ICCPR Art 13 and Art 14(5))

Sources of information

Best interests' determinations need to be based on a diversity of information sources. It is fundamental that the views of the child are taken into account in accordance with the age and maturity of the child. It is necessary to apply a holistic and multi-sectorial approach, taking into account the child's identity and family history and bringing in the expertise and perspective of professionals from different backgrounds. Information about the child's experiences during the journey and reasons for departure should be collected and made available for the assessments. The child is the main source of information but also other professionals and experts should be heard to share their perspective, expert reports and opinions, including with regard to the child's history and needs in relation to health and education, vulnerability, care and protection needs. Family tracing constitutes another important source of information and, when successful, reports on the home and family situation need to be obtained. The information gathering and sharing should respect national data protection laws and regulations.

Establishing trust

Establishing trust with the child is a fundamental prerequisite for best interests' determinations. Establishing trust is a demanding task and requires time, which is a constant challenge, especially when the caseload is high. It is also an ongoing challenge to find appropriate accommodation for unaccompanied asylum seeking children and to ensure that a qualified guardian is appointed in due time. Offering child-friendly information to the child is important to enable children to rectify any misinformation that the child may have heard from other sources, for instance within his or her community, from smugglers or traffickers. When a child distrusts the immigration officials and social workers that he or she is in contact with, the child may lose out on protection and other services that he or she would be entitled to. In these cases, a child may decide to leave and to move on.

Ageing out

The largest group of unaccompanied children are between 16 and 17 years old. Many children therefore turn 18 years old during the asylum procedure or shortly after they have been given asylum. When children 'age out', they lose all the social support they had been given previously as a child. They have no more the support of a guardian or representative and lose the right to accommodation in a special home or in a foster family. They also lose social, economic and educational rights and might be detained when their immigration status has not yet been regularised and when they have to leave the country. Most children also lack information about their rights as adults once they turn 18. As we know that children have been exposed to difficult and traumatising experiences in their place of origin and during the journeys, we know that they need support. It is problematic that children who reach 18 are suddenly regarded as fully grown adults and suddenly have to become self-sufficient and independent.

Against this background and considering the recognised unreliability of age assessments, a draft resolution was developed by the Council of Europe in cooperation with UNHCR. The draft resolution provides that states should consider establishing a transition category for children ageing out, including access to information, welfare assistance and education, extension of housing assistance until an alternative solution is found and access to health care. It would be important to train social workers to support this particularly vulnerable group and to strengthen peer support groups. UNHCR is also advocating for the right to family reunification to be expanded to young adults ageing out of child care.

Weighing best interests

According to the General Comments No. 6 and 14 of the Committee on the Rights of the Child, the assessment and determination of the best interests of a child involves a process of assessing and balancing all the elements necessary to make a decision for an individual child. In this process, there may be different elements to consider and some of them may appear to be competing or in contradiction. They include the following:

- The possibility of harm usually outweighs other factors;
- The child's right to be brought up by her/his parents is a fundamental principle;
- Except where there are issues of safety, a child's best interests can generally best be met with her/his family;
- The survival and development of the child are generally best met by remaining in or maintaining close contacts with the family and the child's social and cultural network;
- Health and vulnerability issues need to be assigned weight; and
- Continuity and stability of the child's present situation.

Socio-economic factors in the country of origin may impact the decision over the best interests of the child, even if the conditions do not amount to persecution.

Establishing and transferring jurisdiction over children on the move

Whereas the Hague Conventions provide clear guidance on how to establish and transfer the jurisdiction in transnational child protection cases, questions around jurisdiction over children on the move remain largely unaddressed. In the vast majority of cases, no attempt is made by

the receiving states to establish jurisdiction over migrant children.

Many of the measures taken and services provided for unaccompanied migrant children are of temporary nature and might therefore differ in quality and scope from the services available to national and resident children. The appointment of a guardian for a migrant child, for instance, usually is a temporary arrangement and lasts only as long as the child has a status in the destination country. If the child is denied asylum or humanitarian leave to remain, the jurisdiction will almost automatically be transferred to the country of origin and the child might be removed.

It remains therefore a challenge to safeguard the right to non-discrimination, as afforded under CRC Article 2, for migrant children, specifically because jurisdiction is not clearly and not explicitly established. An important question to consider is, therefore, whether the lack of a (judicial) process to establish jurisdiction allows states to *de facto* provide a lesser duty of care.

Establishing jurisdiction for the high numbers of unaccompanied and accompanied migrant and asylum seeking children identified in the EU each a year in a manner identical to that undertaken under the Hague 1980 /1996 Conventions would be a logistical challenge. In many cases, it may simply not be possible to receive and verify information on the child's situation and other evidential factors, as for instance is often the case for children arriving from Afghanistan or Somalia. Even the verification of the child's identity and age is almost impossible for many of these children. In Afghanistan, for instance, the birth registration rate is less than 30%.

There is a need to manage the exchange of information regarding these children in a manner similar to that of the 1996 and 1980 Hague Conventions. The cases of migrant children, however, need to be managed under a public law framework not a private law framework.

The model of the central authorities as established under the Hague Conventions is of great interest and value for managing also the cases of children on the move. There may be need for an increase in their responsibilities, including potentially also their budgets and decisional powers. The ultimate decision on the best interests of the child should however remain with the child protection authorities as opposed to migration authorities.

In general, it would be important to ensure that the safeguards, which are in place for certain groups of children, as for instance the safeguards stipulated under the 1996 Hague Convention, are reviewed in a way to guarantee a comparable level of safety, protection, care and welfare also to children who do not clearly fall under the scope of these instruments. Cases of transnational child protection that do not fall clearly into a well-defined group might lose out on protection due to the limited approach and mandate of the relevant institutions. Research conducted in Norway has evidenced that certain groups of children are at high risk due to their transnational situations but are entirely overlooked by the existing national and transnational protection mechanisms.⁶ This is the case, for instance, for children from immigrant families living in European countries who are sent to the family's country of origin for short or longer stays and whose safety, well-being and development might not be guaranteed according to

⁶ See: Gording Stang, Elisabeth and Hilde Lidén, *Barn i asylsaker, Evaluering og kartlegging av hvordan barns situasjon blir belyst i Utlendingsnemndas saksbehandling (Hearing children in asylum cases)*, NOVA, ISF, 2014.
Lidén, Hilde, Bredal, Anja and Liza Reisel, *Transnasjonal Oppvekst, Om lengre utenlandsopphold blant barn og unge med innvandrerbakgrunn (Mobile Childhoods, Transnational socialization strategies among immigrant parents in Norway)*, ISF Report 5: 2014, available from www.socialresearch.no/publications.

the standards afforded in their countries of residence. Doubts arise also when a parent decides to leave an abusive and violent family home in order to apply for asylum together with the children in a European country. In these cases, it might not be entirely clear whether asylum law or international private law has to be applied and which law takes precedence. There is a margin of discretion at the hands of the authorities assessing the cases that might imply certain risks to the children involved.

Data protection and confidentiality: International, European and national standards, challenges and dilemmas in transnational cooperation

Data protection

It is important to share information on children in transnational cases. The gathering, storage, use and sharing of personal information is regulated by international, regional and national standards on data protection, confidentiality and the right to privacy. Professionals and officials working with and for children have to follow very strict rules around data protection. But there is also a requirement to share information. These data protection regulations can support or obstruct efforts to safeguard children's right to protection.

The Universal Declaration of Human Rights of 1948 affords certain rights in relation to the respect for private and family life and protects the individual's private sphere against intrusion from others, especially from the state (Article 12). The Universal Declaration influenced the development of other human rights instruments in Europe. The European Convention on Human Rights affords a right to protection with regard to the collection and use of personal data (Article 8). This forms part of the right to respect for private and family life, home and correspondence. The Council of Europe Convention 108 is the first international legally binding instrument dealing explicitly with data protection. Under EU law, data protection was regulated for the first time by the Data Protection Directive 1995/46/EC.

National laws on data protection, confidentiality, information sharing and consent, as well as laws about reporting obligations, are complex and there is only limited knowledge and understanding of the relevant legal provisions and regulations and how to apply them in practice. In the UK, a survey was conducted with 506 professionals who have responsibilities for data protection. The findings demonstrated that not one of them was able to correctly name all the relevant data protection provisions that they were required by law to respect.

The following are fundamental principles that should guide the processing of personal data. Personal data shall be:

- Processed fairly and lawfully;
- Obtained only for one or more specified and lawful purposes;
- Adequate, relevant and not excessive in relation to the purpose for which they are processed;
- Accurate and kept up to date;
- Not be kept for longer than is necessary for that purpose;
- Processed in accordance with the rights of data subjects;
- Adequately protected, which implies appropriate technical and organizational measures ensured against unauthorized or unlawful processing of personal data.
- Not transferred to a country/territory outside the EU / the European Economic Area

without adequate level of protection for the rights and freedoms of data subjects.

Considering the numerous actors involved and the division of roles and responsibilities in child protection cases, the channels of communication within countries are highly fractured, even more so between the child protection services working in different countries. A first precondition for international cooperation on data protection is reaching conceptual clarity and harmonising the relevant concepts and definitions. The law determines who is responsible for storing and sharing data and information and for guaranteeing the respect of data protection laws in these processes.

The State Data Protection Inspectorate in Latvia has noted that there is a lack of data protection provisions regarding personal data transfers in international cases. The instruments used for transnational data transfers are not the same as in the private sector as, for instance, special clauses on data protection rights are missing. The level of privacy protection within public sector transnational data transfers should therefore be enhanced and it would be important to promote a standardised approach to avoid discrepancies. With regard to cases handled under the Brussels II bis Regulation, it would be important to have a standard template and guidelines for data transfer.

Reflections based on the Swedish court proceedings in relation to child trafficking and transnational child protection

In Sweden as in most other countries, there are many challenges with investigating and prosecuting child trafficking cases. A study conducted at the Örebro University analysed the child trafficking cases tried at Swedish courts. The aim of the research was to study the challenges in applying the legislation against child trafficking in order to successfully prosecute the perpetrators and get convictions.

The study found that police complaints do not always identify and focus on the correct crime. The investigations do not always lead to prosecutions and there are also many challenges involved in successfully prosecuting the cases. When children have been identified as victims of trafficking, it remains a challenge to return them to a safe place, whether the case was tried at court or not. Due to these and other challenges, there are few court proceedings concerning child trafficking cases in Sweden.

Child trafficking complaints registered in Sweden generally concern non-national children. There are no complaints regarding the trafficking of national children. The law does not provide for this distinction but there is a prevailing understanding that cases in which national children are being exploited are not trafficking cases. These cases are often treated as procurement cases, which involves lower sentences for the perpetrators.

In order to identify a trafficking case correctly, the mechanisms of trafficking need to be properly understood. Children are still often convicted for petty crime when in fact there are strong indications that they are exploited by others and that the case might qualify as child trafficking.

In order to recognise a case as a child trafficking case, the courts require a high threshold of control and a power relationship between the exploiting adults and the exploited children. This is contrary to international standards but we see that this is the way that child trafficking cases are identified in practice. Another issue is that, according to international and national

standards, there is a requirement to demonstrate the purpose of exploitation, but courts are usually of the opinion that the act of exploitation has to be evidenced. All these matters are affecting the attitudes of prosecutors and their decisions whether or not to take cases to court.

Evaluating the child's testimony at court constitutes an additional challenge and a risk for successful prosecutions. Child victims and witnesses might change the stories they tell, there might be inconsistencies and a lack of detail. There is a need for more sensitivity to cultural differences, especially when people have no written culture, different perceptions of time, and this may be reflected in the way they testify.

A major challenge is the return of children to safe places after the court procedures. In 2011-13, there were a total of 73 complaints of suspected child trafficking in Sweden, which resulted in just two prosecutions and no convictions. What happened to these children? The International Organisation for Migration is assisting only in few of these cases. The majority of the cases concern non-national children. When they are not recognised as victims of trafficking, it is likely that they have to leave Sweden.

We know that a number of children leave and are no longer in contact with the authorities. Between 2009 and 2011, a total of 334 children were unaccounted for. They may have been returned by someone or may have returned by themselves, but not according to the safe procedures that are otherwise in place for child victims of trafficking.

It is often not clear, whether the courts do have the jurisdiction in these cases. According to the Brussels II bis Regulation, the court may order provisional protective measures. But when the child is not a Swedish citizen, non-urgent protective measures are much more difficult to apply because then the court has to follow the channels of the national care system that might not be appropriate for transnational cases. In situations when it is not clear whether the parents are themselves involved in the trafficking and when the child might not have a safe home to return to, protection measures under the Brussels Regulation might apply. Other options for protecting the child and organising a safe return procedure are available under the specific international and regional standards guiding anti-trafficking responses such as the Council of Europe Convention on Action against Trafficking in Human Beings or also the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography. In addition, the Vienna Convention on Consular Relations and other relevant international treaties provide for the cooperation between states, including with regard to criminal proceedings. The main objective should be to safeguard the human rights of the child and to ensure the principles of non-refoulement.