

Hague Conference Update: Permanent Bureau of the Hague Conference on Private International Law

Introduction

The flurries of snow across Europe this winter have not halted work at the Permanent Bureau of the Hague Conference on Private International Law and there have been a number of important developments in relation to the Hague Children's Conventions (see 'status update' below). An austere winter in Europe did mean, however, that members of the Permanent Bureau involved with the Morocco Judicial Seminar on Cross-Border Protection of Children and Families were immensely appreciative of the warm welcome which met them in Rabat. This update gives an overview of the Morocco Judicial Seminar, as well as highlighting for readers other important developments at the Hague Conference in the past few months. As usual, please visit our website: www.hcch.net for further information on Hague Conference related matters.

Morocco Judicial Seminar on Cross-Border Protection of Children and Families, Rabat (Morocco), 13 – 15 December 2010

From 13 to 15 December 2010, judges and experts from Belgium, Egypt, France, Germany, Jordan, Lebanon, Morocco, the Netherlands, Spain, Switzerland, Tunisia, Turkey, the United Kingdom, the European Commission, UNICEF, the League of Arab States, and the International Social Service, as well as the Hague Conference on Private International Law, met in Rabat, Morocco, within the framework of the Malta Process, to discuss cross-border protection of children and families and, in particular, the Hague 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, the 1996 Hague Child Protection Convention). The seminar was hosted by the Supreme Court of the Kingdom of Morocco, with the Hague Conference on Private International Law and TAIEX. The seminar explored, in particular, the following topics:

- the development of closer co-operation and networking among judiciaries;
- the development of inter-State administrative co-operation;
- the practical arrangements needed to facilitate trans-frontier visits;
- measures to prevent abduction or abuse of visiting rights and promote parental co-operation and agreement;
- the protection of unaccompanied minors;

- cross-frontier placements of children including arrangements made by way of the Islamic law institution of kafala;
- cross-border mediation in family matters;
- the exchange of information concerning the laws and practices of the different legal systems.

The seminar proceeded in an interactive manner with the participants being invited to take the floor to describe developments in their own jurisdictions in relation to cross-border family disputes, and/or, where relevant, the implementation of the 1996 Hague Child Protection Convention in their jurisdiction. This permitted an efficient exchange of information which provided the basis for discussion over the course of the seminar. Case hypothetical sessions were also undertaken during the Seminar and these proved a popular and effective tool for facilitating a detailed discussion of the provisions of the 1996 Hague Child Protection Convention. These sessions resulted in a thorough Conclusion regarding the 1996 Convention (see para 3 of the Conclusions) and a number of other conclusions on other very important international child protection matters. The conclusions of this seminar are available on the website of the Hague Conference in English, Arabic and French (see: http://hcch.e-vision.nl/index_en.php?act=events.details&year=2010&varevent=208). Papers presented at the Rabat Seminar will be available in the near future in the Judges' Newsletter published by the Hague Conference on Private International Law.

Following this international seminar, members of the Permanent Bureau (in collaboration with the Supreme Court of Morocco and TAIEX) remained in Rabat for a further two and a half days in order to undertake a training of 50 Moroccan family judges regarding the practical operation of the 1980 Hague Child Abduction Convention. A French honouree family judge joined the Permanent Bureau for this training. Participants were introduced to the main judicial issues in relation to the application of the Convention through hypothetical case studies. Participants showed a great interest in the proper operation of the 1980 Convention and expressed their support for the designation of a Moroccan Hague Network Judge. They also looked forward to taking their acquired knowledge back to their courts.

Publication of a Special Edition of the Judges' Newsletter

The Special Edition of the Judges' Newsletter on the 'International Judicial Conference on Cross-Border Family Relocation', held in Washington DC in March

2010 (and co-organised by the International Centre for Missing and Exploited Children, with the support of the US Department of State), has now been published. It is available to the public to download on the Hague Conference website (go to Child Abduction Section – Judges’ Newsletter).

Developments Regarding the Guides to Good Practice under the 1980 Hague Child Abduction Convention

Publication of the Guide to Good Practice on the Enforcement of Return Orders

The Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereinafter, the ‘1980 Hague Child Abduction Convention’) on Enforcement was published in October 2010. This Guide is based upon the principles of good practice presented to, and supported by, the Fifth Meeting of the Special Commission to review the operation of the 1980 Hague Child Abduction Convention (30 October – 9 November 2006). The Guide has been prepared according to the Conclusions and Recommendations of the Special Commission meeting. The Permanent Bureau hopes that this Guide will assist all States, ie States Parties and those States considering becoming Party to the Convention, to implement an efficient system to enforce Hague return orders in the best interests of the children concerned.

A copy of this Guide has been sent to all National Organs, Central Authorities designated under the 1980 Hague Child Abduction Convention and to the Members of the International Hague Network of Judges. The Guide is also available to the public to download on the Hague Conference’s website (click on Child Abduction Section – Guides to Good Practice.) This Guide is currently available in English and French. A Spanish version is being prepared and will be published in due course. It will also be available on the Hague Conference website to download when published.

Expert Group Meeting Regarding the Guide to Good Practice on Mediation

The Permanent Bureau is currently preparing the Guide to Good Practice under the 1980 Hague Child Abduction Convention on the subject of mediation. The mandate for the development of this Guide was given by the Council on General Affairs and Policy of the Hague Conference in 2008. In accordance with this mandate, a group of independent experts from different Contracting States was invited to assist with the preparation of the Guide. A preliminary outline of the Draft Guide was circulated to this Expert Group for comment. The Permanent Bureau has now finalised the first complete draft of the Guide which has been circulated to the Expert Group.

A two day, in-person meeting of the Expert Group is to be held in The Hague on 17 and 18 February

2011. Following an in-depth discussion of the draft Guide at the expert meeting, a revised version of the draft Guide will be prepared by the Permanent Bureau for circulation to the Members of the Hague Conference and Contracting States to the 1980 Hague Child Abduction Convention in advance of the first part of the Sixth Meeting of the Special Commission to review the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention in June 2011 (please refer to the October 2010 edition of IFL for more information regarding the upcoming Special Commission meeting).

The Hague Children’s Conventions: status update

There have been several important developments regarding the Hague Children’s Conventions since the previous briefing:

- The Hague Conference is delighted to report the accession of Singapore and Gabon to the 1980 Hague Child Abduction Convention. The Convention will enter into force in both States on 1 March 2011. The Standard Questionnaire of Newly Acceding States has already been completed by Singapore and their response can be found on the Hague Conference website (see: Child Abduction Section – Questionnaires and responses – Standard Questionnaire for newly acceding States – responses).
- The number of Contracting States to the 1996 Hague Child Protection Convention continues to grow rapidly. Since the last Hague Conference briefing, Austria, Finland, France, Germany, Ireland and the Netherlands have ratified this Convention. Furthermore, on 22 October 2010 the USA signed the 1996 Convention. Please see the status table of the 1996 Convention on the Hague Conference’s website, which is kept continually updated (http://hcch.e-vision.nl/index_en.php?act=conventions.status&cid=70).
- The Hague Conference is very pleased to announce that Vietnam signed the Hague Convention of 29 May 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption on 7 December 2010. This is the first Hague Convention which Vietnam has signed, making Vietnam the 137th State to be ‘connected’ to the Hague Conference.
- Lastly, on 29 September 2010 the US Senate approved the 2007 Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance. The 2007 Convention was adopted on 23 November 2007, and signed by the USA on the same date. The approval of the US Senate is an important step towards the USA’s ratification of this Convention.