



INTER-AMERICAN COOPERATION PROGRAM FOR THE PREVENTION AND REMEDY OF CASES OF INTERNATIONAL ABDUCTION OF CHILDREN BY ONE OF THEIR PARENTS

AG/RES. 2028 (XXXIV - O/04)

GENERAL PURPOSE:

The establishment by the Member states of the Organization of American States of an Inter-American Cooperation Program for the Prevention and Remedy of cases of International Abduction of Children by one of their Parents.

The Program's main purpose will be to strengthen cooperation among the states in the Americas by encouraging and assisting them to take concrete actions aimed at preventing the international abduction of children by one of their parents and to adopt effective measures for the prompt return of abducted or wrongfully retained children to their country of habitual residence without affecting access, custody or guardianship rights.

Consistent with this purpose, the Program aims to promote the adoption, effective implementation, and full application of the Conventions. Nothing in the Program shall be interpreted to detract from the Conventions' objectives, purposes, or terms.

SPECIFIC OBJECTIVES:

- To promote the signing, ratification, approval, or acceptance of, or accession to, as the case may be, the Conventions and supporting agreements.
- To promote cooperation for the implementation, application, and fulfillment of the Conventions.
- To evaluate whether supplementary agreements or other measures would support the achievement of the Conventions' objectives.
- To promote the strengthening of national systems for the effective enforcement of Conventions by encouraging the development and application of prevention and remedy policies as well as implementing training programs addressed to Central Authorities and their staff, and to other related authorities.
- To implement the Inter-American Information and Cooperation Network on International Child Abduction. To develop an Inter-American Information and

- Cooperation Network (ICN) concerning prevention and return issues in cases of international child abduction.
- To promote the comprehensive and adequate dissemination, in coordination with the Hague Permanent Bureau, of information about the Conventions and data on national prevention and return systems, as well as of any other information relevant to the prevention of cases of international abduction of children and the return of abducted and wrongfully retained children.
- To monitor the enforcement and follow-up of the Inter-American Program. The role of the IIN. To establish the Meetings of Government Experts on the international abduction of children by one of their parents as a mechanism for consultation, planning, assessment and follow-up of the Inter-American Cooperation Program for the Prevention and Remedy of cases of International Abduction of Children by one of their Parents. To promote the participation of the Central Authorities dealing with the international return of children in the Member states.

COMPONENTS:

1) PREVENTION, LEGAL TREATMENT, AND REHABILITATION OF VICTIMS THROUGH NATIONAL SYSTEMS FOR THE IMPLEMENTATION AND APPLICATION OF THE CONVENTIONS

- The prevention of the international abduction of children by one of their parents has two basic aspects:
 - The implementation of effective mechanisms that ensure the return of abducted or wrongfully retained children to their country of habitual residence; and
 - the dissemination and exchange of information.

Accordingly, the IIN will urge:

- All Member states to ratify or accede to the Hague Abduction Convention or the Inter-American Convention at the earliest possible date.
- All Member states to implement and apply the Conventions fully, to encourage the development of common practices and interpretations, and to place a high priority on ensuring the expeditiousness of proceedings.

To promote the prevention of international child abduction, the prompt and proper legal treatment of applications for the return of abducted or wrongfully retained children, and the rehabilitation of victims, the IIN will encourage Member states to take the following steps, among other measures needed to fully implement and apply the Conventions:

- ***Designation of Central Authorities***

Central Authorities are a key element of effective systems designed to ensure the return of abducted or wrongfully retained children and the full application of the Conventions. Central Authorities should have clearly defined roles, a firm legal and institutional basis for their work, and must have available to them resources sufficient to carry out their obligations under the Convention.

For the purpose of achieving as soon as possible the full application and enforcement of the Conventions in the hemisphere, the General Assembly of the Organization of American States (OAS) should be requested to urge Member states to promptly ratify, accept, approve or accede to, as the case may be, the Conventions and to designate and effectively operate the Central Authorities provided for in Articles 6 and 7 of the Hague Abduction Convention and the Inter-American Convention, respectively.

The member states should take the necessary steps to provide the Central Authorities with adequate material and human resources to fulfill their duties. This should include the provision of capable technical staff.

- ***Adoption of National Legislation***

National legislation should integrate the practical and operational aspects of the Conventions in force in the respective state, and should avoid producing regulatory overlap, thus enabling the Conventions' application by judges and other relevant authorities and providing for expeditious proceedings.

For the purpose of supporting the design of domestic legislation in each Member State, the IIN will prepare prototype legislation for implementation of the Conventions, possibly based on, among other possible models, the Spanish Organic Law 1/96, and the "Supreme Court Decision on Proceedings applicable to The Hague Convention on the Civil Aspects of International Child Abduction" of Chile, as published in the Official Journal on November 3rd, 1998. Both documents were reviewed by the Meeting of Experts.

The prototype implementing legislation will in particular take into consideration return proceedings provided for in the Inter-American Convention and the Hague Abduction Convention.

- ***Prevention***

States should adopt measures to prevent international child abduction, such as requiring the consent of both parents before a child may travel internationally and enhancing border controls. The Member states should ensure the availability of training for officers in charge of migration proceedings and border security, among others, with a view to preventing the unlawful removal of children.

- ***Locating Abducted or Wrongfully Retained Children***

National legislation to implement and apply the Conventions should, where possible and appropriate, provide for specific measures for the location of individual children by means such as police systems, migration alerts, and disclosure through mass media, among other measures.

- ***National Judicial and Administrative Proceedings for the Return of Abducted or Wrongfully Retained Children***

As required by the Conventions, return proceedings should be designed to cause the prompt return of an abducted or wrongfully retained child to the country in which the child was habitually resident at the time of an unlawful removal or retention, and judicial or other authorities deciding return applications should not be permitted to consider issues relating to custody or guardianship of the child, etc.

The member states may evaluate whether creating specialized courts or other bodies to decide return applications would improve the application of and compliance with the Conventions by promoting useful specialization.

- ***Voluntary Return of Abducted or Wrongfully Retained Children. Alternative Dispute Resolution***

Recognizing that the voluntary return of abducted children may help to avoid their “judicialization” and “institutionalization”, the application of alternative dispute resolution methods should be promoted for the purpose of encouraging prompt, voluntary returns.

- ***Victim Rehabilitation***

States should assist children and parents who have been victims of international child abduction with a view to restoring the parent-child bond. The use of appropriate interdisciplinary teams should be promoted.

- ***Technical Cooperation Among States That Have Signed and Acceded to the Conventions***

The member states should promote mutual technical cooperation and information exchange, with a view to building on successful experience.

The member states should promote such mutual technical cooperation and information exchange in concert with both the Inter-American Children’s Institute and the Hague Conference. The strengthening of the cooperation between the IIN and the Permanent Bureau of The Hague Conference may in turn allow for the optimization of resources and better practical implementation of the Conventions.

The member states should consider the use of such instruments as the “Guide to Good Practice” (Guía de Buena Práctica” / “Guide de Bonnes Pratiques”), prepared by the

Permanent Bureau of the Hague Conference for their analysis by the Special Commission on September-October, 2002.

- ***Training and Outreach for Judges and other Public Authorities***

The IIN will encourage the Member states to develop training and outreach programs aimed at all those individuals (judges and magistrates, professionals, technicians, immigration teams, police, administrative staff, etc.) involved in work relating to the prevention and remedy of international child abduction.

The information and training offered to judges and other relevant officials should emphasize that their specific competence is limited to deciding whether to return abducted or wrongfully retained children to their countries of habitual residence, as provided for in the Conventions, and excludes any competence over issues relating to custodial, guardianship, or other parental rights concerning a child. The use of distance learning mechanisms and international judicial communications should be considered in order to achieve this objective.

Steps should also be taken to increase awareness and understanding of the Conventions by other public authorities and relevant private institutions by means of information and awareness campaigns aimed at facilitating the proper implementation and application of the Conventions.

- ***Raising Public Awareness in the Member states of the Consequences of International Parental Child Abduction***

Pursuant to Article 27 of the Inter-American Convention, the IIN will support the achievement of this objective by circulating information on the relevant legislation in force in each Member State among the Central Authorities, Ministries of Foreign Affairs, governing entities on children's issues and/or government authorities in each state, through the Permanent Missions of the OAS Member states based in Washington, DC.

The above mentioned institutions could assist in the achievement of this objective by means of the following mechanisms:

- A specialized web site containing relevant information, readily accessible by the general population and allowing for information flow.
- Conferences, seminars, distance learning, and informative lectures at various levels in each Member State.
- Graphic dissemination by means of informative brochures displayed in easily accessible places at the above mentioned institutions.

- ***Participation of organized civil society and information for parents***

The participation of civil society is essential for the prevention and remedy of the problem addressed in the Program.

Taking into account the importance of prevention by means of adequate information provided to couples of the same or different nationality, or of multicultural origin, efforts should be made to inform them of the respective rights of both parents, of the various legal consequences of having children with a person of a different nationality, and of their reciprocal parental obligations. Such information could be made available by Consulates or Consular Sections in the embassies, or by other institutions, foundations, non-governmental organizations (NGOs), etc.

The member states should encourage dialogue between public bodies and organized civil society, for the purpose of combining their efforts to design a comprehensive strategy to prevent international child abduction and to apply and enforce the Conventions.

- ***Awareness and Information***

States should make efforts to raise the awareness of and to provide relevant information to the media on the various aspects of the international abduction of children by one of their parents, including information on measures aimed at preventing international parental child abduction.

The member states may invite the media to assist in creating community awareness and in disseminating information on the consequences of the international abduction of children by one of their parents.

2) **INFORMATION EXCHANGE AND PROMOTION OF CONVENTIONS IN OAS MEMBER STATES**

- ***Information collection and exchange among Member states. The IIN will encourage information exchange on:***

- Applications filed for the return of an abducted child under the Conventions, including the identification of countries of habitual residence and countries in which applications for return are filed, date of application issuance or receipt, status of proceedings and, as the case may be, the results of return proceedings.
- Legal aid mechanisms available in each Member State.

The Central Authorities in each member state will be responsible for receiving and disseminating this information.

- ***Common Application Form***

The IIN will encourage the Member states to consider the adoption and use of a common form at the Inter-American level for use by applicants for an abducted or wrongfully retained child's return or for access to a child, consistent with the form used in the implementation of the Hague Abduction Convention.

- ***Analysis of Interest in Adopting an Optional Protocol to the Inter-American Convention, Concerning Rights of Access***

The member states should assess the interest in adopting an Optional Protocol to the Inter-American Convention concerning rights of access and contact, for the preparation of which the studies developed within the framework of The Hague Conference may be taken into consideration.

- ***Implementation of an Information System Accessible by all Member States***

The Creation of the Inter-American Information and Cooperation Network – REDIC – should be promoted as a database that will include information about the following:

Implementation status of the Conventions and of the various relevant international, regional, and bilateral or sub-regional agreements.

- Existing legal framework in each member state, both substantive and procedural, concerning not only the international abduction of children by one of their parents but also concerning access rights. This objective should be fulfilled by means of reports periodically provided and updated by the Central Authorities in each member state.
- Relevant literature: bibliographic references to books and journal articles, including the full text of expert reports, monographs, etc.
- Jurisprudence: texts of what might be considered “leading cases”, representative of decisions that properly apply the Conventions. Familiarity with a common body of jurisprudence would promote the uniform interpretation and application of the Conventions by judges in all Member states.

For the purpose of creating a link between REDIC and the similar database at the Hague Conference, the IIN may consider negotiating a bilateral agreement with the Permanent Bureau of that organization.

For the purpose of facilitating the work of Central Authorities, the Member states could use the same template already used by the Hague Conference to send information for incorporation into REDIC.

The member states will be responsible for providing information for inclusion in such a database; the IIN will be in charge of inputting information into and managing the database.

3) LAUNCH, DEVELOPMENT, AND ASSESSMENT OF THE PROGRAM.

- The IIN will request that the OAS General Assembly, through the Directing Council of the IIN, allocate adequate resources for the launch and development of the Program.

- The IIN will coordinate its actions with the Central Authorities of the Member states to carry out the Program.
- The IIN will prepare Annual Working Plans for the purpose of developing further the Program's various components.

Periodic Assessment of the Program:

- An assessment of the outcome of this Program will be carried out at least every two years by the Meetings of Government Experts with the special participation of the highest officials from the Central Authorities.
- Prior to each Meeting, every state should make available an evaluation report on the operation of each component in this Program during the period involved. This information should be forwarded in the same model forms already in use in the context of the Hague Conference.
- An annual survey will be conducted among the Central Authorities of Member states to gather information about cases arising out of applications for the return of abducted or wrongfully retained children. This information may include the identification of the countries to which children were abducted (or in which they were wrongfully retained) and in which they were habitually resident at the time of their abduction (or wrongful retention), as well as application submission and receipt dates, the status of return proceedings and, as the case may be, the results obtained in return proceedings.