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FORUM

THE ROLE OF INTERNATIONAL SOCIAL SERVICES IN PRIVATE INTERNATIONAL LAW

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I. Brief Introduction and Fields of Intervention

The purpose of this article is to showcase the current socio-legal family practices taking place in a cross-border dimension and requiring the international protection of children's and vulnerable adults' rights under Private International Law (hereinafter PIL). The International Social Service (ISS) has developed important co-operation mechanisms aimed at solving international family disputes, considering children's fundamental rights as primary and giving children primacy as legal individual rights' holders. The ISSs mechanisms prove efficient and effective in filling in the socio-legal vacuum present in the international legal framework, notably concerning private international treaties competent to solve cross-border individuals' relationships. In a multicultural and globalised context whereby mono-national legislations appear conflicting, PIL remains pivotal in providing harmonised legal systems of coordination towards international protection of individuals. However the social perspective of individuals' relationships must be taken into consideration in order to fully ensure international protection. In absence of worldwide instruments, PIL may leave unregulated grey areas¹ although its intervention is more than ever advocated for to face current socio-legal issues affecting the world population.²

In this regard, ISSs provide valuable and practical support in dealing with complex cross-border socio-legal cases, whereby it is essential that judicial and

¹ ADVOCATE GENERAL OPINION, *Neli Valcheva v. Georgios Babanarakis* case of 12 April 2018, ECLI:EU:C:2018:359, § 31: "However, despite the efforts of the EU legislature to adapt the legislation in matters of parental responsibility to developments in society, those developments are proceeding at a much faster pace than the process of legislative adaptation and it is clear that there remain some "grey areas", for which the legislation does not provide an explicit response. The case in the main proceedings is an illustration of those grey areas created by developments in society, in particular with regard to a child's contact with other persons to whom the child has "family" ties based on law or on fact (such as the former spouse of one of the parents, the child's siblings, grandparents or the partner of a parent who is the holder of parental responsibility). Those grey areas may give rise to, sometimes paradoxical, uncertainties concerning the existence of rights of access by persons other than the parents, in this case grandparents".

² *Ibid.* § 29: "On the other hand, at the sociocultural level, equally profound transformations are affecting the way of life of citizens. The phenomenon of families whose members (parents and children) have dual or different nationalities (which is closely linked to the free movement of persons and, more generally, to globalisation), the diversity of forms of union and cohabitation, besides marriage, in particular the civil partnership ("Pacs"), new forms of family structures, including single-parent families, reconstituted families or families with same-sex parents, and new forms of parenthood as regards children born of an earlier union, born through medically assisted reproduction or adopted, are just a few examples. The diversification of family structures is therefore a reality of contemporary society. Some of those phenomena are not truly new but, since the 1960s, the transformations have intensified and developed exponentially. Those economic and sociocultural changes, whose multiple effects on the lives of citizens are being felt at a steady pace, require in some cases a reconsideration of the assumptions underlying legal systems and the substance of their rules, and necessitate an adaptation of the law and in particular EU law (including European PIL)".

administrative authorities, such as courts and central authorities,³ and other bodies, such as local child and adult protection authorities (i.e. “*Service de protection des mineurs* – SPMI” in Geneva; “Children and Family Court Advisory and Support Service – Cafcass” in England) receive accurate, professional and trustworthy reports on each vulnerable individual’s situation in the State of their presence, and on that of his/her family, or part of it, often living in another State. This is crucial to ensure comprehensive as well as efficient and effective cross-border decision making focused on the child’s best interests as well as vulnerable adults, hence, ensuring them international protection.

For the last 94 years, ISSs have been providing multidisciplinary and socio-legal services, upholding the best interests of children, individuals and their families. The idea of an international social service was first discussed at an international conference in 1914, when delegates from seventeen countries concluded that international action was necessary to help migrant women. It was only after the First World War that the Young Women's Christian Association (YWCA), recognising the void in international protection of families and children, decided to take action. Because no organisation existed to respond to the needs of these migrating families, YWCA leaders realised that a new type of social services for separated families and children was needed. In 1921, this association undertook a survey about the needs of migrating people. In 1924, and realising the need to create a new organisation dedicated to migration, representatives from the United States, United Kingdom, Czechoslovakia, France, Greece, Poland and Switzerland founded the International Migration Service (IMS) in Geneva. In 1946 the IMS was renamed the *International Social Service* (ISS) to better reflect its global mandate. To fulfil this mission, ISSs interventions include:

- Studying from an international standpoint the conditions and consequences of migration in relation to individual and family life, and as a result of these studies making recommendations or undertaking any other appropriate action.
- Contributing to the prevention of social problems linked to migration or intercountry mobility through continuous advocacy.
- Informing social work professionals and the public on the needs of migrant individuals and families through socio-legal training.
- Developing and maintaining an international network of social work and legal services able to meet the needs of children, families and individuals who require cross-border casework services.⁴

³ A. DYER, The Internationalization of Family Law, *US Davis Law Review*, (1996-1997) p. 642.

⁴ S. AUERBACH, International Social Service Crossborder casework in 1996 Hague Convention matters, available at <www.iss-ssi.org> (Accessed 2018-05-23).

II. Social Perspective of Private International Law

PIL refers to those rules determining competence, applicable law, recognition and enforcement of judicial decisions, including protective measures, and international co-operation. These are the so called legal rules forming the legal scope of PIL. Beyond their legal scope, the purpose of PIL rules is to allow access to justice and provide certainty as well as continuity of the legal order across borders, by preserving and ensuring international protection for those individuals, beneficiaries of cross-border proceedings. These rules refer to the social scope of PIL – sociology of law.⁵ This proves particularly important when the beneficiaries are children or vulnerable adults; therefore the degree of international protection has to be the most accentuated possible.

To this end, important child centred tools and Alternative Dispute Resolution mechanisms have been implemented over the past years towards preserving and protecting children and vulnerable adults, particularly to ensure their fundamental freedoms and rights such as the child-parent relationship and their harmonious development in a family environment. These aim to solve cross-border family proceedings in a more efficient and effective manner in terms of the individuals' best interests, especially when vulnerable. Important consequences are also noticed with regards to costs and delays of proceedings which are non-negligible elements vis-à-vis individuals' interests, especially when these may undermine the economic and social development of children and vulnerable adults.

The importance of assessing child welfare in a cross-border custody proceeding or reaching amicable solutions through family mediation in cross-border family disputes remains pivotal to achieving the socio-legal purpose of PIL. ISSs cover a specific and fundamental function in both procedures through their multidisciplinary approach oriented towards comprehensive anamnesis of those special needs for which international protection is required by children and vulnerable families.

The ISSs multidisciplinary approach refers to a legal, social, psychosocial perspective analysis which aims to evaluate which administrative and judicial decision would be the most appropriate for the beneficiary concerned. To reach such anamnesis, ISSs carry out important intercountry child assessment, also applicable to vulnerable adults, in order to collect important information and draft a final report to be submitted to those competent authorities involved in the cross-border proceeding, such as governmental institutions and courts, in support of their decision.

International protection and international jurisdiction thus work hand in hand to ensure the efficiency and effectiveness of PIL. ISSs allow for such a clear cut link between legal and social mechanisms, being therefore an important socio-legal actor serving the best interests of children and families across borders.

This all becomes truer in today's world where important modern issues take place in the cross-border context such as international mobility, international

⁵ See e.g. E. FRIIS, Social Workers Linking Together Family Norms and Child Protection Norms, in M. BAIER (ed.), *Social and Legal Norms. Towards a Socio-legal Understanding of Normativity* (2013) at 159.

migration and increasing cross-cultural marriages. In order to face them, individuals call for modern global socio-legal responses so that their international protection is assured. This need may occur in cases of international child abduction, unaccompanied minors, cross-border surrogacy arrangements and simply intercountry divorces over which mono-national legal rules appear insufficient.⁶

In this context, through international co-operation processes oriented towards the respect of the best interests of individuals, ISSs allow for a more realistic approach vis-à-vis rights and freedoms by working in a bi-national dimension, or better called cross-border when comprising more than two States, ensuring that individuals feel safe and free to move from one State to another without their freedom being limited by mono-national legal frameworks. Thus, in absence of PIL treaties, the applicability of PIL rules is ensured by the international activity of ISSs operating in more than 140 States in the fullest respect of those PIL instruments that ISSs aim to serve (*i.e.* Hague Conventions 1980, 1993, 1996, 2000).⁷

A. Intersection of Socio-Legal Mechanisms

The mechanisms of private dispute resolution and protection of individuals furnished by PIL embrace both social and legal perspectives. This is particularly noticeable in child assessment that aims to determine children's needs and the way to ensure their protection. In order to guarantee such protection of child welfare, International Social Services orient their analysis towards a "child centred approach", meaning that the principle based on the best interests of the child is pivotal to achieving full comprehensive anamnesis of the child's well-being. The ISS team in charge of the assessment is a multidisciplinary one composed of legal, social, mediation experts who represent the variety of professionals involved in cases regulated by PIL rules. The assessment takes into consideration the future economic and social parental plans (*i.e.* house, schooling, financial and professional stability) to evaluate the ability to guarantee the right and special care and support for their children. If the child's parents are separated, the assessment takes place at the habitual residence of the child determined by his/her *enracinement* and *entourage* as well as that of the parent having sole legal custody over the child and responsible for his/her upbringing.

Such assessment is located in a cross-border dimension regulated by PIL rules – international or national, depending on the implementation or not of multi-lateral and/or regional agreements such as the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (hereinafter HC-1996) – which can therefore be considered as a PIL mechanism of protection, notably of those children involved in cross-border custody proceedings.

⁶ EUROPEAN PARLIAMENT, Children on the move: a Private International Law perspective (June 2017) at 8. doi:10.2861/19741.

⁷ INTERNATIONAL SOCIAL SERVICE, The activities of International Social Service and their legal bases, available upon request at <www.iss-ssi.org> (2007) at 3.

The 1996 Hague Convention provides a solid co-operation system where International Social Services cover a fundamental role in assessing the best interests of children as well as the parental capability to guarantee a stable life for their children. Article 32 (a) of the said Convention is a clear basis for such assessment which is due under the form of a “*report on the child situation*”. ISSs are included in the category “*other bodies*” mentioned in the said provision.

Let us imagine that Marco and Claudia are two children living in Italy with their parents, mother of Swiss nationality, father of Italian nationality. After some years, the couple wishes to divorce but it does not agree on the children’s residence. Briefly, the mother moves to Switzerland with the two children without any agreement concluded with the father. A decision confirming abduction is issued in Italy under petition filed by the father which intends to seek return of the children to Italy. However the mother does not facilitate the return which may entail *enracinement* and *entourage* of the children in Switzerland; meanwhile she sadly commits suicide and the Swiss competent authority retain jurisdictional competence by implementing a child protective measure placing the two children in alternative care. In this case ISSs, the Swiss member, may be mandated by the Swiss authorities, notably the Central Authority competent under HC-1996, to provide an assessment in cooperation with the ISS Italian member in order to evaluate whether the father may be capable to guarantee stability in Italy for the two children. This refers to the “*report on the child situation*” mentioned above.

ISSs provide an important added value to the implementation of PIL, especially where international instruments are not available. If the context in question, instead of being Swiss-Italian, were Swiss-Algerian, ISSs may be the only potential bodies to be competent for the implementation, implicitly harmonisation, of PIL rules by adopting the same assessment mechanism even in absence of any international instrument ratified between the two States. The fields of ISS intervention find their legal basis in international instruments but their applicability also falls outside of such multilateral agreements which means that their use is not limited to ratification. Thus, PIL activity is ensured beyond the boundaries of legal mechanisms through the support of social instruments.

The report named above is important for those authorities that are vested with decisional power, notably for administrative procedures, such as central authorities, or for judicial procedures, typically judges, and wish to base their decision on the best interests of children involved in cross-border conflicts. However such a report is not binding, which leaves some grey areas where the discretionary power of the authority may limit the usefulness of the said report. The intersection of socio-legal mechanisms hence finds a clear limitation to its multidisciplinary applicability.

1. *Child Centred Approach and Vulnerable Adults*

ISSs refer to direct protection of children and vulnerable families, therefore adults, by assessing their needs and the actual protection of their rights and freedoms. ISSs do not only aim at implementing PIL rules but their activity goes beyond, towards matching the compatibility between international protection and

jurisdiction. This may be very helpful to strengthening the *socio-legal nexus* according to which those PIL rules determining jurisdiction have to comply. In the context of international mobility, important legal evolutions have taken place relating to jurisdictional competence, with particular regards to connecting factors (*i.e.* habitual residence, domicile, nationality) according to which international jurisdiction is determined.

Important reference should be made to habitual residence pertaining to the *socio-legal nexus* established between the individual, *beneficiary*, and the State administrative and judicial authorities, *guardian*, of international justice within the cross-border family proceedings which is determined through a factual anamnesis based on social and family environment elements such as *duration, regularity, conditions and reasons for the stay within the territory of a Member State and the family's move to that State, the child's nationality, the place and conditions of attendance at school, linguistic knowledge and the family and social relationships of the child in that State*.⁸

ISSs role is indeed oriented towards the assessment of such elements which appear fundamental to determine international competence in the fullest respect of the legal order. Such assessment, which is called in the ISSs practice intercountry child assessment, represents a modern “*evidence tool*” which should reflect the efficient and effective impact of PIL by evaluating whether the State in which the child is present corresponds to the most familiar and appropriate jurisdiction for the child and vulnerable adult concerned.

The socio-legal support given by ISSs is therefore “child centred” or “adult centred” in respect of their needs but also “PIL centred” when it comes to making sure that the beneficiary of the cross-border proceeding is situated in the right jurisdiction to claim international protection.

a) *Cross-Border Casework*

ISSs cross-border intervention is also referred to as *intercountry individual casework*. According to ISS rules and procedures, all requests submitted before ISSs have to be referred to the national ISS partner. This means that vulnerable individuals seeking assistance have to contact the national ISS office, who will act as *primary contact point*. The request will then be handled according to ISSs methodology in collaboration with the ISS office where the service is requested. In countries where the ISS partner has no expertise to provide assistance on family tracing and reunification matters, they should be able to refer further or advise the enquirer. Furthermore, in countries where ISSs are not represented, the General Secretariat, located in Geneva, Switzerland, refers the request to the competent authorities or reliable organisations to obtain further support and advice. It should be noted that ISS methodology is developed in its *internal casework manual* currently under revision. Furthermore, each national member's intercountry casework service capacity and expertise vary according to the context and the child

⁸ ECJ, 2 April 2009, *A.*, ECLI:EU:C:2009:225.

protection issues handled by the ISS partners. In other words, not all ISSs partners have the same resources and expertise in handling intercountry casework.

In recent years, ISSs have noticed an increase in the number of cases concerning children deprived of their family or involved in international family conflicts. In these cases, ISSs might for instance provide social reports on the situation of children and/or their family environment, trace family members or offer mediation services related to international family conflicts. Family tracing and reunification are part of the main fields of intervention provided under the activities of family welfare/custody and access, unaccompanied children, surrogacy/donor-conceived persons, adoption and post-adoption. They refer to the assistance ISSs provide in tracing family members when the whereabouts of the family are unknown. The ISS General Secretariat estimated that the total number of cases including phone and e-mail enquiries handled by the ISSs network in 2016 could be estimated at 20,000 family tracing cases and 14,000 family reunification cases.

b) Intercountry Assessment

The *intercountry casework intervention* is based on the main international human rights standards such as the UNCRC⁹ as well as the Hague Conventions on family matters. This service can be divided into seven core activities: 1) Child Protection, 2) Child Abduction, 3) Family Welfare/Custody and Access, 4) Adult Protection, 5) Unaccompanied Minors, 6) Surrogacy/Donor- Conceived Persons (DCP), 7) Adoption and Post Adoption.

The following general principles lead ISS intercountry casework:

- ISSs promote and protect the rights of children, families and individuals according to human rights conventions, including the United Nations Convention on the Rights of the Child. Inherent in this latter scope, ISSs prioritise the best interests of the child by treating them in an inclusive manner – notably through the child-centred approach.
- As ISSs celebrate diversity, they continually strive for respecting and promoting the understanding and acceptance of all cultures worldwide.
- The principles of neutrality, confidentiality, independence, transparency and impartiality are at the heart of ISSs work.
- ISSs have a shared commitment to families, children and individuals that unites its global network.

Intercountry assessment is located in the above context towards ensuring the general principles set forth in the ISSs statutes.¹⁰ It refers to the monitoring of those vulnerable individuals' needs and fundamental rights by assuring them

⁹ Convention on the Rights of the Child of 1989.

¹⁰ INTERNATIONAL SOCIAL SERVICE, Statutes adopted at the Melbourne International Council, 2016, available at <www.iss-ssi.org> (Accessed 2018-05-23).

international protection as provided by international standards (*i.e.* UNCRC preamble).¹¹

2. Jurisdictional Competence

The issue of competence is peremptory in PIL in order to ensure continuity and certainty of law. Individuals should be able to count on predictable and clear cross-border provisions determining such competence in order to be ensured effective and smooth access to justice. International rules determining competence are particularly important for administrative and judicial authorities in order for them to exercise jurisdiction and allow commencement of proceedings.

In child custody proceedings, but also in disputes involving cross-border family relationships with a wider scope, jurisdictional competence is based on the habitual residence of the child referring to the place where their *enracinement* and *entourage* are established, notably by reason of their family environment (*i.e.* parents, parent holding parental responsibility, ascendants and siblings) and social integration (*i.e.* school and languages). However the legislative rules to determine competence in one State, notably the one of habitual residence, may not be sufficient to solve a dispute arising in a cross-border dimension, particularly because a) the anamnesis of habitual residence may be difficult in absence of harmonised rules of determination across borders; b) third States in which international conventions are not applicable will apply their own rules of PIL which may entail conflicts of laws.

This legal disorder¹² may be monitored, possibly solved, by the intervention of ISSs whose mandate falls outside international instruments and activity takes place in a cross-border dimension through international co-operation mechanisms. The competence of the State of habitual residence would be in this case extended beyond national borders and give rise to international jurisdictional competence in co-operation with the authorities of the State where the child is present. In the Swiss-Italian case mentioned above, jurisdictional competence is exercised across national borders by reason of the transnational axis established by ISSs during their assessment activity. This assessment activity takes place in the respect of PIL

¹¹ UNCRC, Preamble: “[...] Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community, [...] Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, [...] the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”.

¹² G.P. ROMANO, Conflicts between parents and between legal orders in respect of parental responsibility, this *Yearbook*, Vol. 16, 2015, at 144.

rules and aims to guarantee the applicability of such rules in a cross-border dimension in the name of justice for those individuals involved, particularly children as most vulnerable.

In the absence of clear determination of habitual residence and/or ratification, ISSs remain an available actor for PIL in order to ensure legal certainty. In the Swiss-Algerian case mentioned above, PIL rules are ensured through a) the assessment of ISSs, useful for the mono-national courts and central authority competent in the State of habitual residence in order to issue an appropriate and impartial decision; b) the coordination of legal systems in absence of internationally harmonised rules; c) the determination of habitual residence, therefore jurisdictional competence, in a cross-border context not governed by international instruments where the rules of competence would be mono-national, hence fragmented and conflicting.

The cross-border dimension reflecting the dispute is fulfilled by the socio-legal activity of ISSs which does not encounter limits in the legal framework of international treaties, in favour of the noble purpose to guarantee a cross-border solution focused on a *child centred approach*. The assessment, however, as seen above, finds its legal basis in PIL rules, notably the HC-1996 legal framework, which are then advocated and applied beyond contracting States. The latter finds its importance in a society affected by international mobility and migration where PIL must ensure modern mechanisms of dispute resolution aiming to fill potential grey areas of fragmented international regulation, non-harmonisation, and where reference to ISSs may be appropriate to fill the PIL vacuum.

a) *Legal Framework (i.e. UN, Hague System and EU)*

The International Social Services place their activity between public and PIL. The Convention on the Rights of the Child of 1989 (UNCRC) is a fundamental legislative reference within which the ISSs mandate is located and focused on the protection of child well-being. The umbrella principle while carrying out their *child centred approach* is the “best interests of the child” as a corollary of the UNCRC, mentioned in article 3.¹³

The intersection of public and PIL is strongly recalled in other PIL multilateral agreements such as the HC-1996 where the preamble provides that: “confirming that the best interests of the child are to be a primary consideration [...] Desiring to establish common provisions to this effect, taking into account the United Nations Convention on the Rights of the Child of 20 November 1989”. While ISSs are mandated to assess the family situation in order to determine whether a protective measure (i.e. guardianship, placement, return) should apply to

¹³ UNCRC, art. 3: “[1.] In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of laws, administrative authorities or legislative bodies, the best interest of the child shall be the primary consideration”. “[2.] States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures”.

the child, the *child centred approach* requires that any measure is taken in the sole interests of those children concerned.

The UN system provides useful provisions in which the ISSs fields of intervention are located. The International Covenant on Civil and Political Rights of 1966, art. 24 says: “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State”. The International Covenant on Economic, Social and Cultural Rights of 1966, article 10.3 says: “Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions”.

The Hague system implements the UN principles through PIL instruments, notably intercountry adoption¹⁴ and child protection measures,¹⁵ which are applied only if in the best interests of the child concerned. In relation to Intercountry adoption, ISSs allow access to relevant information relating to adoption procedures and laws (domestic and international). ISSs are able to draft important reports vis-à-vis the child situation and prospective adoptive parents, towards suitable and matching adoptions. The added value is particularly noticed in adoption processes taking place between States Parties to the Convention of 29 May 1993 on protection of children and co-operation in respect of Intercountry adoption (hereinafter HC-1993) and non-Contracting States, where accredited bodies or other competent authorities are not established, during which ISSs can provide valid support in promoting and applying the standards and safeguards mentioned in the Convention.

The HC-1996 provides clear reference about the activity of the International Social Services,¹⁶ particularly in those provisions related to international co-operation mechanisms where “*communications, mediation and localization*” (art. 31) are required in order to better solve child custody proceedings across borders. The ISSs activity, mentioned as “*other bodies*” in the framework of article 31, refers to a) the facilitation of communication and assistance in procedures relating to transfer of competence (HC-1996, arts. 8 and 9) towards a more appropriate jurisdiction for the child; b) promotion and recourse to mediation processes; c) obtaining information about the child’s whereabouts. Other activities may relate to child assessment (art. 32) and cross-border placement (art. 33). Importantly, in relation to placement, ISSs provide important statistics being a fundamental source of data to which other institutions such as the European Union refer.¹⁷

¹⁴ Convention on protection of children and co-operation in respect of Intercountry adoption, Preamble: “Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children”.

¹⁵ HC-1996, Preamble, “Confirming that the best interests of the child are to be a primary consideration”.

¹⁶ P. LAGARDE, Explanatory Report (article 31) § 140, at 591: “Of course, rejection of this proposal does not exclude the possibility that the Central Authority would have recourse to bodies of such uncontested competence as that of International Social Service”.

¹⁷ EUROPEAN PARLIAMENT, Cross-border placement of children in the European Union (2016) at 51. doi:10.2861/759018.

The origins of ISSs are particularly strong in Europe in matters relating to migration. The intervention of ISSs is therefore very accentuated in the European region, and co-operation programs and agreements are concluded with the European Union and the Council of Europe in order to advocate and implement concrete protection on behalf of vulnerable children and unaccompanied minors. Within the framework of the EU, ISSs carry out important projects, together with other institutions, funded by the European Commission. The purpose of these project activities is to implement better and more efficient legislation towards access to justice for children through coordinated international seminars and hubs. ISSs help in the drafting of important recommendations and conventions in the framework of the COE. Within the legislative framework of the Dublin III Regulation¹⁸, ISSs provide important information and assistance in relation to family reunification, including residence permits and change of residence.

b) Beyond National Borders: Cross-Border Dimension

ISSs activity operates at the transnational level through direct means of cooperation and communication between entities of the international network, counting more than 140 members in the four corners of the world. The legal PIL instrument barriers such as the international conventions implemented within the Hague system and relevant for the ISSs mandate (i.e. HC-1993, 1980, 1996, 2000) do not limit the beneficial horizons of the ISSs assessment whose purpose is to protect children and families across national borders. However it is to be noticed that such socio-legal activity which takes place through a multidisciplinary approach works entirely in the fullest respect of the Hague Conventions and similarly related international instrument principles such as those mentioned in the UNCRC and the ECHR.

Let us imagine an Australian/Chinese couple, father Australian, mother Chinese, living together in Australia for six years. The marriage was celebrated in China where they spent the first years of their marriage during which a child was conceived. Straight after the pregnancy, the couple decides to leave China and settle in Australia for professional reasons where their son, Joseph Sasa, is born and two years later their daughter, Mary Ruilin, is born. After six years living in Australia, the mother is dissatisfied with her marital relationship and about the current situation relating to their children who do not wish to embrace Chinese culture. The two children both speak Chinese and Australian English but they preferred living in Australia at that moment. The mother receives an interesting job offer from the newspaper "China Today" to become a reporter in China. She takes advantage of this to invite her husband to agree verbally on her relocation with their children to China for six months in order to allow them to improve their language and cultural skills in relation to their half Chinese origins. According to their parental verbal agreement, the relocation will last for six months, after which

¹⁸ Regulation (EU) No. 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

their children's living conditions, whether staying in China or returning to Australia, should be re-discussed during a potential short return to Australia. After six months the father, awaiting the return of their children to Australia, receives instead an email from his wife saying that she has filed a petition for divorce in China, where the marriage was celebrated, and lodged an application of custody over the two children. The father files petition for return to Australia by reason of child abduction.

In such a case, in absence of international and/or bilateral conventions between the two States, ISS Australia may be mandated by the High Court of Australia to carry out an intercountry child assessment in cooperation with ISS Hong Kong, responsible for China, in order to evaluate whether the habitual residence of the two children has changed in accordance with specific elements, such as *entourage*, school conditions, family environment conditions and plans for the two children, in order therefore to support the judicial decision to retain or decline international jurisdiction over the case.

B. Towards Practice

The impact of the social perspective of PIL is extended to the instruments concluded and implemented in respect of PIL principles and scope, notably predictable and just rules determining the regulations governing international competence, applicable law, recognition and enforcement of judicial decisions as well as protective measures, including rules governing international co-operation mechanisms.

The determination of international competence is represented by a direct link between international protection and international jurisdiction whereby the individual on one side – *beneficiary of the cross-border proceeding* – and the State administrative and judicial authorities on the other – *guardians of the cross-border proceeding* – have respectively the fundamental right and obligation to ensure international justice in a given State, notably either the one where the child was present prior to relocation or where the child is present following relocation. Such competence is determined through the reference of international instruments to connecting factors (*i.e.* habitual residence, domicile and nationality). The question remains in practice of how to assess and identify the connecting factor? The response given by PIL to such a question is to avoid any reference to legal definitions in the multilateral agreements, therefore referring to a factual judicial analysis based on the circumstances of the case – this is truer particularly for habitual residence which has today become one of the most prevalent and predominant connecting factors in PIL cross-border family proceedings.¹⁹

The circumstantial analysis to which PIL refers comprises social elements such as *parental intent, best interests of the child, family environment, language skills, entourage and enracinement of the child*. These elements are definitely part

¹⁹ This analysis refers to the presentation made by Vito Bumbaca entitled “*The Habitual Residence in International Family Law*” at the Suzhou Conference of May 19th 2018, “*Civil Codification in China and Europe*”.

of the social perspective of PIL whereby the authorities have fundamental legal and moral obligations to consider the following in respect of such elements: a) retain or decline competence; b) implement protective provisional and/or urgent measures; c) recognise and enforce or not judicial decisions; d) initiate international co-operation with foreign authorities in order to gather information on the child's situation as foundations for their decisions.

The importance of understanding the social implementation of PIL rules, particularly with regards to the international protection of needs, fundamental rights and freedoms of individuals, who are also considered the beneficiaries of the cross-border proceeding, remains crucial in order to predict the effects and impacts arising from the PIL legal order. Thus, being able to conclude whether the judicial and administrative decisions and related judicial and administrative procedures are concretely taken or not in the interests of the individuals concerned – including the social elements mentioned in *supra* – and, therefore, in respect of predictability and justice.

1. *Hague Conventions on the Protection of Children and Adults*

ISSs are actively involved in the implementation of the HC-1996, particularly with regards to the determination of international competence (arts. 5 and 6), including transfer of jurisdiction (arts. 8 and 9), as well as in the implementation of judicial and administrative decisions, including child protective measures (arts. 11 and 12); in the recognition and enforcement of judicial decisions (art. 23), and lastly in the international co-operation mechanisms (arts. 29 ff.).

ISSs are equally involved in the implementation of the Convention of 13 January 2000 on the International Protection of Adults (hereinafter HC-2000) with regards to the same headings mentioned for the HC-1996 as the structure of the legal framework is the same for the two conventions.

2. *International Child Abduction*

ISSs have a vast experience in matters relating to the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereinafter HC-1980), particularly with regards to the return of children (arts. 8, 11, 13) and rights of access (art. 21). International Family Mediation²⁰ should not be forgotten as one of the most important activities promoted and carried out by ISSs – the principal conciliatory activity of ISSs is about allowing parents to conclude amicable agreements with regards to their separation, particularly focused on the implementing modalities related to rights of custody and visitation over their children. The approach founded on the primary needs to protect the child from being separated from one of the parents, therefore ensuring the continuity of the child-parent

²⁰ INTERNATIONAL SOCIAL SERVICE, <<http://www.iss-ssi.org/index.php/en/what-we-do-en/mediation-en>> (Accessed 2018-05-23).

relationship (UNCRC, art. 10.2), is topical in the ISSs mediation activities aimed at preventing child abduction.²¹

3. *Intercountry Adoption and Alternative Care*

The HC-1993 is one of the first conventions in which ISSs have been involved in various ways.²² Firstly, ISS was involved in the Hague ratification process, therefore supporting the drafting of the Convention. Secondly, ISSs comprise among their departments a special unit focused entirely on issues relating to intercountry adoptions – the primary activity of such a unit is to allow full legislative national access to Governments, accredited bodies (AABs) and professionals. The purpose is to raise awareness among professionals as well as individuals in order to allow full respect and clarity of the principles and procedures envisaged by the Convention.

ISSs have strongly participated²³ in the co-drafting of the guidelines for the Alternative Care of Children endorsed by the UN General Assembly (UNGA) in 2009.²⁴ These guidelines are strictly related to the implementation of the UNCRC with regards to preventing children from unnecessary alternative care and that where needed this will apply in accordance with and fullest respect of those standards and safeguards provided by the UNCRC such as child well-being and their best interests.²⁵

III. International Co-operation

Team activity at the transnational level is fundamental for the ISSs, particularly in order to gather information and assess child well-being in the context of a cross-border dispute which takes place in a bi-national perspective. The more dissimilar the two States involved in the dispute are in terms of cultural and social traditions, the more important is the use of international co-operation mechanisms between the ISSs members present in the two States.

In a Russian-French case where a Russian mother has relocated to Russia with her two children without the agreement and consent of her French husband,

²¹ N. GONZALEZ MARTIN, *International Parental Child Abduction and Mediation*, in: *Anuario Mexicano de Derecho Internacional*, vol. XV (2015) at 357.

²² G. PARRA-ARANGUREN, *Explanatory Report on The Convention on Protection of Children and Co-operation in Respect of Intercountry adoption* (1994) at note 11.

²³ HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW, *The Implementation and Operation of the 1993 Hague Intercountry adoption Convention: Guide to Good Practice No.1* (2008) at 69.

²⁴ UNITED NATIONS, <https://www.unicef.org/protection/alternative_care_Guidelines-English.pdf> (Accessed 2018-05-24).

²⁵ INTERNATIONAL SOCIAL SERVICE, <<http://www.iss-ssi.org/index.php/en/advocacy#4-1-guidelines-for-the-alternative-care-of-children>> (Accessed 2018-05-24).

the French lawyer, on behalf of the French father, submits to the General Secretariat of the International Social Service a request pertaining to the return of the two children to France, being this country their previous habitual residence prior to the relocation, to obtain information in relation to the PIL legal framework between the two countries; the right of the father to file a return application and whether this should comprise the commencement of administrative proceedings through the involvement of the Russian-French Central Authorities. In such a bi-national context, ISSs will a) provide the French lawyer with comprehensive information vis-à-vis legislation and procedural rules, particularly in order to determine international competence and applicable law, thus allowing the speed-up of proceedings; b) inform the lawyer that a mandate vis-à-vis ISSs French member is a possible option to carry out an intercountry child assessment which will possibly be done in co-operation with the ISSs Russian member in order to determine the children's habitual residence and, therefore, whether they should return to France or continue to stay in Russia; c) transfer the request directly to the ISSs Russian member in order to gather information about the children's situation, particularly their family environment and well-being with their mother in Russia.

The above highlights the peremptory importance of the use of efficient and effective intercountry co-operation mechanisms among the ISSs network which is implicitly extended in support of all the other actors involved, judicial and administrative, towards the child's best interests. ISSs may, therefore, be considered as an *intercountry hub* being able to centralise international socio-legal requests and ensure fundamental PIL anamnesis vis-à-vis family legislation and children's needs, finally in support of the legal order across borders. Such a cooperation system may therefore be composed of two axes: a national one and an international one. This is also called *two-track model*²⁶ and it refers to a) vertical (national) cooperation between ISSs-Central Authority-Judicial Courts in a given State; b) horizontal (transnational) cooperation between ISSs members or between ISSs present in one State (*i.e.* the country of the child's habitual residence prior to relocation) and Central Authorities-Judicial Courts in another State (*i.e.* the country of the child's relocation).

A. Direct Communication

Direct communication represents the basis for efficient and effective international co-operation. In a modern globalised context where international mobility increases, administrative and judicial authorities have the fundamental obligation to exchange information directly in the most expeditious manner. For instance, the HC-1996, article 32, provides that the Central Authority in the State where the child is present following relocation has the duty to provide, also with the support of other competent bodies such as ISSs, a report on the situation of the child so as to allow the State of the previous habitual residence to assess whether the child

²⁶ ISS CASEWORK COORDINATORS GROUP, ISS Cooperation under the 1996 Hague Child Protection Convention – Executive Summary (May 2015), available upon request at <www.iss-ssi.org>, at 2.

may encounter any potential dangers. In the case of urgent provisional measures, the State where the child is present shall promptly inform the State of the child's habitual residence about the implementation of such measures (HC-1996, articles 11-12).

Intercountry activity of the ISSs in order to facilitate direct communication, hence international cooperation, among all actors involved in child custody proceedings appears fundamental in two case scenarios: a) it happens in practice that judicial and administrative authorities present in Contracting States party to the Hague PIL family instruments may not be familiar with such collaborative mechanisms, therefore not willing to commence coordination processes across borders – ISSs act as a facilitator in order to allow direct contacts, via their national members, among the authorities involved and, thus, ensure smooth cross-border proceedings towards the utmost protection of children; b) in cases involving authorities in non-Contracting States that are therefore no party to the Hague family system – ISSs will apply, independently of PIL, although always in the fullest respect of its peremptory principles and scope of predictability and justice, the *child centred approach* by asking the intervention of its members in that given State in order to gather information and sensitise the local authorities so that child well-being will primarily be taken into account.

The *child centred approach* applies uniformly among all the ISSs members beyond the boundaries of PIL instruments, but the Hague Convention safeguards and standards are constantly promoted. Such approach facilitates cross-border harmonisation in support of PIL independently of the ratification system which may be complex in some of the geographical contexts given the socio-cultural diversities.

1. ISSs Network

Today, ISS is an international federation of 140 interconnected non-governmental organisations and child protection authorities that have the capacity to assist children and families facing complex cross-border socio-legal situations. In some countries, there may be more than one ISS partner such as in Germany, where there are two representations. One is in Frankfurt and handles tracing, search for roots and adoption cases only. The other one is in Berlin and handles all the other ISS cases. The type of organisation representing ISS varies according to the context and can be governmental entities like in South Africa as well as NGOs and federations that have the capacity to handle intercountry cases.

ISSs are composed of three organs and two advisory bodies:

An International Council (IC), the equivalent of a General assembly is the highest decision making body of the Network and meets every two years. It operates as the guardian to the well-functioning and legal order of ISS in accordance with the Statutes – particularly by establishing guidelines and policies, deciding on the membership, electing candidates such as the International President.

A Governing Board (GB), which is composed of eleven members and the chief executive officer, governs the network in between General assemblies,

ensures that all decisions are implemented and exercises oversight for operations as well as monitors the work of the SG CEO. The GB meets four times a year, in person or by teleconference.

A Secretary General (SG), who is the chief executive officer of the ISS, is based in Geneva, Switzerland. The General Secretariat, which is the team of the Secretary General, coordinates the members' activities, consolidates and expands the ISS network as well as represents the whole Network in international fora. The General Secretariat promotes and facilitates international co-operation including by developing and pursuing advocacy campaigns and implementing worldwide projects.

Regarding the two advisory bodies, a Professional Advisory Committee (PAC) provides expert knowledge to the Governing Board and the Secretary General on the ISS mission and operations and is composed of executive directors of ISS members. The PAC's chair has a seat on the Governing Board to ensure smooth connectivity.

A Casework Coordinators Group (CC), in charge of developing the social work manual of ISS, proposing training material and providing technical information on ISS social work as needed, is composed of all members' casework coordinators.

a) *Beyond Legal Framework*

As we have seen, ISS expertise goes beyond providing legal responses. PIL cannot offer tailor made solutions to all cross-border individual cases, as they require careful considerations often through individual care plans, with specific socio-legal expertise. The importance of ISSs is specifically relevant in cross-border family cases falling outside the international legal framework either in the absence of Treaties signed between the States involved in the dispute or in the absence of international regulation as for cross-border surrogacy arrangements. The intervention of ISSs fills in such socio-legal vacuum extending at the same time the harmonisation and promotion of PIL principles – this is the intersection of law and social casework.²⁷

b) *Practical Cases*

In an International Family conflict case a father from Tunisia and a mother from Czech Republic are divorcing. The father lives with the child in Tunisia. The Czech Court requests the intervention of the State Central Authority in order to obtain a social report on the child situation in Tunisia, thus, to issue a decision on child custody. The Czech Central Authority (ISS Partner and responsible for the HC-1996 cases), requests assistance from the authorities in Tunisia in order to obtain a social report about the concerned minor, born in 2008. Since Tunisia has

²⁷ J.G. ROSICKY/ F.S. NORTHCOTT, The Role of Social Workers in International Legal Cooperation: working together to serve the best interests of the child, *Persona y Familia: Revista del Instituto de la Familia* (2016) no. 5, at 101ff.

not ratified the HC-1996, no cooperation mechanisms exist between Czech Republic and Tunisia in matters relating to children custody proceedings, the Czech Republic CA submits a request for intervention before the ISS General Secretariat to advise whether there is an ISS correspondent available for cooperation.

A relocation case taking place between Seychelles and Nigeria involves a Malian father and a Seychellois mother whose child was born and raised in Seychelles. The child was placed under a protective care measure following the depression and addiction problems faced by the mother. The mother and father were separated. The father has requested child custody which has been granted. He is now planning to leave Seychelles and settle in Nigeria with his Malian family living there. Before allowing him to leave Seychelles with the child, the Family Tribunal in Seychelles needs to ensure that the child will be in a safe and appropriate environment in Nigeria and that the mother's rights to visit will be ensured in the future. The Seychelles family tribunal requests ISSs intervention in order to determine the father's family environment in Nigeria, employment status, home situation; whether the stay is permanent or temporary in Nigeria; easy access to school and transportation as well as medical services.

A child lives in Kenya with her mother and stepfather. The latter would like to adopt her. The biological father is a Seychellois and lives in Seychelles. To proceed with the adoption in Kenya, the mother and stepfather need to gather all elements for their file to show their suitability to adopt. Seychelles child protection authority competent for the adoption wants to ensure that the adoption is in the child's interests. The Seychelles competent authorities request ISS Seychelles (Ministry of Family Affairs) to provide an intercountry assessment in Kenya in order to define suitability for adoption.

2. Central, Local Authorities and Inter-Governmental Institutions

International co-operation processes refer to both judicial and administrative procedures whereby various actors may be involved – central and/or local authorities depending on the national legal framework (*i.e.* Switzerland, UK, Germany, Italy and Australia); courts and tribunals; and all other bodies (*i.e.* ISSs and Mediators).

Central Authorities (hereinafter CAs) are the first authorities to be in charge of the administrative procedures through which child assessment or any other cross-border family requests (*i.e.* information exchange, child protective measure, parental responsibility measure) require their acceptance and approval in order to commence custody or cross-border family proceedings in that given State, in principle being this the State of the child's presence.

Once their competence is accepted, CAs may decide to transfer the request to local authorities (*i.e.* Cantonal Authorities in Switzerland, Regional Authorities in Germany) closer to the child's situation. CAs may also decide to mandate ISSs directly in order to carry out an intercountry child assessment or facilitate the implementation of a child protective measure across borders such as placement.

This transnational process takes place a long time before the judicial one. The role of the CAs is to determine whether the State jurisdiction is competent over the case in order to submit the request to other national authorities including Courts and ISSs as well as to implement child protective measures within the territory – *administrative procedures*. The role of ISSs is to assess child needs and interests located in a socio-legal perspective thus ensuring international protection – *multidisciplinary approach*.

a) *Impact of ISSs Intervention*

ISSs work hand in hand and in support of PIL worldwide. The wide network of ISSs composed of 140 members allows for harmonisation of PIL in these countries by advocating for and implementing the principles of those instruments governing the rules of competence, applicable law and recognition of decisions as well as international co-operation not applicable in absence of ratification. In absence of ratification, ISSs act anyway in the fullest respect of such instruments through those multidisciplinary teams present in its Network Members.

The impact of ISSs is thus twofold a) it facilitates the promotion and sensitisation of PIL across 140 international borders; b) the socio-legal perspective of ISSs allows for the human and social development of PIL by transposing the legal framework into social practice and therefore closer to the real needs faced by individuals.

b) *Practical Cases*

The HC-1980, articles 11 and 12 refer to the prompt return of the child following relocation which quickly becomes illicit retention and therefore potential abduction. Practice shows that the threshold between a lawful relocation and illicit abduction is very subtle because the relocation may have taken place based on a temporary parental agreement – a verbal agreement according to which one of the two parents relocate with the children for a period of six months to be re-discussed in terms of the living conditions of the children whether to return or not to the State of their previous habitual residence at the end of such period – and the parental intent to relocate may be considered as a primary element to determine a change in the child's habitual residence, not to mention the six month period could be sufficient to settle a new habitual residence.

In a case involving a UK/Hong Kong couple living for eight years in Hong Kong, the mother originally from UK decides to relocate to London with their three children under a written parental relocation agreement without mentioning the return deadline. The intent to relocate is due to marital contrasts and the wish for better education of their children in the UK. The father submits return application before the Hong Kong Central Authority under HC-1980, article 8. ISS Hong Kong is mandated to carry out an intercountry child assessment in the UK in collaboration with ISS UK to assess the whereabouts of the children and exchange relevant information related to the social background of the children in accordance with HC-1980, article 7. ISS Hong Kong will first have a call with their UK

colleagues and then request a report or travel to the UK to carry out the assessment. In the case of transfer of mandate, ISS Hong Kong will indicate the questions that they would like to submit before the relocated parent and children in order to evaluate the degree of integration of the two children in the UK, their school environment, their family environment and the future life plans for the children.

In a case related to a search of origins concerning an adopted child living in Hong Kong, ISS is asked to trace the biological parents living in Vietnam, Country of origin of the child. ISS Hong Kong will carry out a tracing enquiry in order to find out about the whereabouts of the biological parents; possibly establish a first link with them in the respect of their private life, and lastly organise a meeting between the child and the biological parents. During the whole process, ISS will make sure that the best interests of the child are preserved.²⁸

A further case concerns an unaccompanied Senegalese minor, 15 years, who wished to go to Italy, crossing West Africa, and who is stuck in Mali, Bamako, for working reasons. ISS Mali, partner of SSI-AO – Service Social International Afrique de l'Ouest – comprising the 15 Member States of CEDEAO,²⁹ after identification, has applied temporary care measures (*i.e.* temporary reintegration and quality care arrangements) with the purpose to facilitate the reintegration of the minor in a family environment if compatible with his interests. ISSs apply the “*eight steps model*”³⁰ to ensure a gradual long-term care plan for the social reintegration of unaccompanied minors, acting in accordance with the UNCRC, articles 3 and 12.

In a case concerning a Cameroon adult living and habitually resident in the UK, temporarily placed in a Care Institution because of drug addiction reasons, ISS Switzerland – habitual residence of the brother – has been mandated by the brother to carry out a report assessment in order to allow the establishing of contacts between them. The reason is due to a serious illness affecting their mother in Cameroon who wished to meet her children once again before her death. ISS Switzerland asked ISS UK to make direct contact with the care institution in the UK in order to assess the whereabouts of the placed adult as well as the adult's situation in the institution. This communication process took place in accordance with HC-2000, article 30.

IV. Where Do We Stand Now?

In absence of global PIL instruments ratified by all the worldwide Contracting States party to the UNCRC (196), ISSs allows for better harmonisation of socio-

²⁸ INTERNATIONAL REFERENCE CENTRE FOR THE RIGHTS OF CHILDREN DEPRIVED OF THEIR FAMILY (ISS/IRC), Adoption - The Search of Origins (2007) fact sheet N° 32.

²⁹ CEDEAO, Member States <<http://www.ecowas.int/etats-membres/?lang=fr>>, (Accessed 2018-05-22).

³⁰ INTERNATIONAL SOCIAL SERVICE, Children on the move: from protection towards a quality sustainable solution (2017) available upon request at <www.iss-ssi.org>.

legal protection in the fullest respect of PIL instruments safeguards and standards. However, ISSs activity is not mandatory, furthermore the intercountry child or adult assessment reports envisaged by HC-1996 and 2000 may not be taken into account by the jurisdictional competent authorities. This causes important socio-legal uncertainties vis-à-vis international protection whereby the best interests of the child may not be considered in non-Contracting States. ISSs will always act via international co-operation mechanisms through the *two-track model* mentioned in this article, although the effects of such fundamental activity for the child may remain unconsidered by judicial and State administrative authorities.

A. Efficiency and Effectiveness of ISSs

The direct intersection of PIL and social work is topical and pivotal in order to preserve the direct socio-legal nexus between international protection and international jurisdiction. The ISSs activity proves useful for a) determining child habitual residence, therefore international competence; b) ensuring and tracing the needs, fundamental rights and freedoms of the child and individuals concerned by allowing the right implementation of protective measures; c) allowing for the speed-up of legal procedures as well as reducing their costs.

The *child centred approach* applies a uniform manner across 140 Member States which advocates for harmonisation, uniformity and unification of the PIL principles mentioned in the Hague Conventions, as well as in regional instruments such as the EU Regulations. Prior to the implementation of the latter instruments, ISSs act within the framework of the UN Child Rights Convention towards the preservation of the child-parent relationship with both parents. The clear cut bond between PIL and social work remains crucial in solving cross-border family disputes.

B. New Horizons

The intercountry child and individual assessment, typical of the ISSs activity to which administrative and judicial authorities often refer, should be considered as an important “*evidence tool*” to verify and monitor whether child welfare is protected and ensured as well as whether protective measures and judicial decisions are taken in their best interests. The multidisciplinary team composing ISSs expertise should work closely with State authorities in order to avoid socio-legal gaps in the communication between the actors involved – the *two track model* is fundamentally important to achieve fullest communication.

Non-Contacting States may consider ratifying the Hague Conventions, particularly HC-1996, in order to allow a) streamlined and direct international judicial and administrative co-operation among the four corners of the world; b) recognition and enforcement of judicial decisions as well as child protective measures without causing conflicting judgments and heavy procedural exequatur proceedings.

V. Conclusion

As demonstrated in practice, since 1924 Private International Law has significantly filled in some of the void in international protection of families and children facing international mobility, international migration and cross-cultural marriages. However, in an increasingly globalised world, where the level of voluntary migration for work or family reasons, and forcibly displaced people is reaching high records, displaced children and their families might still end up separated by national borders. As shown in this article, *intercountry assessments* try to face a high level of cases involving huge complexities, comprising moral, ethical and practical considerations as well as multicultural and multifaceted contexts. Requests involving such issues reach regularly ISS offices by requiring specific multidisciplinary and socio-legal expertise often falling outside the international legal framework, notably the Hague Conventions, especially when involving non-Contracting States. Nevertheless, the ISS current challenge to strengthen its network by identifying and training new partners to better support the vulnerable individuals concerned as well as to find resources to provide free services or at least at a minimal cost, relying on its vast experience in establishing links between different countries, is more than ever relevant. ISSs interventions remain therefore a clear proof of evidence referring to the efficiency of international co-operation mechanisms, which is a solid pillar of Private International Law in solving cross-border family disputes in accordance with international safeguards and standards “*taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries*”.³¹

³¹ UNCRC, Preamble.