

HCCH

Statut - Conventions - Protocoles - Principes
Statute - Conventions - Protocols - Principles

9^e Édition
9th Edition

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Edited by the Permanent Bureau

FOREWORD

Experts working with the HCCH love and regularly use it: the "Collection" or "*Recueil*" of instruments adopted by the HCCH. Their copies of the Collection are often "alive": annotations, highlighting, cross-references, coffee stains, all telling individual stories of hard work and often long hours spent studying the HCCH's instruments. They make each copy of the Collection unique and some experts consider their copies irreplaceable; they hold on to them for years. The Collection becomes a chronicle of the work of the HCCH.

But the time has come to add a new chapter to this chronicle, and it is my pleasure to present the 9th Edition of the *Collection of Instruments of the HCCH*.

Like its eight predecessors, this new edition contains a selection of instruments that have entered into force under the auspices of the HCCH. However, it also includes two new instruments which have been adopted since the release of the last edition: the *2015 Principles on Choice of Law in International Commercial Contracts* – the first normative soft-law instrument developed and approved by the Organisation – and the *Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters*. These new instruments are a testament to the legislative productivity of the HCCH. They are also proof that the HCCH remains the foremost global organisation for the progressive unification of private international law and for promoting cross-border legal cooperation.

However, the addition of these two instruments is not the only difference between this new edition and previous versions. We took stock and thought was given as to how the Collection could become even more valuable to its users.

Thus, this 9th Edition features several improvements: the Collection is lighter, featuring only those HCCH instruments that are successful and active or otherwise represent a significant contribution to the development of private international law. Moreover, we made several editorial changes and harmonised the presentation of the texts of the instruments. Both measures should improve the readability of the Collection.

And, for the first time, we have included a Guide to the Collection. This Guide imparts how we selected the instruments for inclusion in this Collection. It also explains the authenticity of the English and French versions of the instruments as well as how the dates of the instruments were determined. Additionally, the Guide includes a list of all Diplomatic Sessions of the HCCH, together with a short reference to the Conventions / instruments adopted at each of those Sessions.

The past eight iterations of the Collection of Instruments have been indispensable to the work of the HCCH. I am convinced that this will not change with this 9th Edition and I am confident that the improvements will be well received. With this new edition, experts will be able to continue chronicling the work of the HCCH – and again start personalising their copy of the "*Recueil*".

The Secretary General of the HCCH
Christophe Bernasconi

GUIDE TO THE COLLECTION

Selection of instruments

This 9th Edition contains a selection of HCCH instruments, including the Organisation's founding document, the Statute of the HCCH.

Not included in this Collection are the "old" HCCH Conventions, that is, the first seven Conventions adopted between 1893 and 1904. These instruments are historically valuable; however, as they have been superseded by more modern instruments, we consider that they have lost their practical value. Moreover, we opted against including several "modern" HCCH Conventions, adopted since the 1950s either because they have been superseded by other instruments or simply because they are used less frequently.

Instruments not contained in this volume are referenced in the Table of Contents and are available for consultation on the HCCH website at < www.hcch.net >.

Authenticity of the reproduced texts of the instruments

The reproduced texts of the instruments are the authentic versions as deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, the depositary of the HCCH instruments.

Short titles of HCCH instruments

The short titles of the HCCH instruments are composed as follows: HCCH [year of the instrument] [subject of the instrument] [Convention / Protocol / Principles].

Thus, for example, the short title of the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* is: HCCH 1980 Child Abduction Convention.

Order and date of HCCH instruments

The Collection lists HCCH instruments in chronological order by the year of the instrument. Until the Nineteenth Session (2001-2002), which adopted the HCCH 2006 Securities Convention, the year given to an instrument was the date of the Convention's first signature. However, the HCCH changed this approach to align the date of the Diplomatic Session and the date of the instrument which was adopted at that Session. Thus, since the Twentieth Session, which adopted the HCCH 2005 Choice of Court Convention, the year of the instrument is the date of its adoption by the Diplomatic Session.

However, for its first soft-law instrument, the HCCH took a different approach. Because the 2015 Principles on Choice of Law in International Commercial Contracts were not adopted by a Diplomatic Session, but rather approved by the HCCH's Members through a written procedure, the date given to the instrument is the date of the closing of the written procedure.

Readability of the text

Changes have been made to the presentation of the texts of the instruments in order to improve their readability while ensuring a high degree of consistency between the English and the French versions. The changes also harmonise the presentation across all instruments. None of these changes alter the contents of the instruments.

Official languages of the HCCH

The HCCH is a bilingual organisation with both English and French being its official languages. Thus, the Collection reproduces texts of most instruments in both languages. Since 1965, the French and English texts of HCCH instruments are both authentic and equally conclusive. The French and English texts of the HCCH 1961 Form of Wills Convention and the HCCH 1961 Apostille Convention are also both authentic; however, the French text shall prevail in the event of divergence. Earlier HCCH instruments were adopted in French only and unofficial translations are available on the HCCH website.

The Statute of the Organisation was initially drafted in French only. However, with the amendments made in 2005, the Members of the HCCH adopted the current Statute in both English and French, with both versions being equally authentic and conclusive.

Other languages

In its pursuit of universality and inclusiveness (Strategic Priority 3 of the HCCH Strategic Plan 2019-2020), many HCCH instruments, including those published for the first time in this edition, have been translated into various other languages. These translations are available either on the HCCH website or in publications for which the website provides references.

Website and Proceedings

The HCCH website contains further important information not reproduced in this Collection, for example, the status of signatures, ratifications and accessions to the various HCCH instruments, practical information relating to the instruments and their legal effects, as well as to the Diplomatic Sessions and Special Commission meetings which adopted these instruments. The preparatory work leading to the adoption of the HCCH instruments is included in the *Proceedings* of the HCCH. Further information regarding the *Proceedings* can be found on the HCCH website under "Publications".