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

Introduction

The tumultuous weather this summer has not disturbed work at the Hague Conference on Private International Law, which has continued apace. This update provides information on the seminars co-organised or attended by the Hague Conference in recent months, provides an update on the Intercountry Adoption Technical Assistance Programme (ICATAP) and concludes with our usual 'status update' concerning the Hague Children's Conventions. As usual, for further information relating to the work of the Hague Conference on Private International Law, please visit our website: www.hcch.net.

First Gulf Judicial Seminar on Cross-Frontier Legal Co-operation in Civil and Commercial Matters, Qatar, Doha

From 20 to 22 June 2011, approximately 80 participants from Member States of the Gulf Cooperation Council (GCC) – Kuwait, Qatar, Saudi Arabia, the UAE and Oman (Bahrain was excused) – including Ministry officials, academics, professionals, as well as members of the Permanent Bureau of the Hague Conference on Private International Law, met in Doha (Qatar), to discuss the relevance and possible implementation of some of the Conventions adopted under the auspices of the Hague Conference within the GCC region in the areas of child protection, as well as legal cooperation and litigation.

The Conventions discussed included the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (the 1980 Convention), 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 Convention) and the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (the 2007 Convention). The participants reviewed the Conventions and suggested further research into possible implementation of the Conventions with a view to considering becoming Contracting States to these Conventions. The participants also agreed to study possibilities for the GCC States to become Members of the Hague Conference, with a view in particular to participating in negotiations of future Conventions and attending Special Commission meetings on the practical operation of existing Conventions. The full Conclusions and Recommendations of this meeting

can be found on the website of the Hague Conference at: http://www.hcch.net/upload/2011_doha_conc_en.pdf.

International Workshop on National Approaches to Surrogacy Organised by the University of Aberdeen

From 30 August to 1 September 2011 the Hague Conference was delighted to attend an 'International Workshop on National Approaches to Surrogacy' organised by Aberdeen University (Professor Beaumont and Katarina Trimmings) as a part of their major research study into the private international law aspects of international surrogacy arrangements. The research project is carried out with the financial support of the Nuffield Foundation and with the co-operation of the Hague Conference on Private International Law.

The International Workshop brought together specialists from a number of jurisdictions to share information on their domestic (including private international law) approaches to surrogacy. There were 22 jurisdictions represented at the workshop: Australia, Belgium, Brazil, China, Czech Republic, France, Germany, Greece, Hungary, India, Ireland, Israel, Netherlands, New Zealand, Romania, Russia, South Africa, Spain, Uganda, Ukraine, the UK and the US. Speakers presented very interesting 'national reports' which demonstrated the pressing challenges occurring in many states as a result of international surrogacy arrangements.

The Hague Conference spoke on the question of whether there were possible 'lessons' that could be learnt from the Hague Convention of 29 May 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption (the 1993 Convention) for any potential future instrument on surrogacy. A paper was also presented analysing the need for a regulation of cross-border surrogacy from the human rights perspective. Lastly, Professor Beaumont and Katarina Trimmings presented a paper setting out their preliminary thoughts on the need for international regulation of international surrogacy arrangements. The papers from the workshop, along with the final report of the University of Aberdeen research project, will be published in 2012 in a book by Hart Publishing. For more details regarding the research project see: <http://www.abdn.ac.uk/law/surrogacy/>.

The Intercountry Adoption Technical Assistance Programme: An Update

ICATAP, which aims at providing assistance to certain States that are planning ratification of, or accession

to, the 1993 Convention, or that have ratified or acceded to the Convention but need assistance with implementation of the Convention, has continued its work during the past years. In particular, in the second half of 2010 and in 2011, technical assistance, including legal assistance and training, was provided to different actors (Central Authorities, competent authorities, civil society, etc) in Madagascar, Chile, Nepal, Kazakhstan and Zambia, amongst others.

In other States ICATAP has developed specific programmes over a longer period of time. For example, in Guatemala, the technical assistance provided facilitated the development and approval of a new adoption law, and the entry into force of the 1993 Convention. The Permanent Bureau and other Central Authorities have undertaken several missions in the last few years in order to train the different actors. Although intercountry adoptions have not officially resumed yet in Guatemala due to severe irregularities in the child protection system reported by a UN body, the Central Authority for adoptions has worked hard to guarantee the rights of children who may be adopted. In particular, the Central Authority deserves special recognition for the following: (i) the successful development of national adoptions, which have dramatically increased in the last three years; and (ii) the assistance provided to mothers who initially wished to relinquish their children and, after receiving advice, decided not to do so.

In Cambodia, ICATAP provided advice and assistance with the completion of the implementing legislation (2009 Law on Adoption and the accompanying regulations), as well as contributing to the establishment and functioning of the Central Authority. Two consultants, as well as staff of the Permanent Bureau and other Central Authorities, travelled to Cambodia to train the Central Authority and other competent authorities. For example, a Manual on Procedure was developed in 2011 to assist Central Authority staff in applying the law and regulations to adoption cases. In addition, a plan of action and recommendations with the International Advisory Group were developed.

The Cambodian Government imposed a temporary moratorium on intercountry adoptions pending completion of its legal framework and the strengthening of control mechanisms. The moratorium was extended until 1 April 2012 on the recommendation of the Permanent Bureau because preparations remained incomplete. The government of Cambodia intends to resume intercountry adoptions on the aforementioned date, and the Permanent

Bureau, through ICATAP partners and UNICEF, will continue efforts to provide the necessary training, capacity building and fundraising for resources.

In Haiti, in response to a request from the Haitian Prime Minister, the Permanent Bureau played a fundamental role in conferences in 2011 convened by the governments of Quebec and France, along with other receiving States' Central Authorities. The Central Authority of Chile, UNICEF, and government and parliamentary officials of Haiti and the Institut du bien-être social et de recherches (IBESR, the Social Welfare and Research Institute) also participated. During these meetings, participants affirmed their commitment to the principles of the 1993 Convention. Guidelines for a joint action plan in preparation for Haiti's ratification of the Convention were drafted and the Haitian government expressed its commitment to developing legitimate and internationally accepted adoption procedures. The action plan indicates that support for the government of Haiti must continue on a long-term basis in order to strengthen the child protection system and to implement procedures consistent with the 1993 Convention that will eventually lead to the resumption of international adoptions in Haiti. As a result of these meetings, the Permanent Bureau was asked to collaborate with partners to revise Haiti's draft intercountry adoption law of 2010 and to provide comments to Haitian authorities, organise an informational seminar for parliamentarians on the Hague Convention and to explain proposed amendments to the draft law. Haiti signed the 1993 Convention on 2 March 2011.

The Hague Children's Conventions: Status Update

A number of States have recently ratified or acceded to the Hague Children's Conventions:

- On 28 July 2011, the Russian Federation deposited its instrument of accession to the 1980 Convention. The Convention will enter into force for the Russian Federation on 1 October 2011.
- On 30 June 2011, Denmark ratified the 1996 Convention. The Convention will enter into force for Denmark on 1 October 2011. Portugal ratified this Convention on 14 April 2011 and the Convention will enter into force for Portugal on 1 August 2011.
- In relation to the 2007 Convention, Bosnia and Herzegovina signed this Convention on 5 July 2011.