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Please indicate your profession:

- Practitioner
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- Legal professional in international organisation
- Academia
- Others, please specify: Click or tap here to enter text.

Do you have practical expertise in cross-border civil or commercial litigation:

- Yes
- No

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Questions

Consultation on the draft text of a possible convention on parallel proceedings and related actions

Question 1 on the scope of the Draft Text

- 1.1 What are your views on the scope of the Draft Text?
I think it is a good and honest effort.
- 1.2 Does the subject matter scope of the Draft Text cover those matters for which rules on parallel proceedings and related actions would be beneficial?
More or less.
- 1.3 What are your views on the subject matter exclusions in particular, and how they would work in practice? For example, what are your views on the formulation of the arbitration exclusion in Article 2(3)?
I agree.
- 1.4 What are your views on the geographical scope of the Draft Text and how it would work in practice? (See paragraph 16 for further information).
Interesting, and can be usefull.

Question 2 on definitions

What are your views on the definitions of parallel proceedings and related actions? In particular, please share your views on how these definitions might operate, and be applied by parties and courts, in practice.

The definitions are to my opinion workable. There is always the discussion about, and the difference between, practical approach and (the need for) clear and cut rules, both for court and judges as for lawyers, and the more principal approach for giving the best possible convention rules that gives way to (almost) all the possible situations and discussions and provides the best decision in every case. On the one hand judges need clear rules for quick and efficient deciding, but on the other hand they will give justice to the parties and that is not always possible with the first one. So it is necessary to find a balance, that is still workable. So, do not make the convention to complicated (risk for long discussions and torpedo tactics) but otherwise provide enough space for to the case decisions. I point at the EU 1bis Regulation especially art. 29 (lis pendens) etc. and the experience with this Regulation.

An other question raised is about the definition of courts. The convention seems to depend on decisions of civil and commercial courts, but in some jurisdictions, like The Netherlands, it is possible for a criminal court that gives a verdict in a criminal case to reward civil damages and compensation to the victim. The criminnal court acts in a way as civil court for that part. I understand that this is a question for also the 2019 Judgment Convention in a whole, but it appears here most: when a person of company is given a criminal verdict and the same court decides for compensation, what does that mean for a normal civil proceeding in another country? Formally, it are not the same parties, because in the crminal case the party is the prosecutor and the party that gets compensation is the victim (in so far more or less a party), so it seems not tot fulfil art. 3 par. 1 a. And yes, I am aware of the Explanatory Report nr. 9 (and 'The HCCH 2019 Judgments Convention', Hart Publishing 2023, M. Weller and others, p. 22). But when in an other state a criminal court awarded damages (as first court), there will be no possibility for the victim (or the party that has to pay) to ask for a decision from a civil court. And that can be difficult especially

when the criminal court does not use the same rules for civil claims within the criminal proceeding as the civil court, for example with the level of proof.

Question 3 on when a court is deemed to be seised

What are your views on Article 4?

It seems the same discussion in The Netherlands about civil cases that start with a writ of summons, delivered by a bailiff and then send to the court and a court case that starts with a request to the court, and the court sends it to the other party. best seems a simple rule, when the court is at stake.

Question 4 on Article 5 obligations

What are your views on Article 5?

Suspension is better as dismissal. it gives the other court more space to operate if necessary.

Question 5 on priority jurisdiction / connection

What are your views on Articles 6 – 8 including how they will work in practice?

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Question 6 on Article 8(2) jurisdiction / connection requirements

6.1 What are your views on the 'jurisdiction / connection' list in Article 8(2)?

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6.2 Based on your experience, do you consider these factors appropriate for parallel proceedings i.e. for obliging courts to suspend or dismiss proceedings if they are not seised on the basis of one of these? Why or why not?

It is to early to know. so, no comment.

6.3 Are there any additional factors that you believe should be included?

no comment.

Question 7 on the determination of the more appropriate court

7.1 What are your views on the approaches proposed in Article 9 for determining which court should adjudicate the dispute in cases of parallel proceedings which Articles 6 – 8 have not resolved?

The two approaches of art. 9 reflects what a said under question 2. The first gives more security to the parties. in combination with option 3. 1 and 2 are to much open for discussions.

7.2 What are your views on how the two approaches may work in practice?

See answer 7.1.

7.3 Do you have a preference for either approach? If so, please explain why.

Can 9 and 10 for not be combinated?

Question 8 on factors to be considered to determine the more appropriate court

8.1 What are your views on the factors listed in Article 10 for determining the more appropriate court in cases of parallel proceedings subject to Article 9 (i.e. that are not resolved by Articles 6 – 8)?

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8.2 Do you have any views on how Article 10 might work in practice?

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8.3 Are there additional considerations that, in your view, should be taken into account?

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Question 9 on the effectiveness of the framework for parallel proceedings

Do you have an overall view on the effectiveness of the framework developed in the Draft Text for dealing with **parallel proceedings** in an international context? Please explain any advantages and / or disadvantages of the framework, and how you think it will work in practice.
see before.

Question 10 on related actions

Do you have a view on the effectiveness of the framework developed in the Draft Text for dealing with **related actions** in an international context? Please explain any advantages or disadvantages of the framework, and how you think it will work in practice.

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Question 11 on the communication mechanism

11.1 What are your views on the practical operation (or the effectiveness) of the communication methods set out in Chapter IV of the draft text for use between courts seised, in cases involving parallel proceedings and related actions?
Make it as flexibel as possible.

11.2 Are there particular advantages and challenges you foresee in applying these methods?

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Question 12 on safeguards

What are your views on the three safeguards provided in the Draft Text (Articles 19-21), particularly as to how they will operate in practice?
They are nessary on the one but also gives maybe way to a lot of discussion.

Question 13 on the objectives of the Draft Instrument

13.1 Would the rules set out in the Draft Text achieve the objectives of a future instrument?

The objective of a future instrument is to enhance legal certainty, predictability and access to justice by reducing litigation costs, and to mitigate inconsistent judgments in transnational litigation in civil or commercial matters.

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13.2 Do you have any views on whether the proposed rules set out in the Draft Text would improve the status quo?

I think they do, especially for countries that does not have a clear rule on lis pendens.

13.3 Do you consider there are any risks of tactical or satellite litigation arising from any of the provisions, or the overall approach of the Draft Text? Are these risks greater or fewer than those that currently exist? Are there any ways that such risks could be addressed in the Draft Text?

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Question 14 - comments

What other comments, if any, do you have?

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