International Child Protection: Jurisdiction and Cross Border Care Cases

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- Law and legal considerations
- Presidents Guidance 2025
- Issues likely to arise
- Expert evidence
- Re M
- Learning points
- Resources

The Law

Care proceedings in UK –

- Children Act 1989
- Care /Supervision Orders
- EPO
- SGO's

Legal considerations when international element is present

The 1996 Hague Convention on Parental Responsibility and Protection of Children – Governing cross-border child protection and ensuring cooperation between states.

The Brussels IIb Regulation (Regulation (EU) 2019/1111) – Applying to family law matters within EU member states and setting jurisdictional rules.

Domestic laws of the child's home country – Governing procedures for accepting a child into care or facilitating their return.

President's guidance: Public law children cases with an international element 21/1/2025

A substantial number of public law children cases have an international element and courts often require information from other jurisdictions before being able to proceed. It is not always easy to know how to obtain this information.

Issues likely to arise

- Which country will the child live in?
- Who will the child live with?
- Who will carry out the assessments if carer not in this country?
- What impact will that have ono child's immigration status?
- What legal requirements does the Country require?
- What travel documents are required and how will they be achieved?

Is expert evidence required:

- Recognition of assessments from UK
- Requirements of the country for placement
- Recognition of order
- Steps to safeguard
- Immigration
- Enforcement options (contact)

Re M – a cautionary tale

- **Re M (A Child) (Placement Order) [2025] EWCA Civ 214**
- Appeal by aunt and uncle for child to be placed with them in Pakistan.
- CFAB assessment highlighted range if uncertainties
- Court was faced with uncertain delay

Learning points

- Identify carers who are abroad early.
- Viability assessment should take place as the first formal step and liaison with the relevant authorities/organisations begin immediately
- Be honest about the likely timescales form the beginning
- Obtain expert opinions early
- Make sure Parallel planning takes place
- Recognise when the delay will become ‘unconscionable’

Transfer of proceedings

- As early as possible
- Does the child have a particular connection to the other country?
- Which court is “better placed”?
- What is in the child’s “best interests” re transfer

Resources

- ICACU – Central Authority for UK set up to facilitate effective communication between Child Welfare Authorities in contracting States.
- CFAB - Children and Family Services Across Borders
- The 1996 Hague Convention - Departmental Advice identifies issues and support for local authorities dealing with cross-border cases.
- Hague Conference for Private International Law website – list of countries that have implemented the Convention
- ISW's experienced in international cases or with cultural experience.