

**FOURTH MALTA CONFERENCE (“MALTA IV”)
ON CROSS-FRONTIER CHILD PROTECTION & FAMILY LAW
OPENING PLENARY SESSION
3 MAY 2016**

WELCOME ADDRESS

BY

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Honourable Ministers, Honourable Judges and Magistrates, Distinguished Guests, Ladies and Gentlemen.

“Bongu u Merhba”,

Good morning and a Warm Welcome to the Fourth Malta Conference on Cross-frontier Child Protection and Family Law. As member of the Judiciary of Malta presiding over the Family Court and as member of the International Hague Network of Judges, it is both an honour and a privilege to welcome you all to a Conference whose name is synonymous with the name of the country hosting this Conference - the Malta Process. I chose to start my brief address this morning with two Maltese words of welcome. The first Maltese word, “Bongu” meaning “Good Morning” has its roots in a European Language, Italian to be precise, the second Maltese word, “Merhba”, meaning “Welcome”, has its roots in Arabic;

two words with totally different roots co-existing harmoniously in one single language.

A special welcome to my colleagues, members of the International Hague Network of Judges, hailing from jurisdictions as diverse as the different continents they represent.

What wonderful instruments the Hague Children's Conventions are! Uniting so many jurisdictions in an indispensable and irreplaceable role: protecting and upholding the fundamental rights and the best interests of the child in the most difficult of circumstances.

We are gathered here for the coming three days in order to make an assessment of the current situation as far as the implementation of the Hague Children's Conventions are concerned and discuss how international co-operation on different levels may be improved in the settlement of cross-border family disputes especially where child abduction is concerned. In all judicial proceedings, time is of the essence. The maxim "justice delayed is justice denied" takes on a particular meaning in cases of cross-border child abduction. Research on the trauma suffered by children who have experienced parental abduction show that a long period of separation from the left-behind parent is particularly damaging. The call made by **Article 11 of the 1980 Convention** stipulating that judicial and administrative authorities of Contracting States "**shall act expeditiously in proceedings for the return of children**" cannot be emphasised enough. It helps to constantly remind us that in most cases the future of children, who are the subject of an alleged abduction or unlawful retention, depends on how expeditious we carry out our duties under the Convention.

The Perspective of the Minor Child.

Understandably, one of the main aims of the Conventions is to provide the necessary tools for a quick return order in a Hague Convention case when the circumstances warrant this. What is worrying is that within many family disputes with an international dimension the child many a time ends up the loser. Taking for example abduction cases, even those where a return order was expeditiously obtained, the child's perspective of the whole procedure boils down to regaining the left behind parent and losing the abducting parent, who, in the eyes of the child, might be the most caring of both parents. Whatever adjectives we give to the adults involved in these heartbreaking situations, in the eyes of the child the adults involved were and remain his or her parents. The unlawful removal or unlawful retention of a child by a parent is not necessarily triggered by a specific intention to commit an unlawful act but might be the desire to do what that parent thinks is best for the child. Many abducting parents are otherwise law abiding citizens. Nevertheless, child abduction is an unlawful act which causes a lot of pain and suffering to all those effected by it.

International Family Mediation and the Malta Process.

I make these remarks to emphasise that whatever the outcome of a Hague Convention judicial process, the child's best interests, or should I say the rights of the child, dictate that we are duty bound to give the child a chance not to be made a victim a second time. No stone should be left unturned to try and give the child the possibility to keep or establish a

healthy relationship not with one but if possible with both parents. To address these difficult situations there is no better tool than **international family mediation**. In my view a Hague Convention court case is the right place to kick-start a process of international family mediation in the best interest of the child.

One of the subjects on the agenda of the next three days is Family Mediation in Private International Law with particular emphasis on cross-frontier family disputes where at least one of the parents originates from a country with Islamic Legal Traditions. This subject is at the core of the Malta Process which as you know is the result of a joint initiative of the Permanent Bureau of the Hague Conference on Private International Law and the Government of Malta. The process, initiated here in Malta way back in 2004, in an effort to strengthen cooperation between Hague and non-Hague states. The idea is to build a dialogue, a bridge-building exercise between Hague and non-Hague states.

During the last Malta Conference (Malta III) held in 2009 the participating judges and experts adopted a recommendation concerning the development of a more effective structure for the mediation of cross-border family disputes. We are privileged to have with us the Honourable Mr Justice Jacques Chamberland, of the Quebec Court of Appeal, a colleague of mine on the International Hague Network of Judges, who made the recommendation. The recommendation was accepted at the Council on General Affairs and Policy at the Hague Conference and a working party was set up co-chaired by Canada and Pakistan. A herculean task by any standards with a working party representing no less than 22 states. We all look forward to hear about the challenges of the working party over the last seven years and hopefully, the Fourth Malta Conference

will go down in the history of private international law as the final stage towards the setting up of a structured process of family mediation in the context of international family law in general and in cross-border child abduction cases in particular.

We, members of the International Hague Network of Judges, are in an excellent position to promote structured dialogue between disputing parents offered by international family mediation.

Finally I thank the organisers for giving me this wonderful opportunity to address the Fourth Malta Conference and wish you all a successful conference.

Thank you.

Robert G. Mangion