



Submission for General Comment on the rights of the child in the context of migration International Social Service February 2016

Labour migration is a phenomenon that affects all regions of the world – whether through domestic displacement or internationally – as well as a very considerable number of children¹. This is because children may move with their parents or in some cases they remain in the care of relatives, friends or organisations in their communities of origin.

Given ISS's network's extensive and specialised expertise and know-how over 90 years addressing different cross-border family separation, **the present contribution focuses on three particular profiles of children affected by labour migration** and the related essential cross-border cooperation:

- (a) children that migrate unaccompanied and separated from their parents (for reasons such as seeking employment, family reunification or as victims of trafficking, labour exploitation and child labour);
- (b) migrant children, who might return to their country of origin, either voluntarily or by force, alone or with their parents; and
- (c) children left behind by their parents, who have migrated to another country.

As such, it intends to take a comprehensive approach to children's rights, taking into account the **importance of each of the rights** enshrined in the Convention on the Rights of the Child (UNCRC) and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), whilst focusing particularly on the **rights of children to maintain personal relations and contact with their family and to special protection and assistance if separated from their family** (arts. 14, 17, 44 of the CMW; arts. 9, 10, 11, 20, 21, 22 of the UNCRC). Furthermore, it will link the protection of these rights to other relevant international instruments, in particular the Guidelines for the Alternative Care of Children (Guidelines) (Part VIII)² and the 1996 Hague Convention on

International Social Service (ISS) is an international NGO founded in 1924. Today a network of national entities and a General Secretariat assist children and families confronted with complex socio-legal problems as a result of migration and other factors. Thanks to its presence in more than 120 countries, ISS is a global actor promoting child protection and welfare.

By establishing a link between child protection services and other relevant agencies and authorities in different countries through a multidisciplinary approach, ISS is able to find concrete solutions that ensures the best interests of each child are respected. ISS supports and helps approximately 75,000 families in the world each year.

ISS casework practice places the individual child and his needs at the heart of its concerns, independently of his status. This credo can only be fulfilled based on a case-by-case management, taking into consideration the diversity and disparity of unaccompanied and separated children.

<http://www.iss.ssi.org>

¹ Estimations for the European Union are of up to 23,000 unaccompanied and separated children arriving in 2015 (with an annual average in EU of around 15,000); more than one out of five refugee and migrants is a child (http://www.iom.int/sites/default/files/press_release/file/IOM-UNICEF-Data-Brief-Refugee-and-Migrant-Crisis-in-Europe-30.11.15.pdf); about 70,000 children are estimated to have migrated from the Northern Triangle to the U.S.A. (<http://c8.nrostatic.com/sites/default/files/261238649-Unaccompanied-Child-Migration-to-the-United-States-The-Tension-between-Protection-and-Prevention.pdf>).

² Available at: http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf.

Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children³ (HC-1996) (arts. 23 ff and 29 ff).

In all of the above-mentioned three situations, ISS is advocating for the adoption of a **durable quality solution** (art. 45 CMW; art. 27 UNCRC) for each child that covers short-term and middle-term aspects, such as a child's adequate care, but also long-term implications related to a successful (re-) integration of the child, such as their educational and professional future or the support of a mentor/guardian, in the destination country, the country of origin or a third country. In order to build a long-term project for each child, ISS systematically undertakes efforts to trace and find family members – whether in the country of origin, the country of destination or a third country, to assess the child's social and family conditions in the country of origin and when appropriate to re-establish family ties (para. 146 Guidelines).

A. Children who migrate unaccompanied and separated from their parents (i.e. alternative care in the destination country or a third country)

Unaccompanied and separated children often receive inadequate care that exposes them to vulnerable situations and breaches of their rights⁴. For many, this means, for instance, detention while their identification, registration and documentation are lengthily processed, institutional care in reception facilities primarily aimed at adults with insufficient resources to satisfy a child's basic needs or even a life on the streets as places in institutions remain limited in many destination countries⁵. Consequently, numerous destination countries with highly developed social protection systems categorically fail to respond to their obligations towards non-national children under art. 2 of the UNCRC and para. 141 of the Guidelines.

The reasons resulting in children being unaccompanied or separated are multiple. These include having been sent away by their own family for their own safety, for a better educational or professional future, for the opportunity of the entire family to move to the destination country or having been forcibly separated from their family due to conflicts or natural disasters in their country of origin or during their long journey. In recent years, the phenomenon of mixed migration flows shows that, in most cases, several motivations can lead a person to decide to leave his home country, this applies equally to children.

Unaccompanied and separated children, in particular, are at high risk of several forms of trafficking and exploitation, including child labour, sexual exploitation or the involvement in criminal and illegal activities in the transit country but also at their destination. Therefore, it is crucial that the reception conditions and in particular the care settings provide a safe and nurturing family-based environment, which helps facilitate these children's emotional and psychosocial integration into their new surroundings.

I) Family-based care as a priority

As explicitly mentioned in para. 154 (b) and (c) of the Guidelines, these children shall, as a priority, benefit from **family-based care** and residential care shall only be foreseen as a temporary measure. Great importance is also attributed to their care within their own community in order to ensure continuity in their socialisation and development (para. 158), in particular for older children as they mostly thrive in small group homes with their peers. ISS argues that the principles embedded in the Guidelines are applicable to any child irrespective of their status, therefore is encouraged to see the development of foster care for unaccompanied and separated children in countries such as the Netherlands and Switzerland.

³ Available at: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=70>.

⁴ Data collection remains challenging, but estimates turn around 1.2 million children who are globally affected by the phenomenon of trafficking each year (<http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=742>).

⁵ For guidelines as to how to address these issues and concerns, see, for example: UNHCR and UNICEF, *Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, 2014, <http://www.unicef.org/protection/files/5423da264.pdf>.

Likewise amongst the alternative care options to be considered in the destination country, **cross-border solutions** such as international family kinship care should also be examined. This consists in evaluating the possibility for the child to be cared by an extended family member or other people with a kinship bond, living in a third country. The HC-1996 helpfully establishes, in its article 33 and 23.2f), a clear procedure and requirements concerning the implementation of cross-border placements: 1) preliminary consultation of the competent authorities of the country where the placement is envisaged; 2) submission of a report on the child, including the reasons and provisions of care; 3) the competent authorities of the other state must consent to the proposed placement (the recognition of the measure can be refused if the procedure provided in article 33 is not complied with). For ISS, this procedure entailing concrete cooperation between authorities of different countries must be encouraged as it provides stronger safeguards for the rights of the child (para. 149 Guidelines).

In practice, even if often beneficial for the child, the assessment of a person's capacity and willingness to care for the child across-borders is rarely undertaken. The advantages of such a placement are numerous as kinship placements tend to disrupt less frequently compared to non-kin placements, especially if a relationship already existed; the child has the possibility to maintain his family, community ties as well as cultural, spiritual and linguistic heritage; may benefit from higher possibilities of a continuity of care due to a greater commitment of the carer and support into adulthood is more likely. To this end, ISS encourages, therefore, the widest possible ratification/accession to the HC-1996 and better implementation of the Guidelines to fully enjoy such benefits.

ISS promising practices

Several ISS members have been handling numerous cases, in which this international family-type placement has resulted as being in the best interest of the child.

Children and Families Across Borders (ISS Branch in the UK), for instance, has assisted around 100 cases working closely with local professionals from the ISS network in order to determine the suitability of the concerned family to care for the child. Therefore, CFAB has focused its efforts on raising awareness among local British authorities, consular services and the Judiciary about working in collaboration with overseas authorities, in compliance with international standards such as the Guidelines and the HC-1996. Challenges include the follow-up of kinship placements, especially due to the costs and for a lacking legal authority/responsibility as the legal custody is often transmitted to the kinship carer.

ISS-USA advocates therefore for the monitoring of all kinship placements for a period of at least one year on a semi-monthly basis.

ISS Australia encourages international kinship carers to contact their agency for short-term post-placement assistance.

Generatie Tanara Romania (ISS Romania) – often a transit country of unaccompanied and separated children from the Middle East towards other EU countries – provides specific assistance services during their provisional stay (accommodation, food, non-food items and school enrolment). They also accompany children during their journey to join and reunite with relatives with immigration status in a third country (support of financial expenses for travel and accommodation). Given the great labour migration flows from China Mainland to Hong Kong,

ISS Hong Kong, as part of its intercountry casework, is undertaking efforts to trace and locate young children's relatives in Mainland China.

South Africa's **Department of Social Development** (ISS South Africa) has developed guidelines as well as procedural standards for social workers in order to respond to the particular situation of migrant children, participates in the monthly meetings of the national steering committee and has contributed to the setting up of local steering committees, aimed at ensuring the rights of these children, who come, in particular, from Zimbabwe and Mozambique. It has also undertaken a research study on the situation of unaccompanied migrant children in South Africa, which includes an analysis of the legal framework and its implementation in practice, and interviews of professionals in this field and of some children, who have been directly affected by migration.

ISS Austria's staff has acquired experience in caring for traumatised unaccompanied and separated children aged between 13 and 18 (sole specialised care facility in Austria) and is currently developing compulsory trainings and preparation courses for prospective foster carers.

II) Durable quality solution: Successful settlement in care provision

The care of an unaccompanied or separated child shall be part of a **multi-faceted and individualised durable solution**, which is defined as '(...) a sustainable solution that ensures that the unaccompanied or separated child is able to develop into adulthood, in an environment which will meet his or her needs and fulfil his or her rights as defined by the UN Convention on the Rights of the Child (...)'⁶. For that purpose, several other elements must be taken into consideration. Otherwise, there is an increased risk of unaccompanied and separated children leaving care arrangements and going missing. The most recent and worrying estimates include Europol's statement that '[a]t least 10,000 unaccompanied child refugees have disappeared after arriving in Europe'⁷, which might expose them to additional risks to their safety and well-being.

ISS promising practices

ISS Switzerland has recently contributed to the elaboration of the *Guidelines Promoting the Human Rights and Best Interest of the Child in Transnational Child Protection Cases*⁸, published by the Council of Baltic Sea States Secretariat as part of the Project PROTECT Children on the Move. These Guidelines foresee a specific part on each step of the transnational case-management that is required in dealing with children on the move.

- i. **Regular contact and communication with the family in the country of origin:** The need to trace and find the child's family is crucial to meet urgent matters such as the child's medical or emotional needs (para. 146 of the Guidelines). The **establishment of ongoing contact and regular communication between the child and his family** is important, not only for the child's sense of identity and right to dignity, but also for a better settlement of the child in his alternative care arrangement in the destination country (para. 151 of the Guidelines). However, it shall be noted that permanent options for life in a family setting, such as adoption or *kafalah*, shall only be envisaged if family reintegration efforts have been exhausted (paras. 152 and 161 of the Guidelines).

⁶ *Ibid*, p. 22.

⁷ '10,000 refugee children are missing, says Europol', *The Guardian*, 30 January 2016, <http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>.

⁸ Council of Baltic Sea States Secretariat, *Guidelines Promoting the Human Rights and Best Interest of the Child in Transnational Child Protection Cases*, 2015, <http://www.childcentre.info/protect-children-on-the-move/>.

ISS promising practices

The **Spanish Red Cross** has merged its activities as ISS correspondent with ICRC's *Restoring Family Links* programme. This programme provides individualised services to families dispersed in different countries, as result of migration, war or natural disaster. It includes a wide range of activities such as the exchange of family messages to assure communication with prisoners of war and detained civilians, searching for missing family members, family reunification and assisted resettlement.

After locating a child's family, **ISS-Australia** has been involved in coordinating the initial contact between the child, child protection authorities in Australia as well as ISS's contact and the family in the country of origin. This involves ISS's contact travelling to the family and has even entailed, in some cases, providing their mobile phone so that the authorities in Australia have a reliable contact number.

- ii. **Considering the child's views and opinions on his future (arts. 3 and 12 UNCRC):** An element that is not given sufficient due consideration in practice is **the child's voice with regards to the decisions on his current life and future**. For the unaccompanied or separated child's psycho-social well-being and adapted care, it is crucial to collect his perspectives on his story and background, often traumatic experiences, emotional needs or living conditions. Furthermore, it is only by listening and communicating with the concerned child – in a child-friendly and sensitive way – that a durable and individualised long-term project, built upon the child's resilience, skills and potentials, can be developed.

ISS promising practices

Through a consultation process with children on the move and professionals working with them in various European Union countries, **Defense for Children Italy** (ISS correspondent in Italy) requested and collected children's voices on safety and protection in order to inform policy and practice stakeholders. This initiative served as a basis to elaborate a series of key guidelines for professionals working at different levels with children on the move as well as a practical guide for children to enhance and value their resilience and resources⁹.

- iii. **Ensuring the support of a guardian/mentor/person of reference:** Numerous are the countries in which the roles and responsibilities of all the different professionals involved in addressing the situation of unaccompanied and separated children (e.g. immigration officials, judges, social workers, lawyers, etc.) are not clearly determined. This, in addition to the variety of involved professionals, can create great confusion and feelings of insecurity for the concerned child. Therefore, **a person of trust shall be appointed**, i.e. a person of reference for the child regardless to the indispensable legal representation of the child during administrative and judicial proceedings. This mentor shall provide moral support to the child, provide him with explanations, and represent his best interests when in contact with other professionals.

⁹ See: Participation, Capacities and Resilience of Children on the Move Against Trafficking and Exploitation, <http://www.resiland.org>.

ISS promising practices

Generatie Tanara Romania (ISS Romania) provides children who apply for international protection in Romania and are brought into their association with free legal counselling and support through judicial proceedings, including a lawyer.

In the context of the current refugee crisis in Germany and the related restructuring reform, **ISS Germany** has been actively involved in raising awareness and lending technical and legal advice to competent authorities, such as child and youth welfare authorities (*Jugendämter*) and tribunals. In particular, ISS Germany advocates for each unaccompanied or separated child to be ensured professional support and legal representation by a guardian throughout all administrative and legal proceedings, regardless in which administrative area he is being taken care of.

Together with professionals working with and for unaccompanied and separated children, **ISS Switzerland** has developed a professional handbook¹⁰ that aims to harmonise the reception, care and protection for unaccompanied and separated children as their treatment varies greatly between the different cantons of Switzerland. This tool offers guidelines and covers issues such as the responsibilities of the receiving State within this complex assessment procedure in the country of origin and reception in view of being able to determine a durable solution implying transnational aspects; the possibilities and role of legal guardians, social workers or other professionals accompanying these children in the process; and the aging out process of young children on the move. Likewise, ISS Switzerland has shared its know-how and actively contributed to a practical guide for case workers and officers on how to deal with transnational child protection cases with regards to children on the move, which has been published by the Council of Baltic Sea States Secretariat (see above).

B. Potential return and reintegration of migrant children in their country of origin (i.e. the importance of identifying a family setting and of adequate follow-up in the country of origin)

Concerning a possible return of the concerned child to his country of origin, the relevant authorities are obliged to **conduct an assessment of the risks involved and the social and family conditions in the country of habitual residence** (para. 147 of the Guidelines). ISS advocates for the child's family capacity to take care of him to be part of such evaluations. A child must indeed only be returned if a suitable carer is identified and if the child's safety and security are not in danger (para. 148 of the Guidelines).

In addition, and only if the child's return to his country of origin is considered in his best interests, the process of return and reintegration must include a series of efforts and actions, that must be coordinated amongst the various actors involved, including the following:

1. Assess potential reintegration options;
2. Prepare the child;
3. Organise the departure and journey;
4. Ensure family and social reintegration;
5. Ensure educational or professional reintegration;
6. Ensure psychological and/or medical support;
7. Ensure the safety of all the persons affected;

¹⁰ Swiss Foundations of the International Social Service, *Manuel de prise en charge des enfants séparés en Suisse, Guide pratique à l'usage des professionnels* (French version, also available in German), http://www.ssiss.ch/fr/system/files/132/manuel_de_prise_en_charge_mna_ssi_fr_pdf_61670.pdf.

8. Provide for individualised follow-up in the country, including measures of support for reintegration.

Follow-up is a key element of this process, and a follow-up plan must therefore be determined, with a network of support, and the monitoring of the situation. This stage also includes the appointment of a person of reference and the monitoring of the child's life project¹¹.

Indeed, ISS Switzerland describes the objective of this process to be 'to create a framework that would allow young people in a vulnerable situation to grow up safely, to develop in a stable environment and to build perspectives for their future'¹². Unfortunately, as described by the *Red Latinoamericana de Acogimiento Familiar* (RELAF) – a partner of ISS in Latin-America, there is a lack of plans, actions, programmes or services for migrant children and families, who return to their countries of origin. Indeed, there is a lack of coordination amongst the various sectors involved in the protection of children at local and national level; there is a notable absence of a central body in charge of coordinating these actions of support; there are limited specialised actions to respond to the particular situation of migrant children; and there is a lack of follow-up to the situation of children once they are back in their country of origin, amongst several other key issues in this regard¹³. In this regard, ISS would advocate for stronger coordination amongst all authorities and bodies involved in child protection in order to ensure that the rights of children are also implemented during the process of return and once they are back in their country of origin, in particular thanks to the involvement of a coordinating central body, that would be in charge of developing, monitoring, supporting and ensuring that the child's life project is fully implemented.

ISS promising practices

The **ISS West African Network (WAN)**¹⁴, has established, since 2005, a well-functioning intersectional cooperation in 15 ECOWAS countries and Mauritania. The main activity of the network is the identification, protection and reintegration of vulnerable children and young migrants in the host country, the country of origin or a third country following a common procedure based on harmonised standards. Since its inception, this initiative has supported and integrated over 5'000 children, essentially thanks to the involvement of different child protection stakeholders. In each country, a NGO partner is responsible for developing the cooperation with the authorities, civil society and international partners. In addition, each year the 15 Ministries in charge of child protection meet in a steering committee to discuss the results, challenges and provide direction to the Network.

Children and Families Across Borders (ISS Branch in the UK) has developed an assisted voluntary return scheme which provides advice, support and financial assistance for reintegration based on a unique risk and best interest assessment process, home study which serves to evaluate the child's wishes and aspirations for the future, such as available support in the country of origin. It has supported approximately 20 children every year, who are seeking to return home, essentially to Albania, Bangladesh, Vietnam, Nigeria and India.

Generatie Tanara Romania (ISS Romania) has also developed a repatriation assistance for Romanian unaccompanied and separated children, who have been identified on the territories of another EU or non-EU country through a prior contact with both social services providers from the destination countries and Romanian consular bodies abroad.

¹¹ Ibid, pp. 75 – 91.

¹² Ibid, p. 5.

¹³ Red Latinoamericana de Acogimiento Familiar, Save the Children and UNICEF, *Niños, niñas y adolescentes migrantes retornados. Un análisis de los contextos y las respuestas de los servicios y las políticas de protección en El Salvador, Guatemala, Honduras y México*, 2015, <http://www.relaf.org/materiales/INFORME%20MIGRANTES%20RELAF%20STC%20UNICEF.pdf>.

¹⁴ For further details, see: http://www.resao.org/en/the_West_Africa_Network.

ISS USA, as part of its *Kids in Between* programme, is likewise working to ensure the safe return and reintegration of children being repatriated to their country of origin. Therefore, ISS USA is trying to change attitudes and raise the awareness of US authorities to consider placing a child with his community or family in the Northern Triangle region if such placement has been considered in the child's best interests after an extensive assessment with local partners gathering valuable information in the country of origin. It is also working with other organizations to develop a unified strategy for the safe return/reintegration of children being repatriated to their country of origin, and advocating for the use of information from home country to be used in *all* decision-making about the children's status, when returning children, or in any decisions that could affect the well-being of a child, who is not in the care of his family.

C. Children 'left behind' (i.e. alternative care in the country of origin)

An article published by the Institute for War and Peace Reporting describes the situation in Tajikistan: children placed initially with relatives and subsequently in a children's home and with very limited opportunities to have contact with their parents – apparently an increasing trend in the profile of children in residential care, with some estimates mentioning 100,000 'orphans', whose parents are alive¹⁵. In Mexico, as reflected in an academic study, '*[i]n some cases, migration has entailed the severance of the migrants' social bonds with their place of origin; in others, it has resulted in the redefinition and restructuring of the ties amongst its members*'¹⁶. In South Africa, another academic study found that '*[t]emporary labour migrants overwhelmingly rely on a single care strategy. Complex care arrangements are far less common, constituting the response of only 5% of migrants. (...) The overwhelming majority of migrants keep all children in the same household, maintaining relative stability in care and residence, 10% move children with them, 2% move children elsewhere for care and less than 1% move a childcarer into the household while they are away for work. Less stable child care arrangements are increasingly utilised over time. (...) Approximately one-fifth of children in the population are effectively left behind by temporary labour migrants today (...). There is significant variation in child care, residence and decision-making authority among relatives: mothers and stepmothers provide the majority of care in the absence of a migrant, with grandmothers a secondary and female siblings and aunts a tertiary source of child care.*'¹⁷ Whilst it is indeed difficult to estimate how many children are currently in this situation – given the unofficial character of a segment of migration situation and the fact that it may be domestic or international, and that many children are placed in informal care – it is nevertheless essential to **address the potential consequences of these situations for the children affected**.

There is no doubt that **the absence of the parents in the child's daily life, whether when placed in a family environment or in residential care, has an impact on their well-being, development and rights**. Indeed, even though children are traditionally placed with relatives in their community or country of origin, in many cases, they may also subsequently be placed in homes and institutions, which affects their development and wellbeing on the long term and has an impact on their family, social and psychological situation. Indeed, a placement in residential care is, in most cases, the least desirable outcome and option for the

¹⁵ IWPR, *Labour Migration "Orphans" in Tajikistan*, 7 April 2015, <https://iwpr.net/global-voices/labour-migration-orphans-tajikistan>.

¹⁶ Quecha Reyna, C., '*Cuando los padres se van. Infancia y migración en la Costa Chica de Oaxaca*', winner of the third place for Best Research at UNICEF's Fourth Prize on 'The rights of children and adolescents in Mexico', http://www.uam.mx/cdi/pdf/s_doc/cuando_los_padres.pdf.

¹⁷ Kautzky, K., *Children left behind: The effect of temporary labour migration on child care and residence patterns in rural South Africa*, for the degree of Master of Public Health at the University of the Witwatersrand, Johannesburg, 2009, http://mobile.wiredspace.wits.ac.za/bitstream/handle/10539/7478/Microsoft%20Word%20-%20K%20Kautzky%20-%20MPH%20Research%20Report%20Final%20_3_.pdf?sequence=1.

child and should remain a temporary solution¹⁸; nevertheless, this is often not the case when the family separation is due to migration, given that the parents retain parental responsibility and remain alive despite their physical absence. In addition, as the parents often move or migrate precisely to provide a better life for their children, they may have some periodic contact – although sometimes not physically for months or years. On the other hand, however, the children may therefore have feelings of confusion, guilt, abandonment that may affect various aspects of their daily life, such as their education, family and social relations, plans for the future, etc.

International instruments provide comprehensive provisions as to how to provide adequate care to children temporarily deprived of parental care, by **giving priority to family-type and community solutions and by promoting family contact and pursuing family reunification** (paras. 137 – 167 of the Guidelines). In addition, the HC-1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children provides a framework for child protection measures decided in one Contracting State to be recognised, respected and implemented by the authorities of another Contracting State.

ISS promising practices

In this regard, ISS is often faced with such situations through its casework and works towards providing the support required to ensure that families are in touch, meet and are reunited, whenever possible and in the children’s best interests, by connecting the services, authorities and organisations involved in the latter.

In Moldova, at least one in five children has a parent abroad. The **Association for Child and Family Empowerment “AVE Copiii”** (ISS Correspondent in Moldova) works to facilitate contacts/relations between parents/enlarged families and children.

ISS Hong Kong, as part of their international child protection programme in Mainland China, regularly undertakes tracing and locating efforts for Chinese children, whose parents are living and working overseas (so-called international family investigation reports) in order to facilitate the child’s welfare report for decisions made in the best interests of the concerned child, including considering the placement of the child with his kin abroad.

ISS recommendations for consideration by the Committee on the Rights of the Child and the Committee on Migrant Workers

- Further promote the **ratification/accession** of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children and the implementation of the Guidelines for the Alternative Care of Children.

¹⁸ The United Nations Study on Violence against Children has reflected how violence is particularly prevalent in care setting, from staff and officials responsible for their well-being, due to overcrowding, squalid conditions, societal stigmatisation, discrimination, for the purpose of “discipline”, etc. See United Nations Study on Violence against Children, 2006, Paras. 53 – 63, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>.

- Promote a **case-by-case and child-centred management** of all situations of children affected by labour migration, whether in the country of origin, the country of destination or a third country, and in the process of potential return to their country of origin, in order to fully take into account and ensure each child's **best interests, diversity** of circumstances, needs, etc and the search for an individualised **durable quality solution**, rather than a generalised approach to unaccompanied and separated children.
- Focus on the essential character of **cross-border cooperation** and the **integrality and interdependence of the rights of children**, in accordance with international instruments and guidelines that are specific to these situations. Existing international instruments provide a number of provisions and guidelines to respond to these situations and mechanisms should be strengthened to ensure cooperation between the services, authorities and organisations involved to ensure the rights of these children. This is closely linked to the need to have a central body in charge of coordinating child protection actions in each country, whilst States should be encouraged to call upon expert professionals, such as the ISS network, to promote and facilitate such cooperation.
- Further actions that **ensure the children's safety and protection** in the country of origin, the country of destination or a third country, and in the process of potential return to their country of origin, in particular by giving priority to **family-based care** (including potential cross-border solutions, such as kinship care) and ensuring **adequate follow-up** to each placement. This would indeed ensure wider availability of non-residential and institutional forms of care, which may have additional negative impact on the well-being and the rights of the children concerned.
- Promote **durable quality solutions**, thanks to efforts to **ensure regular contact/communication between the child and his family** (whether in the country of origin or in the country of destination or third country), thereby providing emotional stability and well-being, to ensure that the **child's views and opinions** have been gathered and taken account of in a child-friendly and sensitive manner, and by ensuring the **appointment of a person of reference** for the child, in charge of representing his best interests in all relevant proceedings and in relation to all involved professionals. This would further ensure the child's well-being, safety and protection during the process.
- In the particular situation of children in the process of voluntary or forced return and reintegration to their country and family of origin, promote a **specific and comprehensive assessment that includes the evaluation of the family's capacity to care for the child** as a durable quality solution, with the necessary support and coordination of a body in the country of origin, including for the development, monitoring, support and implementation of a life project.
- When children are separated from their parents, whether in the country of origin, in the country of destination or in a third country, further the efforts of all professionals and bodies involved to **address the particular consequences of the absence of the parents and family in the children's lives**, and therefore promote family-type and community solutions, family contact/communication and specific programmes and services.