



Hague Conference on Private International Law – Conférence de La Haye de droit international privé

Connecting Protecting Cooperating Since 1893



# Secretary General's Message



In 2020, we learnt to expect the unexpected. As I now reflect on 2021, this lesson has certainly served us well throughout the year. It may not have been the return to "normal" that we had anticipated, or indeed for which we had hoped, however, there is still much to celebrate about the past year.

As early as January 2021 we welcomed Namibia as a new HCCH Member, and Singapore as the 120<sup>th</sup> Contracting Party to the 1961 Apostille Convention - a real milestone! These developments set a positive tone for the months that followed, in which we welcomed a further three new HCCH Members (bringing us to another milestone of 90 HCCH Members) and witnessed a further nine treaty actions, as you will read about later in this Annual Report.

In March, our Council on General Affairs and Policy (CGAP) met online for the first time in its history. While an online meeting may never be able to replicate the energy and nature of in-person meetings, it was remarkable to see the active engagement from the Members in such

exceptional circumstances. The support and engagement of the HCCH Membership have been critical for the Organisation in this unusual year, in which all official meetings were held online.

While the shift to the online format undoubtedly presented its own challenges, it also presented various opportunities. The flexibility of the format resulted in more inclusive participation from across the world and led to a significant increase in the number of participants. This enriched the dialogue at HCCH meetings and events throughout the year, such as the 12<sup>th</sup> International Forum on the electronic Apostille Programme (e-APP) and Edition 2021 of HCCH a|Bridged. Online meetings have also enabled the Permanent Bureau to increase its engagement with individual States in the context of post-Convention services, as well as its cooperation with other organisations in the context of external representation work. While I very much hope that in-person activities will resume in the coming year, I remain committed to finding effective ways to facilitate inclusive representation in HCCH meetings and events.

"The support and engagement of the HCCH Membership have been critical for the Organisation in this unusual year, in which all official meetings were held online."

"I very much look forward to seeing the full HCCH Membership participating in the collective reflection on the further strategic development of the Organisation."

All of this being said, as you will see from this year's Annual Report, 2021 was about much more than its (many) online meetings. The 1961 Apostille Convention celebrated its 60<sup>th</sup> anniversary during the Special Commission meeting in October, and in the same month, the 1996 Child Protection Convention celebrated its 25<sup>th</sup> anniversary with the events comprising the HCCH|Approach Initiative. The sustained interest in these Conventions after so many years is testament to their continuing practical relevance for the modern world. Of course, this is not exclusive to those Conventions. The signatures, ratifications, and accessions throughout the year demonstrate the continuing interest in both older and newer HCCH Conventions, whether in transnational litigation and legal cooperation, family and child protection law, or commercial and financial law.

I have also been pleased to see the progress made by the Experts' Groups and Working Groups in both the normative and non-normative areas throughout the year. Some are likely to conclude their work quite soon, while others have many more discussions to come. In the non-normative space, the work of some of these Groups will be an integral part of the discussions at the upcoming Special Commission meetings envisaged in 2022 and beyond.

With the current Strategic Plan coming to an end in 2022, the past year was also the perfect opportunity to reflect on the future strategic positioning of the HCCH. Over the course of 2021, I had the pleasure of engaging with an open Informal Group of Ambassadors on this topic and I am particularly grateful to both the Ambassadors and the staff of their respective embassies for their active involvement. These discussions will be brought to CGAP and I very much look forward to seeing the full HCCH Membership participating in the collective reflection on the further strategic development of the Organisation.

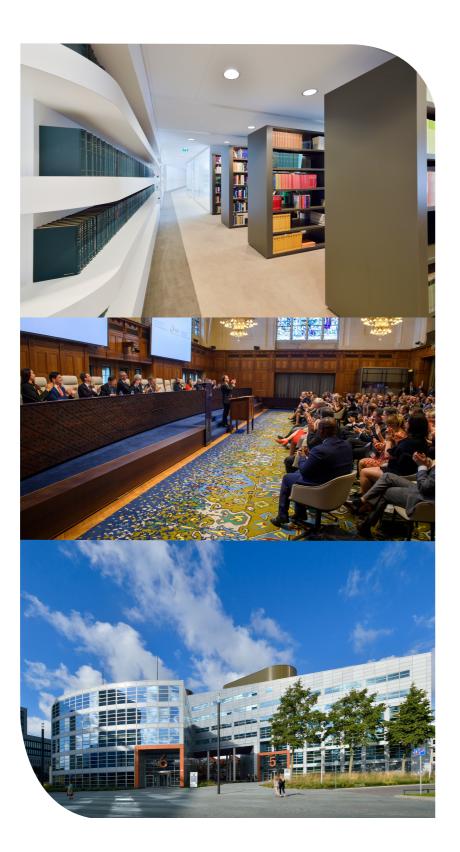
In short, after another successful year for the HCCH, I am proud of how the Organisation has continued to operate effectively. It has truly been a team effort and I would like to thank the many experts, delegates, observers, and of course, my colleagues at the Permanent Bureau, for continuing to rise to the various challenges. We have set a promising course for the future development of the Organisation and I am already looking forward to seeing what exciting new adventures await us in 2022.





Dr Christophe Bernasconi Secretary General

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# **November**



\*

Experts' Group on Family Agreements (online)



Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption (online)

Experts' Group on Parentage / Surrogacy (online)

# December



HCCH a|Bridged -Edition 2021: Enabling party autonomy with the 2005 Choice of **Court Convention** (online)



Administrative Cooperation Working Group on the 2007 Child Support Convention (online)

The Working Group on the Practical Handbook under the 2000 Protection of Adults Convention met regularly between April and December 2021 (online)



5 Experts' Groups
5 Working Groups
1 Special Commission
2 Governing Bodies

	€ 4,277,994
	Budget for
	Financial Year 2020-2021
	€ 811,138
	received in monetary voluntary
	contributions in 2021, of which
ibutions	€ 445,046
	were received for
	the iSupport Project
	67
าร	New translations, covering
	5 publications

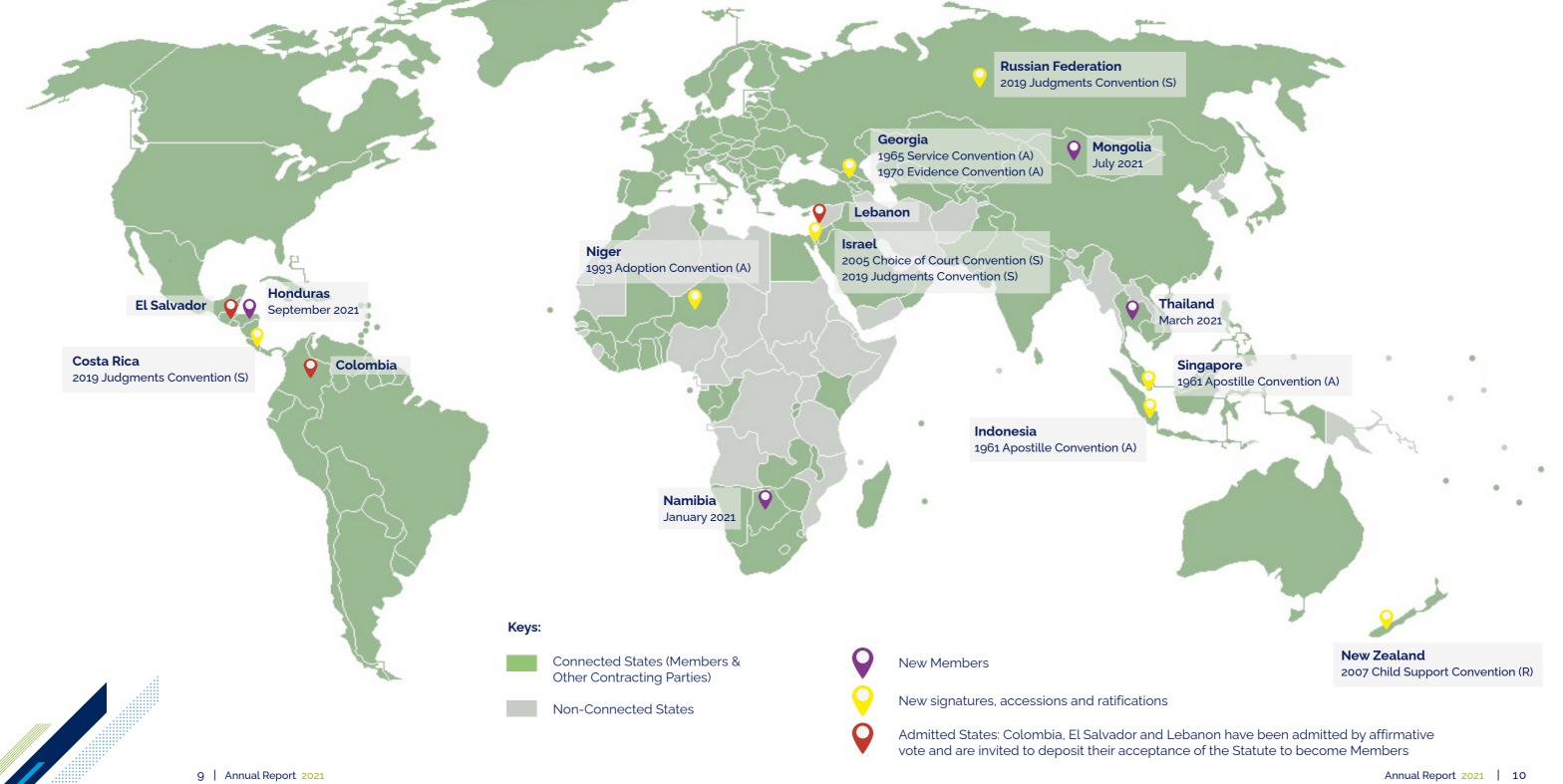
States received tailored post-Convention assistance

# **New Members** & **Treaty Actions**

The HCCH has go Members (89 Member States and the European Union) representing regions across the globe.

Members determine the Work Programme of the Organisation and play an active role in its normative, non-normative and governance work.

Contracting Parties to the HCCH Conventions benefit from an extensive legal cooperation network and uniform international standards. The Conventions are open to Members of the Organisation, but also to non-Members, of which many have either signed or become Contracting Parties to one or more HCCH Conventions. This means that there are a total of over 150 States connected to the work of the Organisation worldwide.



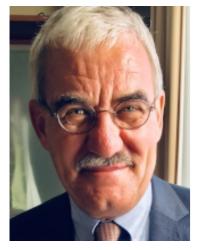


# **Normative Work**

As part of its mandate working towards the progressive unification of the rules of private international law, conducting legislative or "normative" work is a core function of the HCCH.

In 2021, the Organisation continued this work exploring areas which may benefit from the development of an international instrument, in the context of some of the projects listed in this section.

#### **Tourists and Visitors (Online Dispute Resolution)**



Mr André Stemmet, Chair of the Experts' Group on the Tourists and Visitors Project

In 2021, the **Experts' Group on the Tourists and Visitors (ODR) Project** came to a conclusion with the presentation of its final report to CGAP. Established in 2018, the Experts' Group met three times between 2018 and 2020, chaired by Mr André Stemmet (South Africa).

In its final report, presented to CGAP in March 2021, the Experts' Group recommended the development of a guide aimed at international tourists and visitors to facilitate the pursuit of cross-border claims. The proposal was endorsed by CGAP, which mandated the Permanent Bureau to develop a *Practical Guide to Access to Justice for International Tourists and Visitors*, based on the Draft Outline submitted by the Experts' Group.

The Permanent Bureau then began preparing the Practical Guide, the draft text of which was circulated among Members for comment in September 2021. The Practical Guide is intended to assist international tourists and visitors to foreign States seeking access to justice for disputes arising in the context of their visit by providing information on online dispute resolution mechanisms that may be available and HCCH legal instruments that may be relevant in a given case.

The draft Practical Guide will be submitted to CGAP for approval in March 2022.

The Tourists and Visitors (ODR) Project seeks to explore whether private international law – be it through a binding or non-binding instrument, or by other means – can contribute to ensure the protection and adequate access to justice for international tourists and visitors.



#### Jurisdiction



Prof. Keisuke Takeshita, Chair of the Working Group on Matters Related to Jurisdiction in Transnational Civil or Commercial Litigation

The origins of the Jurisdiction Project date back to 1992, when the HCCH commenced exploratory work on two key matters in transnational civil or commercial litigation: the jurisdiction of courts and the recognition and enforcement of foreign judgments. Work in these areas progressed gradually throughout the following decades, with particular attention given first to the development of an instrument to address cases specifically involving choice of court agreements (resulting in the adoption of the Choice of Court Convention in 2005) and subsequently to the development of an instrument relating to the recognition and enforcement of foreign judgments (resulting in the adoption of the Judgments Convention in 2019).

Since 2020, the Jurisdiction Project is again at the centre of the HCCH's normative work in the area of transnational civil or commercial litigation. Resuming its work following a brief hiatus, the **Experts' Group on Jurisdiction** met three times between February 2020 and February 2021, completing its mandate with the submission of a final report to CGAP in March 2021.

In accordance with the Experts' Group's recommendations, in March 2021 CGAP mandated the establishment of a **Working Group on Matters Related to Jurisdiction in Transnational Civil or Commercial Litigation**, chaired by Professor Keisuke Takeshita (Japan), and tasked the Working Group with the development of draft provisions, including rules for concurrent proceedings, to further inform policy considerations and decisions in relation to the scope and type of any new instrument.

The Working Group met for the first time in October 2021 to commence work on the development of draft provisions on parallel proceedings. The Group discussed the objectives and scope of the provisions, as well as the role of jurisdictional rules and the doctrine of *forum non conveniens*. The second meeting of the Working Group is scheduled to take place in February 2022 before the Group reports on progress to CGAP in March 2022.



The Jurisdiction Project explores matters related to the jurisdiction of courts in transnational civil or commercial litigation: on which grounds should the parties to a civil or commercial dispute be able to seize the courts of a certain State; on which grounds can a State exercise jurisdiction in civil and commercial matters; how can harmonised rules in this area reduce the risk of parallel litigation in multiple States?



#### Parentage / Surrogacy



Ms Joelle Schickel-Küna. Chair of the Experts' Group on the Parentage / Surrogacy Project

Established in 2015, the Experts' Group on the Parentage / Surrogacy Project is currently chaired by Ms Joelle Schickel-Küng (Switzerland).

The Experts' Group met three times in 2021, continuing its discussions on the feasibility of developing both a general private international law instrument on legal parentage (Convention) and a separate protocol on legal parentage established as a result of international surrogacy arrangements (Protocol). In order to further advance work, small subgroups were also organised throughout the year to discuss specific issues.

The Experts' Group on Parentage / Surrogacy met in February 2021 to discuss the focus of work for its next meetings, in order to prepare its final report to CGAP on the feasibility of a possible future Convention and Protocol.

In March 2021, CGAP endorsed the Experts' Group's recommendation to extend its mandate by one year to allow submission of its final report to CGAP at its 2023 meeting. In doing so, CGAP reiterated that any work by the HCCH in relation to international surrogacy arrangements should not be understood as supporting or opposing surrogacy.

In July 2021, the Experts' Group convened again to discuss the scope of a possible Convention and Protocol. In particular, the Group assessed the desirability and feasibility of including domestic adoptions in the scope of a Convention. It also assessed the desirability and feasibility of including (1) legal parentage established as a result of a domestic surrogacy arrangement and (2) domestic adoptions in the context of a (domestic / international) surrogacy arrangement in the scope of either a Convention or Protocol.

The Experts' Group's third and final meeting of the year took place in November 2021, to consider the form,

structure and focus of its final report. The Group also continued its discussions on the feasibility of advancing work with respect to a possible Protocol, in particular its aims, as well as the different approaches and the different possible elements that could be included in it.

The Experts' Group on Parentage / Surrogacy is set to meet again in late March 2022 and in October / November 2022, before submitting its final report on the feasibility of a possible future Convention and Protocol to CGAP.

#### The Parentage / Surrogacy Project explores the feasibility of advancing work on the private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements.



#### **Family Agreements**



Chair of the Experts' Group

on Family Agreements

In 2012, CGAP mandated the establishment of an Experts' Group on Family Agreements, currently chaired by Professor Paul Beaumont (United Kingdom), which met five times between 2013 and 2021.

this area.

As a result, and with the approval of the HCCH Members, the Experts' Group developed a first draft of a new Practitioners' Tool (formerly draft Practical Guide) on cross-border recognition and enforcement of agreements reached in the course of family matters involving children.

In 2021, the Experts' Group continued working on the revision of the draft Practitioners' Tool, first presented to CGAP in 2019, with the aim of improving its readability for a wider audience and achieving consensus among Members on a final draft.

After circulating it among Members for comment in July 2021, the Experts' Group met in September 2021 to discuss the most recent version of the Practitioners' Tool. Among other topics, the discussion focused on the scope and target audience of the Practitioners' Tool; the significance of habitual residence as a connecting factor within the HCCH Child Protection Conventions; and the right of the child to be heard in the context of arriving at a family agreement. A revision of the Practitioners' Tool was produced according to the outcomes of this meeting.

The Experts' Group met again in November 2021 to discuss remaining drafting matters and to finalise the document for submission to CGAP. The Practitioners' Tool was circulated to Members in December 2021 for a final informal consultation.

The Practitioners' Tool will be submitted to CGAP for approval in March 2022.



Considering the increased international mobility of families and children, the growing trend of resolving family matters and disputes through agreements between the parties, and the practical and legal challenges concerning the recognition and enforcement of voluntary agreements across borders, the Experts' Group reached consensus on the need for guidance in

> The Family Agreements Project explores matters related to the crossborder recognition and enforcement of agreements in family matters involving children.



# **Other Exploratory Normative Work**



The Intellectual

**Property Project** 

explores the

intersection between

private international

law and intellectual

property law, in close

collaboration with the

World Intellectual

Property Organization.

In addition to the normative projects described above, the Permanent Bureau regularly conducts exploratory work, often together with other international organisations, in various areas which may benefit from further research on their private international law implications.

#### Intellectual Property

In 2021, the HCCH and the World Intellectual Property Organization (WIPO) jointly developed a Questionnaire on the intersection of private international law and intellectual property (IP) law.

The Questionnaire was designed to identify actual and practical private international law issues in IP disputes. For example, establishing jurisdiction, determining and applying the applicable law, recognising or enforcing foreign judgments, and where relevant, administrative and judicial cooperation.

More than 300 responses to the Questionnaire were received from a diverse range of respondents, including officers from National Organs and IP offices of HCCH Members, members of the judiciary, representatives of IP associations, as well as IP practitioners and academics.

A preliminary analysis of responses confirmed the applicability of general private international law rules to cross-border IP disputes in most jurisdictions and

highlighted the strong territorial elements of IP rights, as enshrined in some international or regional instruments. While less than one third of respondents reported experiencing private international law-related challenges in cross-border IP disputes, the difficulties that were reported were primarily in relation to online cross-border IP disputes and disputes arising in relation to Standard Essential Patent (SEP) FRAND disputes in certain jurisdictions.

The future direction of work on the intersection of IP and private international law will be determined by CGAP in March 2022.



### **Digital Economy**

In 2021, the Permanent Bureau continued to monitor developments with respect to the digital economy, including distributed ledger technology, with the aim of identifying private international law issues for potential future work. This exploratory work focused on the specific issues arising from emerging technologies and applications in the digital economy, including jurisdiction and choice of court, applicable law and choice of law, recognition and enforcement of judgments, and potential cooperation frameworks.

The Permanent Bureau continued to collaborate with the International Institute for the Unification of Private Law (UNIDROIT) and the United Nations Commission on International Trade Law (UNCITRAL) with respect to their current work on the digital economy, among other by participating as an observer in meetings of both UNIDROIT's Working Group on Digital Assets and Private Law and UNCITRAL's Working Group IV (Electronic Commerce).



#### Insolvency

border insolvency cases. As a result, exploratory research on the private international law issues relating to insolvency remains an important component of the HCCH's normative work.

In 2021, the Permanent Bureau continued to coordinate with UNCITRAL on matters relating to applicable law in insolvency proceedings and civil asset tracing and recovery in insolvency proceedings. The Permanent Bureau participated in the UNCITRAL experts' group meetings on these topics in September 2021, as well as the December 2021 meeting of UNCITRAL Working Group V (Insolvency Law).







# Lack of clarity on applicable law can often lead to inconsistency and lack of predictability in cross-

# **Non-Normative Work**

To date, 40 Conventions and other legal instruments have been adopted under the auspices of the HCCH.

Ensuring the effective implementation and operation of these Conventions is essential and benefits all Contracting Parties. This is facilitated by the provision of post-Convention services, as part of the "non-normative" work of the Organisation. This section presents the major developments from 2021.

#### **1961 Apostille Convention**

In 2021, the Apostille Convention celebrated a milestone year that was marked by several meetings and events. The first highlight came as early as January 2021, when the Convention reached 120 Contracting Parties following the accession of Singapore.





Ms Vesna Bratušek, Chair of the Experts' Group on the e-APP and New Technologies

Singapore accedes to the 1961 Apostille Convention (January 2021)

In May 2021, the Experts' Group on the e-APP and New Technologies met for the first time. Chaired by Ms Vesna Bratušek (Slovenia), the Group discussed the current use of the e-APP, future possible solutions, and methods for further guidance and information sharing. For the attention of the Special Commission, it recommended a set of "Key Principles and Good Practices" as endorsed by the Experts' Group and proposed the development of an online forum to facilitate the exchange of information between Contracting Parties.

In October 2021, the 12th International Forum on the e-APP was held immediately preceding the Special Commission meeting on the practical operation of the Apostille Convention. The e-APP Forum was hosted across time zones, with participants and speakers from across the world. Fourteen Contracting Parties presented their e-APP solutions and discussed topics such as the e-APP as an e-Government solution, coordination among

> government authorities during the implementation process, the progressive implementation of the e-APP components, and the future of document authentication in light of new technologies.





Mr Luke Tang Chair of the Fifth Meeting of the Special Commission on the 1961 Apostille Convention

The **Special Commission** was convened for the fifth time, chaired by Mr Luke Tang (Singapore) with over 350 participants in attendance. The meeting provided an opportunity for Members, Contracting Parties, and other interested parties to review the practical operation of the Convention, including the e-APP.

Throughout the week, the Special Commission discussed matters relating to the scope and operation of the Convention, including the results from the 2021 Apostille Questionnaire, the impact of the COVID-19 pandemic, plans for the second edition of the Apostille Handbook, and the operation of the e-APP. There was an emphasis on the increasing use of technology during the discussions, including in issuing electronic public documents as well as the e-APP, as the Convention continues to adapt to the modern era.

The first day of the Special Commission meeting coincided with the 60<sup>th</sup> anniversary of the Convention. The anniversary was celebrated with a ceremony during which Indonesia deposited its instrument of accession, becoming the 121<sup>st</sup> Contracting Party to the Convention.

In addition to these events, in 2021 the Permanent Bureau continued to promote the Convention through participation in a number of external events, including for the Common Law Association of Notaries (CLAN), the U.S. National Association of Secretaries of State (NASS), and the Office of Consular Affairs of the Philippines. The e-APP has also continued to attract interest throughout 2021. The Permanent Bureau engaged with several Contracting Parties as part of their e-APP implementation process, as well as with States preparing to join the Convention that are considering e-APP implementation. This included welcoming a workshop for a visiting delegation from Uzbekistan and the organisation of targeted post-Convention assistance on the e-APP for FI Salvador.



Indonesia accedes to the 1961 Apostille Convention (October 2021)





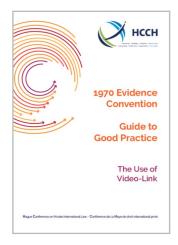
The 1961 Apostille Convention facilitates the use of public documents abroad, replacing the traditional legalisation process with the issuance of a single Apostille certificate.



#### 1965 Service and 1970 Evidence Conventions

Throughout 2021, the Permanent Bureau provided advice and tailored support to (aspiring) Contracting Parties of the 1965 Service and 1970 Evidence Conventions, with the aim of ensuring their effective implementation and practical operation.

These activities included training sessions on the 1965 Service Convention for the International Union of Judicial Officers (UIHJ) and the first-ever HCCH-ASEAN Masterclass, which included a session on the 1970 Evidence Convention. In October 2021, an online training session on both Conventions was held for officials of the Supreme Court of Ukraine, with the support of the European Union (EU) Project Pravo-Justice. In the same month, the Permanent Bureau partnered with the Supreme Court of Nicaragua to deliver a hybrid training for Nicaraguan judges, officials of the Ministry of Foreign Affairs, public defenders and other judicial officers on the Service and Evidence Conventions.



As with other HCCH Conventions, there continues to be significant interest in the possibilities for expanding the use of information technology to strengthen the operation of the Evidence Convention. In June 2021, the Permanent Bureau partnered with the Asian Business Law Institute (ABLI) to organise a webinar on the "HCCH 1970 Evidence Convention and Remote Taking of Evidence by Video-link", attended by participants from 30 different jurisdictions. Following the publication, in English and French, of the Guide to Good Practice on the Use of Video-Link under the Evidence Convention in April 2020, translations in 21 additional EU languages were provided by the European Commission and published in December 2021.

With a view to enhancing the availability and accessibility of information in relation to both the 1965 Service and 1970 Evidence Conventions, work is underway to improve the Service and Evidence Sections of the HCCH website, including the updating of the Convention bibliographies and the provision of a compilation of case law. These updates are expected to be fully implemented in 2022.

In May 2021, Georgia ratified the 1965 Service Convention and acceded to the 1970 Evidence Convention. With these developments, the 1965 Service Convention has 79 Contracting Parties and the 1970 Evidence Convention has 64 Contracting Parties.

The 1965 Service Convention and the 1970 **Evidence Convention** establish a uniform framework of cooperation mechanisms to facilitate and streamline, respectively, the service of documents and the taking of evidence abroad.





Evidence

### **1980 Child Abduction Convention**

In 2021, the 1980 Child Abduction Convention continued to attract significant attention from stakeholders from around the world, with the Permanent Bureau participating in various meetings and events aimed at promoting the effective implementation and practical operation of the Convention.

This included the organisation of tailored seminars for government officials from the Asia Pacific region (in partnership with the Ministry of Foreign Affairs of Japan); for government officials from Germany, Kazakhstan and Turkey (in partnership with the German Foundation for International Legal Cooperation [IRZ] and the government of Kazakhstan); for officials of the Supreme Court of Ukraine (in partnership with the EU Project Pravo-Justice); for government officials and other stakeholders from the Americas (in partnership with the Inter-American Commission on Human Rights) and for judges and prosecutors from 11 European States (in partnership with the European Judicial Training Network).

Throughout 2021, the Permanent Bureau promoted the use of its new Guide to Good Practice under the Child Abduction Convention: Part VI - Article 13(1)(b), published in 2020, which provides guidance on the consistent application of one of the limited exceptions to the principle of prompt return in cases where the return would expose the child to a grave risk of harm. In December 2021, new translations of the Guide in 19 EU languages were published with the support of the European Commission. With these new translations, the Guide is now available in all EU languages, as well as in Japanese.





The 1980 Child Abduction Convention seeks to protect children from the harmful effects of wrongful removal and retention across international boundaries, by providing a procedure to bring about their prompt return and ensuring the protection of rights of

The International Child Abduction Database (INCADAT) continued to grow both in terms of users and content. The overall number of users in 2021 represented an increase of nearly 75% compared to 2018, with a significant number of new users from Asia Pacific and Latin America. This geographical expansion was supported by the Permanent Bureau's ongoing cooperation with INCADAT correspondents, universities, and Central Authorities across the world, which assisted with the addition of new content and the translation of existing content.

#### **1993 Adoption Convention**



Ms Carine Rosalia, Chair of the Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption

In 2021, work relating to the 1993 Adoption Convention centred on the preparations for the upcoming **meeting of its Special Commission**, tentatively scheduled for July 2022, at which significant attention will be given to the prevention and addressing of illicit practices, as well as to post-adoption matters.

In preparation for the Special Commission meeting, the **Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption**, chaired by Ms Carine Rosalia (USA), advanced work on a draft Toolkit throughout 2021. The Toolkit was circulated for comment to all HCCH Members, Contracting Parties to the Convention and relevant organisations, after which the Working Group discussed some of the major comments received, in particular those where States expressed differing views. During the Special Commission meeting, participants will have an opportunity to raise any major issues they may still have, in particular issues

that may not have already been agreed upon by all Members and Contracting Parties, and to comment on any new additions or modifications made to the advanced draft Toolkit.

As in previous years, the Permanent Bureau continued to receive requests from Contracting Parties for the provision of tailored post-Convention assistance, with the generous support of the Norwegian Government. Notably, the Permanent Bureau, with the assistance of consultants, provided further technical assistance to Ecuador and Paraguay. In the case of Ecuador, this resulted in the development of a guide for government authorities on the preservation of information and the access to origins by adopted persons. For Paraguay, the work led to comments on the newly adopted legislation and advice aimed at improving the operation of its Central Authority.

In May 2021, Niger acceded to the Adoption Convention, with its subsequent entry into force in September 2021. With Niger, the Convention has 104 Contracting Parties. The 1993 Adoption Convention provides safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights, establishing a system of cooperation amongst Contracting Parties to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children.



#### **1996 Child Protection Convention**



To celebrate the 25<sup>th</sup> anniversary of the 1996 Child Protection Convention in 2021, the Permanent Bureau launched the **Advancing and Promoting the Protection of All Children Initiative** (HCCH|Approach Initiative), a series of promotional activities and events held throughout the year.

As part of the HCCH|Approach Initiative, the Permanent Bureau organised an Essay Competition, with entrants invited to submit an essay examining any legal issue within the scope of the Convention, and a Media and Design Competition, for which entrants were invited to create an audio, visual, graphic or other representation of the protection of children across borders. More information on the winning entries can be found in the HCCH|Approach publication.

The winners of the competitions were announced during the **HCCH|Approach Global Event**, which featured a series of lectures by global experts culminating in a live panel discussion by representatives from government, practice and academia. A wide range of issues and perspectives were spotlighted, including parental responsibility, children on the move, the Convention's interaction with other treaty frameworks and its implementation in specific States.

The HCCH|Approach Initiative benefitted from regional insights on the 1996 Child Protection Convention through the active involvement of the Regional Offices of the HCCH. In September 2021 the Regional Office for Asia and the Pacific hosted the online event "Twenty-Five Years of the HCCH 1996 Child Protection Convention in the Asia and Pacific Region: Present, Development and Future", which was followed by another online event hosted by the Regional Office for Latin America and the Caribbean for Central Authorities in the region, marking the conclusion of the Initiative in October 2021.

As in previous years, the Permanent Bureau continued to provide assistance to Contracting Parties and other stakeholders and to promote wider implementation of the 1996 Child Protection Convention. In addition to the previously mentioned seminars for the Supreme Court of Ukraine and for the European Judicial Training Network, the Permanent Bureau promoted the Convention at various online meetings and events,

including the Council of Europe's Regional Discussion on Children's Rights and Alternative Care, the conference on New Developments in Private International Law in East Asia, organised by the Swiss Institute of Comparative Law, the 8th World Congress on Family Law and Children's Rights, and the Nigerian Group on Private International Law's inaugural meeting.



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The 1996 Child Protection Convention provides a comprehensive framework to protect children in cross-border situations, with uniform private international law rules that prevent conflicting decisions regarding civil measures of protection for children and their property.



Dr Gérardine Goh Escolar, HCCH First Secretary

#### 2000 Protection of Adults Convention



Mr Geraldo Rocha Ribeiro, Chair of the Working Group on the development of a Practical Handbook under the 2000 Convention

With the first meeting of the **Special Commission on the practical operation of the 2000 Protection of Adults Convention** tentatively set to take place in 2022, preparatory research and activities were conducted throughout 2021. Chief among these was the development of a draft Practical Handbook.

Following preparatory work led by the Permanent Bureau in 2020, a **Working Group** was established in 2021 to finalise the development of the Handbook. The Working Group, chaired by Mr Geraldo Rocha Ribeiro (Portugal), is composed of experts with experience in the operation or implementation of the Convention, jointly representing 13 States including 11 Contracting Parties. The Working Group met via videoconference every two weeks from April to December 2021, with a break in the summer.

The Practical Handbook will provide guidance on the scope of the Convention and factors to be considered in the process of implementing the Convention, including rules of jurisdiction, the law applicable to measures of protection and powers of representation, recognition and enforcement as well as judicial and administrative cooperation.

A draft of the Handbook will be circulated among HCCH Members and Observers for comment in mid-February 2022, with a final draft to be reviewed by the Special Commission in late 2022. The Working Group will continue its work with the development of a Country Profile template on the status of implementation of the Convention among Contracting Parties.

The 2000 Protection of Adults Convention provides for the protection in international situations of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests,



#### 2005 Choice of Court Convention



By ensuring the effectiveness of choice of court agreements in international commercial transactions, the 2005 Choice of Court Convention creates a legal environment more amenable to international trade and investment.

With the aim of exploring contemporary issues relating to its application, Edition 2021 of the HCCH a|Bridged series was dedicated to the 2005 Choice of Court Convention. Launched in 2019, the HCCH a|Bridged series provides an annual forum for discussion of innovation in cross-border litigation, civil procedure and dispute resolution.

**HCCH a|Bridged – Edition 2021** was held virtually on 1 December 2021, in partnership with the Caribbean Court of Justice (CCJ) Academy for Law, the American Association of Private International Law (ASADIP) and the Caribbean Community (CARICOM), and with the generous support of the Federal Ministry of Justice and Consumer Protection of Germany.

Following a keynote speech by Professor Trevor Hartley (United Kingdom), co-author of the Explanatory Report on the Convention, the invited speakers discussed the role that the Convention plays in the emerging litigation market of international commercial courts, confirmed the benefits of the Convention for States and business, and shared information on the legislative and consultation processes in their respective States. In preparation, the Permanent Bureau had also circulated a Questionnaire on the 2005 Choice of Court Convention among both Contracting and non-Contracting Parties, with the key findings presented during the event.

In addition to the HCCH a|Bridged event, the Permanent Bureau promoted the Convention and provided post-Convention services throughout the year. The Permanent Bureau organised an online training session on the 2005 Choice of Court Convention and the 2019 Judgments Convention for the Supreme Court of Ukraine, with the support of the EU Project Pravo-Justice, and provided information on this and other transnational litigation instruments at meetings with the Organization of American States (OAS), the World Trade Organization (WTO), and the Network of Judicial International Cooperation of the Portuguese-speaking countries (Rede Judiciária da CPLP).

In March 2021, Israel signed the 2005 Choice of Court Convention. The 2005 Choice of Court Convention, which currently binds 31 States and the EU, will enter into force for Israel upon the deposit of an instrument of accession acceptance, approval or ratification. The 2005 Choice of Court Convention aims at ensuring the effectiveness of choice of court agreements, or "forum selection clauses", between parties to international commercial transactions.





Dr João Ribeiro-Bidaoui, HCCH First Secretary

### 2007 Child Support Convention and **2007 Maintenance Obligations Protocol**

The 2007 Child Support Convention and 2007 Maintenance Obligations Protocol had an eventful year, with multiple meetings of their respective Working and Experts' Groups, a new EU Action Grant for iSupport, and preparations for the upcoming Special Commission meeting in 2022.

The Administrative Cooperation Working Group on the 2007 Child Support Convention met in May and December 2021, co-chaired by Mr Philip Ashmore (USA) and Ms Floor de Jongh Bekkali (Norway). The Working Group completed two model reports for the collection of statistics under the Convention, which will be presented to the Special Commission for adoption.

The 2007 Child Support Convention and the 2007 Maintenance **Obligations Protocol** seek to establish a modern, efficient and accessible international system for the crossborder recovery of child support and other forms of family maintenance.





Mr Philip Ashmore and Ms Floor de Jongh Bekkali, co-Chairs of the Administrative Cooperation Working Group

The Applicable Law Working Group on the 2007 Maintenance Obligations Protocol met in January 2021, chaired by Professor Andrea Bonomi (Switzerland). The Working Group reviewed the practical operation of the Protocol, providing guidance in relation to issues of applicable law arising from certain family relationships, the law applicable to preliminary / incidental questions, as well as the interpretation and scope of specific articles.



Prof. Andrea Bonomi, Chair of the Applicable Law Working Group



Mr Arnaldo José Alves Silveira. Chair of the Experts' Group on International Transfer of Maintenance Funds

Another significant development for the cross-border transfer of maintenance funds was the successful application to a new EU Action Grant for iSupport ITMF a new project which aims to establish a link between the iSupport software and bank accounts held by Central Authorities. The iSupport Governing Body met several times in 2021, chaired by Mr Paulo Jorge Gomes Gonçalves (Portugal).

In January 2021, the Permanent Bureau published 20 new translations of the Practical Handbook for Competent Authorities on the 2007 Child Support Convention, the 2007 Maintenance Obligations Protocol, and the 2009 EU Maintenance Regulation. With these new translations, the Practical Handbook is now available in all EU languages.

Finally, in August 2021 New Zealand ratified the 2007 Child Support Convention. The Convention subsequently entered into force in November 2021. With New Zealand, 42 States and the European Union are currently bound by the 2007 Child Support Convention.



The Experts' Group on International Transfer of Maintenance Funds met in February 2021, chaired by Mr Arnaldo José Alves Silveira (Brazil). The Experts' Group discussed good practices in relation to the cross-border transfer of child support payments and provided recommendations in relation to cheques, transfer costs, centralised points for international transfers, and currency conversion.



Mr Paulo Jorge Gomes Gonçalves, Chair of the iSupport Governing Body

iSupport is an electronic case management and secure communication system for the crossborder recovery of maintenance obligations under the EU 2009 Maintenance Regulation and the HCCH 2007 Child Support Convention.



#### **2019 Judgments Convention**

Celebrating its second anniversary in 2021, the 2019 Judgments Convention continued to attract interest, with Israel, Costa Rica and the Russian Federation signing the Convention.

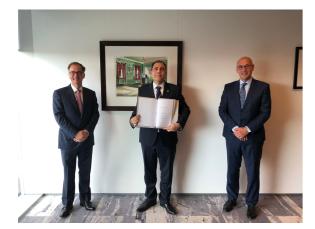


Israel signs the 2019 Judgments Convention (March 2021)

In preparation for its imminent entry into force, the Permanent Bureau endeavored to promote the Convention and ensure its effective implementation and operation through a variety of different activities. These included the organisation of the first-ever HCCH-ASEAN Masterclass, which included a session on the 2019 Judgments Convention; a training session on the 2005 Choice of Court Convention and the 2019 Judgments Convention for the Supreme Court of Ukraine, with the support of the EU Project Pravo-Justice; and engagement with the OAS, the WTO, and the Network of Judicial International Cooperation of the Portuguesespeaking countries (Rede Judiciária da CPLP).

In its efforts towards the promotion of the 2019 Judgments Convention, the Permanent Bureau cooperated closely with the International Union of Judicial Officers, through training sessions in March 2021, as well as presentations at the EU Enforcement Atlas Roundtable in July 2021 and the 24th UIHJ Congress in November 2021.

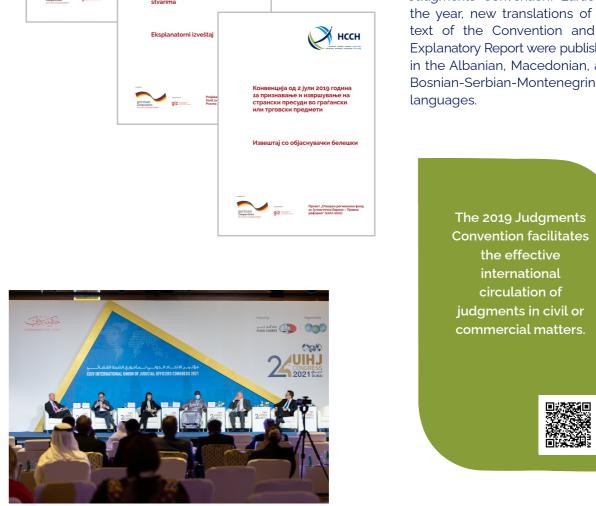




Costa Rica signs the 2019 Judgments Convention (September 2021)



The Russian Federation signs the 2019 Judgments Convention (November 2021)



24<sup>th</sup> International Congress of the UIHJ in Dubai (November 2021)





enforcement of foreign judgments in South East Europe was organised for government officials and other stakeholders from the region, resulting in the publication of the book Cross-border Recognition and Enforcement of Foreign Judicial

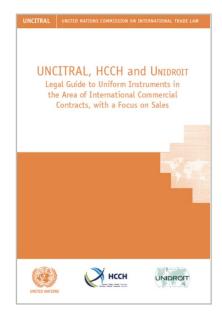
> the year, new translations of the text of the Convention and its Explanatory Report were published in the Albanian, Macedonian, and



Dr Ning Zhao, HCCH Senior Legal Officer

#### International Commercial and Financial Law

This section briefly outlines some of the major developments for 2021 in relation to the core HCCH Conventions and instruments in the commercial and financial law area, namely: the 1985 Trusts Convention, the 2006 Securities Convention, and the 2015 Principles on Choice of Law in International Commercial Contracts.



Among the highlights was the publication of the Legal Guide to Uniform Instruments in the Area of International Commercial Contracts, with a Focus on Sales, jointly developed by the Secretariats of UNCITRAL, UNIDROIT and the HCCH. Available in all languages of the United Nations, the Legal Guide offers an overview of the principal legislative texts prepared by each organisation, including the 2015 Principles on Choice of Law, illustrating how these texts interact to achieve the shared goals of predictability and flexibility.

As in previous years, the Permanent Bureau carried out a survey on the impact of the 2015 Principles in arbitration proceedings, publishing its results in a Status Table. Through the survey, 16 arbitral institutions across four continents reported having either incorporated the 2015 Principles into their institutional rules or facilitated their use in other ways.

Finally, in 2021 the Permanent Bureau progressed preparations for the upcoming International Commercial and Financial Law **Conference**, to be held online in late 2022, including through the circulation of a questionnaire. The Conference will be dedicated to the HCCH Conventions and instruments in this area, and will also include issues of private international law relating to the digital economy.

The 1985 Trusts Convention specifies the law applicable to trusts and governs the recognition of trusts among Contracting Parties.

The 2006 Securities Convention determines the law applicable to the perfection, priority and other effects of securities held with an intermediary.

The 2015 Principles, the first "softlaw" instrument of the HCCH, are designed to promote party autonomy in international commercial contracts.





Trust Securities

**Principles** 



As an intergovernmental organisation, good governance is essential to the operation of the HCCH.

Its unique global mandate also requires international cooperation with the public, private and non-profit sectors, as well as ongoing dialogue with the general public.

In 2021, the HCCH continued to work on strengthening its governance frameworks and fostering international partnerships, as illustrated in this section.

#### Governance

#### **Council on General Affairs and Policy (CGAP)**

The Council on General Affairs and Policy (CGAP), comprising all HCCH Members, met in March 2021 to review progress and set the Work Programme for the year ahead. For the first time in its history, the meeting was held online, as a result of the COVID-19 pandemic. Chaired by Mr Andrew Walter (Australia), the meeting had over 350 participants, representing the Members of the Organisation, as well as Observer States, intergovernmental organisations and international nongovernmental organisations.

As in previous years, CGAP reviewed ongoing normative and non-normative work, providing guidance and direction. Many of the significant developments are outlined in the preceding sections. On the topic of governance matters, CGAP noted the progress made on implementing the Organisation's Strategic Plan for 2019-2022 and discussed options for the development of the next Strategic Plan. This included noting the work of the Permanent Bureau, with the assistance of an Informal Group of Ambassadors, to prepare for future discussions at CGAP on the strategic development of the Organisation.

CGAP also approved the Arrangements for appointing Secretaries General and initiated preparations for the election of a new Chair, in view of Mr Walter's plans to complete his term as Chair at the conclusion of CGAP's 2022 meeting.

#### **Council of Diplomatic Representatives (CDR)**

The annual meeting of the Council of Diplomatic Representatives (CDR), the Organisation's primary financial and budgetary authority, was held in May 2021, chaired by Mr Simon Smits (Netherlands).

Highlights of the meeting included the approval of the HCCH's budget for Financial Year 2021-2022, at a total of  $\in$  4,368,194; the appointment of Mr Mostafa Diaa Eldin Mohamed (Egypt) as the new Chair of the Standing Committee of the CDR; and the discussion of amendments to the HCCH Staff Rules.



## **Outreach and Institutional Cooperation**

Cooperation with the **European Union** on iSupport, the electronic case management and secure communication system for the cross-border recovery of maintenance obligations under the EU 2009 Maintenance Regulation and the HCCH 2007 Child Support Convention, as well as on the translation of key HCCH publications into EU languages.





Long-term cooperation with the International Institute for the Unification of Private Law (UNIDROIT) and the UN Commission on International Trade Law (UNCITRAL), sister organisations of the HCCH, on a wide range of cross-cutting issues.

Cooperation with the **World Intellectual Property Organization (WIPO**) on the intersection between private international law and intellectual property law.





Cooperation with the **US Friends of the Hague Conference Foundation** on the HCCH Internship Programme.

Cooperation with the **International Association of Family Lawyers (IAFL)** on activities related to the 1980 Child Abduction and 1996 Child Protection Conventions.





Cooperation with the **EU Project Pravo-Justice** in the organisation of a series of online seminars on the proper and effective implementation of the HCCH Conventions for the Supreme Court of Ukraine.

Cooperation with the Asociación Internacional de Juristas de Derecho de Familia (AIJUDEFA) on the publication of the Spanish version of the Guide to Good Practice under the Child Abduction Convention: Part VI – Article 13(1)(b).





Cooperation with the **Organisation internationale de la Francophonie (OIF)** towards strenghtening the use of the French language at the HCCH.



Participation in the Just Peace Month, organised by the **Municipality** of The Hague and the Hague Humanity Hub, including through the organisation of two webinars - one introducing the most influential HCCH Conventions and instruments and the other providing a "behind-thescenes" look at the negotiation of the 2019 Judgments Convention – as well as participation in the Just Peace walking tour and careers event, all open to the general public.

Cooperation with the **Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)** in the organisation of six online seminars on the cross-border enforcement of foreign judgments in South East Europe.



Cooperation with the **International Union of Judicial Officers (UIHJ)**, including through the joint organisation of a webinar on the 1965 Service and 2019 Judgments Conventions and participation in its 24<sup>th</sup> International Congress.

Cooperation with the **Asian Business Law Institute (ABLI)**, including on the organisation of a joint webinar on the topic "HCCH 1970 Evidence Convention and Remote Taking of Evidence by Video-link".



Organisation of HCCH a|Bridged - Edition 2021 in cooperation with the Caribbean Court of Justice (CCJ) Academy for Law, the American Association of Private International Law (ASADIP) and the Caribbean Community (CARICOM).

Participation in the online international seminar "The Practical Operation of the Hague Convention of the 25<sup>th</sup> of October 1980 on the Civil Aspects of International Child Abduction", organised by the **German Foundation for International Legal Cooperation (IRZ)** and the **Ministry of Education and Science of the Republic of Kazakhstan**.



Cooperation with the **Organization of American States (OAS)'s Department of International Law** in the organisation of a Joint Meeting with Legal Advisors on PIL from OAS Member States to present for discussion and feedback ongoing work in this field by the Inter-American Juridical Committee (CJI) and the HCCH.



**giz** Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH





### **Regional Outreach**

As an intergovernmental organisation of universal nature, the HCCH seeks to include all regions of the world in its normative and nonnormative work. Its Regional Offices - the Regional Office for Asia and the Pacific (ROAP) and the Regional Office for Latin America and the Caribbean (ROLAC) - have proven essential in this regard, strengthening dialogue with their respective regions and providing post-Convention services tailored to regional needs.

Throughout 2021, the Regional Offices engaged with national entities, intergovernmental organisations, non-governmental organisations, universities, and other stakeholders to promote the HCCH and its Conventions.



ROAP team and secondees from the People's Republic of China (2021)

#### Strengthening cooperation with ASEAN

ROAP has been working closely with ASEAN in the promotion of the HCCH and its instruments. In August 2021, ROAP and other members of the Permanent Bureau organised a Master Class on the Evidence and Judgments Conventions hosted by the Council of ASEAN Chief Justices (CACJ). Two months later, in October 2021, ROAP attended the ASEAN Senior Law Officials Meeting (ASLOM), where further cooperation in the region was discussed.

ROAP cooperated on a variety of activities with the Asia-Pacific Economic Cooperation (APEC), the Asian Academy of International Law (AAIL), the Asian-African Legal Consultative Organisation (AALCO), the Association of Southeast Asian Nations (ASEAN), and the United Nations Commission on International Trade Law (UNCITRAL).

Similarly, ROLAC strengthened ties with many institutions, including the American Association of Private International Law (ASADIP), the Caribbean Community (CARICOM), the Caribbean Court of Justice (CCJ) Academy for Law, the Organization of American States (OAS) and its Inter-American Children's Institute (IIN) and Inter-American Commission on Human Rights (IACHR), the Southern Common Market (MERCOSUR) and the World Jurist Association (WJA). ROLAC also promoted greater understanding of the HCCH Conventions among these organisations through presentations to CARICOM's Legal Affairs Committee, MERCOSUR's Meeting of Public Defenders, the 95<sup>th</sup> Regular Meeting of the IIN Directing Council, and the WJA's conference on child abduction and human rights, as well as by organising a webinar, in partnership with IACHR, on the interplay between the HCCH 1980 Child Abduction Convention, the American Convention on Human Rights and the UN Convention on the Rights of the Child.

The Regional Offices also provided support to States in the process of becoming HCCH Members (Thailand, Mongolia, Honduras and El Salvador) and provided advice to other States considering membership.





#### UN Sustainable Development Goals

ROLAC has been supporting the Supreme Court of Costa Rica in its assessment of the implementation of the UN SDGs at the judicial level, in particular with regard to the broader incorporation of the "transnational access to justice" dimension in the implementation of SDG 16, which deals with the rule of law and access to justice. In addition, ROLAC is engaged in preliminary discussions on the topic with the Paraguayan authorities and UNDP Argentina.

ROLAC team (2021)

# The Staff

#### (per 31 December 2021)

Mr Christopher ANDERSON Legal Officer (until December 2021)

Ms Maryze BERKHOUT Head of Finance / Senior Human Resources Officer

Dr Christophe BERNASCONI Secretary General

Ms Sandrine BRARD Administrative Assistant

Ms Florencia CASTRO Legal and Office Coordinator (ROLAC)

Mr Harry CHENG Legal Officer

Ms Marie-Charlotte DARBAS Information Manager

Ms Lydie DE LOOF Graphic Designer / Publications Officer

Ms Eugenia GENTILE Finance / Human Resources Assistant

Dr Gérardine GOH ESCOLAR First Secretary

Mr Ignacio GOICOECHEA Representative (ROLAC)

Ms Maja GROFF Principal Legal Officer (until March 2021)

Mr Stuart HAWKINS Website / IT Officer

Ms Nietta KEANE Assistant Legal Officer



Ms Anna KOELEWIJN Head of Administration

Mr Philippe LORTIE First Secretary

Mr Thomas MACHUELLE Translator / Reviser

Ms Laura MARTÍNEZ-MORA Secretary

Ms Laura MOLENAAR Administrative Officer

Ms Alix NG Office Manager (ROAP)

Ms Capucine PAGE Legal Officer

Ms Sophie PINEAU Personal Assistant to the Secretary General

Ms Mathilde PRÉNAS Senior Administrative Assistant

Dr João RIBEIRO-BIDAOUI First Secretary

Ms Raquel SALINAS PEIXOTO Legal Officer

Ms Nicole SIMS Legal Officer

Ms Sabrina STUCKEN Administrative Assistant

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Mr Willem VAN DER ENDT General Services Officer

Mr Brody WARREN Attaché to the Secretary General / Senior Legal Officer Ms Ana ZANETTIN Translator / Reviser / Administrative Assistant

Dr Ning ZHAO Senior Legal Officer

Prof. Yun ZHAO Representative (ROAP)

Ms Elizabeth ZORRILLA Legal Officer (until September 2021)

#### **Consultants to the HCCH**

#### **Consultants supporting Normative Work**

Ms Hannah BAKER Parentage / Surrogacy Project

Ms Victoria STEPHENS INCADAT Project

Dr Michael WELLS-GRECO Parentage / Surrogacy Project

#### **Consultants supporting Governance & Operations**

Ms Madelief ALSERDA Library Assistant

Ms Helene GUERIN Publications

Mr Willem-Paul HERBER Accountant







#### **Secondments to the Permanent Bureau**

Mr Song (Levi) GAO Lawyer, seconded to the Permanent Bureau (ROAP) from the Ministry of Foreign Affairs of the People's Republic of China

Ms Myriam de HEMPTINNE Judge, seconded to the Permanent Bureau (The Hague) from the Ministry of Justice of the Kingdom of Belgium

Ms Haemin LEE Judge, seconded to the Permanent Bureau (The Hague) from the Supreme Court of the Republic of Korea

Mr Eric YUEN Senior Government Counsel (Acting), seconded to the Permanent Bureau (The Hague) from the Department of Justice of the Government of the Hong Kong SAR (People's Republic of China)

#### **iSupport**

Mr Jean-Marc PELLET iSupport Coordinator



# Interns

# **Organisational Chart**

In 2021, the Permanent Bureau had the pleasure of welcoming 29 interns from over 16 different States at its headquarters in The Hague, at its Regional Offices, or online.

#### **Head Office** The Hague, The Netherlands

Ms Ashita ALAG (Indian) Ms Jana ARAJI (Brazilian / Lebanese) Ms Betina BORISOVA (Bulgarian) Ms Nadia BOUQUET (French / Mexican) Ms Sigian CAI (Chinese) Ms Danielle CARRINGTON (British) Ms Olga CUCU (Moldovan) Ms Camille DRUILHET (French) Ms Courtney EDWARDS (Canadian) Mr Matheus FERREIRA GOIS FONTES (Brazilian) Mr Thomas KICAK (American) Mr Gilbert MWANZA (Zambian) Mr Daniel PAKPAHAN (Indonesian) Ms Priskila PENASTHIKA (Indonesian) Ms Jeanne PIN-SAVARY (French) Ms Giovanna RICCIARDI (Italian / Argentinian) Ms Gifany Ten-Ten Lim TONGOHAN (Filipino) Ms Janet Man Sum WONG (Chinese)

#### Regional Office for Latin America and the Caribbean (ROLAC) **Buenos Aires, Argentina**

Ms María Belén PUERTAS (Argentinian) Ms María Victoria OLIVIERI (Argentinian) Ms Pilar BERTERO (Argentinian) Mr Mauro MAZZANTI (Argentinian) Ms Rosario María PLOHN (Argentinian) Ms Melina Sol BERGSTREIT (Argentinian) Ms Mijal Cannizzaro AZUBEL (Argentinian) Ms Brenda TIVIROLI (Argentinian) Ms Sofia EMBON (Argentinian)

Regional Office for Asia and the Pacific (ROAP) Hong Kong SAR, People's Republic of China

Ms LI Nuo (Chinese) Mr ZHANG Zhenxian (Chinese)





Legal Staff

Administrative Staff

Secretary General



reflect all internal reporting stri 2021. lt as at 31 December NB: This chart reflects the situation the work of the Permanent Bureau. ğ



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