

## INTERNATIONAL FAMILY LAW, LEGAL CO-OPERATION AND COMMERCE: PROMOTING THE RULE OF LAW AND CROSS-BORDER TRADE IN CENTRAL ASIA THROUGH THE HAGUE CONVENTIONS

*A regional seminar for Kazakhstan, Tajikistan, and Turkmenistan,  
as well as Russia and Belarus*

*10 - 12 November 2015, Park Inn, Sary Arka Avenue 8/A,  
Saryarka bul., 010000 – Astana – Kazakhstan*

### CONCLUSIONS AND RECOMMENDATIONS

Over 40 delegates, comprising members of the judiciary, senior officials and experts from the Republic of Kazakhstan, Turkmenistan, Tajikistan and the Russian Federation, together with members of the Permanent Bureau of the Hague Conference on Private International Law (Permanent Bureau) and of the *Deutsche Stiftung für Rechtliche Zusammenarbeit* (IRZ), met in Astana, Republic of Kazakhstan, from 10 to 12 November 2015.

The Permanent Bureau and the IRZ, with the generous support of the Ministry of Justice of the Republic of Kazakhstan, organised this seminar. Its objective was to:

- increase the participants' knowledge of the work of the Hague Conference on Private International Law (the Hague Conference);
- broaden the participants' understanding of the Hague Conference's multilateral instruments (Hague Conventions); and
- discuss the relevance of the Hague Conventions to the participating States and the Region more broadly.

The seminar covered the main areas of private international law addressed by Hague Conventions, namely (i) child protection, family and property relations; (ii) legal co-operation and litigation; and (iii) commercial law.

### PREAMBLE

RECOGNISING that greater economic and social integration in the region increased cross-border commercial and investment activities and movement of families and children, resulting in increased interactions between legal systems;

RECOGNISING that the Hague Conventions reinforce legal certainty and predictability, and protect individual rights and legitimate commercial interests;

ACKNOWLEDGING that co-operation between the Hague Conference and the States in the Region in areas of common interest is of great benefit;

RECOGNISING that the seminar afforded valuable opportunities to:

- gain a better understanding of the Hague Conventions and their relevance, implementation and practical operation in the Region;
- appreciate how the Hague Conventions serve as a basis for furthering co-operation, communication and co-ordination between legal systems;
- understand the interactions between the Hague Conventions and the implementation of international human rights, as well as the promotion and facilitation of international trade and investment; and
- exchange experiences and ideas with respect to the Hague Conventions and their relevance in the region.

EXPRESSING the wish that on a regular basis, similar seminars will be convened in the Region.

## THE PARTICIPANTS

1. Thanked warmly the Ministry of Justice of the Republic of Kazakhstan, the Minister of Justice Mr Ishmaev, the Deputy Minister of Justice, Ms Asimova, the Permanent Bureau, and the IRZ for their generosity in staging this for the region important and significant event.
2. Recommended that each State in the Region considers to become a Member State of the Hague Conference.
3. Acknowledged that membership greatly enhances the possibility to receive from the Permanent Bureau, technical assistance in relation to the implementation and practical operation of the Hague Conventions.
4. Encouraged all States to consider actively the merits of acceding to the Hague Conventions covered at the seminar.
5. Encouraged all Contracting States to share their experiences with the Hague Conventions, and, with a view to further increasing their efficiency, to take steps to harmonise the operation of these Conventions.

### *Child Protection*

6. Reaffirmed the importance of international co-operation for the protection of children who move across borders.
7. Emphasised the relevance of the 1980 Child Abduction; 1996 Child Protection; the 1993 Intercountry Adoption and the 2007 Child Maintenance Conventions (the four Hague Child Protection Conventions) for the Region.
8. Recognised that in their respective fields, the four Hague Child Protection Conventions can realise the aspirations of the 1989 United Nations Convention on the Rights of the Child.
9. Highlighted the increased importance of mediation and mediated agreements to child protection in the region.
10. With respect to the 1980 Child Abduction Convention:
  - emphasised the need for swift proceedings to meet the Convention's objectives and ensure the safe return of children;
  - encouraged Central Authorities to interact with authorities in States not party to this Convention, to share best practices as established by the Convention; and
  - encouraged State parties to concentrate jurisdiction in certain courts that can hear child abduction matters.

11. With respect to the 1993 Intercountry Adoption Convention:

- noted the need to increase efforts to prevent child trafficking; and
- acknowledged the Convention's importance as the appropriate legal and administrative framework for inter-country adoption.

12. With respect to the 2007 Child Maintenance Convention, recognised the importance of the Convention as the appropriate administrative and legal framework for the recovery of child support and other forms of family maintenance.

#### *Legal Cooperation and Cross-Border Litigation*

13. With respect to the 1961 Apostille Convention, recognised:

- that it greatly facilitates the fast and efficient authentication of public documents among Contracting States;
- its role in establishing a regulatory environment that is more conducive to foreign direct investment, as highlighted by the World Bank Group; and
- the increasing use of electronic Apostilles (e-Apostilles) and electronic registers of Apostilles (e-Registers) as part of the electronic Apostille Program (e-APP).

14. Encouraged both newly acceding, and existing Contracting States, to implement this programme as a means to enhance the secure and effective operation of the Convention.

15. With respect to the 1965 Service of Process and the 1970 Taking of Evidence Conventions, noted that both Conventions:

- simplify and expedite the transmission of requests for the service of process and the taking of evidence; and
- facilitate the prompt execution of those requests;

16. With respect to the 2005 Choice of Court Convention and the 2015 Hague Choice of Law Principles, acknowledged the:

- importance of strengthening party autonomy as a means to encouraging trade and investment across the region.
- benefits to business of respecting agreements to resolve disputes, which arise from international commercial transactions, before the court, and under the law, selected by the parties.
- importance of both instruments as a means to reinforcing the international litigation system, including as a viable alternative to the international arbitration system.

17. Encouraged the wide dissemination of the Hague Principles and relevant information within the region.

18. With respect to the ongoing Project on the Recognition and Enforcement of Foreign Judgments (the Judgments Project):

- recognised the value of having harmonised rules on the recognition and enforcement of foreign judgments, at the regional and global level; and
- welcomed the work being carried out by the Hague Conference and the progress that has been made in relation to the Judgments Project.