

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

Introduction

As the autumn approaches, work at the Hague Conference continues apace. First, the formal preparations for the Sixth Meeting of the Special Commission on the practical operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (the '1980 Hague Child Abduction Convention') and 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 (the '1996 Hague Child Protection Convention') are well underway. Members of the Hague Conference and States Parties to the two Conventions will be consulted in the coming weeks on the provisional draft agenda for the Special Commission. More information on these preparations can be found below. Secondly, details can be found in this update regarding a meeting of international judicial experts which took place in The Hague on 28 June 2010, where the draft Principles on Direct Judicial Communications were discussed, amongst other things. Thirdly, the summer has also seen a number of new ratifications of, and accessions to, the Hague Children's Conventions, details of which are provided below.

Readers will also undoubtedly be aware of two recent decisions concerning the 1980 Hague Child Abduction Convention which have received international press: that of, *Abbott v Abbott*, 130 S. Ct. 1983 (2010) (United States Supreme Court) and *Neulinger and Shuruk v Switzerland* (Application No 41615/07, decision of the Grand Chamber of the European Court of Human Rights, 6 July 2010). The autumn volume of the Judges' Newsletter (which will be available on the Hague Conference website when published: http://www.hcch.net/index_en.php?act=text.display&tid=21#news) will contain commentary on both of these decisions.

Readers should also be aware that a 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) will be published in the near future. The publication will include the speeches given at the opening plenary session of the conference, the papers presented to the conference and the summaries of the rapporteurs in relation to the 'case study examples' discussed by the participants at the conference. This Special Edition of

the Judges' Newsletter will also be available on the Hague Conference website when published.

As usual, please visit our website <http://www.hcch.net> for further information on Hague Conference matters.

Preparations for the Sixth Meeting of the Special Commission on the Practical Operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention

Preparations are well underway for 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. As readers will be aware, five meetings of the Special Commission to review the practical operation of the 1980 Hague Child Abduction Convention have been held: in 1989, 1993, 1997, 2001 and 2006. The Fifth Meeting in 2006 also dealt with the implementation of the 1996 Hague Child Protection Convention. It is intended that the Sixth Meeting of the Special Commission will again deal with the implementation of the 1996 Hague Child Protection Convention. In addition, and for the first time, it is proposed to also include a review of the operation of the 1996 Hague Child Protection Convention.

The Permanent Bureau of the Hague Conference is currently considering whether to hold the Sixth Meeting of the Special Commission in two parts. The idea of holding the Special Commission Meeting in two parts arises from the heavy agenda anticipated. Apart from the general review of the operation of the two Conventions and the implementation of the 1996 Hague Child Protection Convention, it is anticipated that the Special Commission will also be considering the following documents:

- a draft of the Guide to Good Practice on Mediation under the 1980 Hague Child Abduction Convention;
- a draft Practical Handbook on the 1996 Hague Child Protection Convention;
- draft Principles concerning Direct Judicial Communications;
- a report on consultations concerning the feasibility and desirability of a Protocol to the 1980 Hague Child Abduction Convention;
- a statistical survey of cases under the 1980 Hague Child Abduction Convention arising in 2008 (as to which, see below).

The agenda is also likely to include discussions on the following:

- international family relocation;
- the future of the 'Malta process', including draft principles concerning mediation in the context of the Malta Process;
- the role of the Permanent Bureau in monitoring and supporting the two Conventions.

Readers will be kept informed of the outcome of the consultation on the proposed agenda.

Statistical Study on the 1980 Hague Child Abduction Convention commenced

As mentioned above, in preparation for the Sixth Meeting of the Special Commission, a third in-depth statistical study of the 1980 Hague Child Abduction Convention has been launched, canvassing all Central Authorities designated under the 1980 Hague Child Abduction Convention. The study will be carried out by Professor Nigel Lowe of Cardiff Law School, in consultation with, and with the assistance of, the Permanent Bureau. The study is funded jointly by the International Centre for Missing and Exploited Children and Cardiff Law School.

This detailed study of all 1980 Hague Child Abduction Convention cases (return and access) commenced in 2008, will be a follow-up to the two essentially identical studies of cases commenced in the years 1999 and 2003 (also undertaken by Professor Lowe). These important studies provide information on the volume and outcome of 1980 Hague Child Abduction Convention cases, information about the length of time taken to process cases, as well as some information on the profiles of the parties involved (ages of children, etc).

This year's study will identify any significant changes in patterns of international child abduction and the outcome of cases over a cumulative 9-year period. The findings of the study will provide a sound empirical basis for the upcoming Special Commission.

Meeting of International Judges in The Hague, 28 June 2010

On 28 June 2010 the Permanent Bureau gathered together a group of international judicial experts to continue to discuss and refine the draft General Principles for Direct Judicial Communications and the emerging rules for the further development of the International Hague Network of Judges.

The drawing up of the Principles and rules began following the recommendation of the Fifth Meeting of the Special Commission to review the operation of the 1980 Hague Child Abduction Convention (and the practical implementation of the 1996 Hague Child Protection Convention) in 2006. Drafts of the

Principles have been discussed and improved in light of comments made by experts at a number of expert meetings subsequent to the 2006 Special Commission. The Draft also provided a basis for further consultation at the Joint European Commission-Hague Conference on Direct Judicial Communications held in Brussels in 2009, where more than 140 judges and experts from more than 50 countries were in attendance. The conclusions and recommendations from the European Commission-Hague Conference joint meeting recognised the importance of the project and 'looked forward to [the principles'] continued development and refinement in consultation with judges from all regions of the world and different legal traditions'.

In the coming months, the refinements to the General Principles will be circulated for comment to all members of the International Hague Network of Judges and then to all States and organisations invited to the Sixth Meeting of the Special Commission, in preparation for their presentation at the Special Commission.

The Hague Children's Conventions: status update

Since the last Hague Conference update, there have been several further ratifications of, and accessions to, the Hague Children's Conventions:

- Cyprus, Germany, Luxembourg, Poland, Romania and Spain have now ratified the 1996 Hague Child Protection Convention. It is anticipated that further EU Member States will ratify this Convention imminently and readers should consult the status table of the 1996 Hague Child Protection Convention, available on the Hague Conference website, which is kept continually updated in this regard.
- Ireland and Kazakhstan have now ratified and acceded (respectively) to the 1993 Hague Intercountry Adoption Convention.
- Lastly, both Norway (8 June 2010) and Ukraine (7 July 2010) have recently signed the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance. The Child Support Convention has not yet entered into force.

70 Members of the Hague Conference

On 14 July 2010, the Republic of the Philippines deposited its instrument of acceptance of the Statute of the Hague Conference, and thus became the 70th Member of the Organisation. One Hague Convention is already in force for the Philippines: the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption.