

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

Introduction

The Hague may not have been the setting for Olympic sporting glory this summer, but those at the Hague Conference on Private International Law have certainly been kept busy striving for new achievements in the field of international family law. This Briefing updates readers concerning the finalised 'Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications', as well as the work of the intercountry adoption team at the Hague Conference. It also provides a brief summary of some recent conferences attended by the Hague Conference and provides the usual 'status update' concerning the Hague Children's Conventions.

For further information concerning the work of the Hague Conference on Private International Law, please visit our website: www.hcch.net. In this regard, it should be noted that the Hague Conference Briefings, written for IFL, have recently been added to the website (from 2008 onwards): please go to 'Publications' then 'HCCH IFL Briefings'.

The Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications

The 'Emerging Guidance regarding the development of the International Hague Network of Judges and General Principles for Judicial Communications, including commonly accepted safeguards for direct judicial communications in specific cases, within the context of the International Hague Network of Judges' (the 'Guidance and Principles', Preliminary Document No 3 A) was submitted for the attention of Part I of the sixth meeting of the Special Commission on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention in June 2011. The Special Commission meeting, having discussed the Guidance and Principles in detail, gave its general endorsement to the document, subject to the Permanent Bureau revising it in light of the discussions (see the Conclusions and Recommendations of this meeting, at para 68). Subsequently, the Council on General Affairs and Policy of the Hague Conference, at its meeting in April 2012, took note of the Special Commission's endorsement and invited the wide dissemination of the Guidance and Principles.

In line with the Conclusions and Recommendations of the Special Commission meeting, Preliminary Document 3A has now been revised. The revised

document can be found on the website of the Hague Conference at www.hcch.net. Go to 'Child Abduction section', then 'Special Commission meetings', then 'Preliminary Documents/Information Documents'.

The Special Commission meeting emphasised the importance of direct judicial communications in international child protection and child abduction cases and strongly encouraged States that have not yet designated a Hague Network Judge to do so (see paras 64–66 of the Conclusions and Recommendations). It is hoped that the availability of the revised Emerging Guidance and General Principles for Judicial Communications will assist States in this regard.

Intercountry adoption update

Meeting of an expert group on the financial aspects of intercountry adoption (8–9 October 2012)

Intercountry adoption experts from States of origin and receiving States, as well as from UNICEF, the International Social Service, EurAdopt, the African Committee of Experts on the Rights and Welfare of the Child and two independent experts, will meet on 8 and 9 October 2012 to discuss the financial aspects of intercountry adoption.

This meeting is organised by the Permanent Bureau of the Hague Conference on Private International Law following the recommendations of the 2011 meeting of the Council on General Affairs and Policy of the Conference. During the meeting, experts will reflect on a harmonised terminology for the financial aspects of intercountry adoption, examine the use of comparative tables to display the costs and contributions associated with intercountry adoption, as well as evaluate other practical tools to increase transparency, eliminate improper financial gain and address other problems related to the financial aspects of intercountry adoption.

ICATAP: an update

Guatemala. The Permanent Bureau continues its co-operation with the authorities of Guatemala concerning the implementation and application of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption (the 1993 Convention). At this moment Guatemala is seeking to reinforce the capacities of its authorities through additional staffing and training.

The Chilean Central Authority on Intercountry Adoption provided technical assistance earlier this year to the Guatemalan Central Authority's (Consejo

Nacional de Adopciones, (CNA)) multidisciplinary team in relation to the assessment of bonds developed between a child and the person(s) who take(s) care of him or her.

During a recent visit of the Hague Conference Liaison Legal Officer for Latin America, the Permanent Bureau discussed the need to resolve transition cases (which started under the old system) as a priority and the possibility of starting a pilot project for the selection of a very limited number of adoption accredited bodies that would be able to assist a small number of prospective adoptive parents in the intercountry adoption of special needs children. After discussions with the relevant authorities and experts, it was decided that the Permanent Bureau will explore the possibility of collaboration on such pilot programme at the appropriate time. In addition, the Permanent Bureau will be in contact with CNA to evaluate if there is a need to provide further technical assistance in the form of training to the CNA and review of the CNA's internal regulations and, if it is the case, assess whether the Permanent Bureau would have the necessary resources to do so.

Cambodia. Intercountry adoptions are expected to resume in January 2013. To that end, and with a view to increasing safeguards to protect the best interests of children, the Permanent Bureau, with the support of UNICEF, has assisted authorities with the development of new adoption regulations (Prakas) on financial issues regarding adoptions and criteria on adoption accredited bodies. The Permanent Bureau is now discussing with UNICEF how to provide further training to the relevant authorities on the 1993 Convention.

Haiti. On 12 June 2012, the Haitian Parliament voted in favour of the ratification of the 1993 Convention. The instruments of ratification remain to be deposited with the Government of the Kingdom of the Netherlands in order for the Convention to enter into force in Haiti. A plan for technical assistance focusing on the legal and structural strengthening of the adoption system will be conducted by the Permanent Bureau in close collaboration with the Haitian authorities (and more particularly, the future Central Authority) and with the support of several receiving States, UNICEF and international experts.

The Third International Family Justice Judicial Conference for Common Law and Commonwealth States (China (Hong Kong SAR), 28–31 August 2012)

The third International Family Justice Judicial Conference for Common Law and Commonwealth States took place in China (Hong Kong SAR) from 28–31 August 2012. Some 100 judges from at least 30 jurisdictions participated in the Conference, as well as experts in international family law, including representatives from the Permanent Bureau of the Hague Conference.

The International Family Justice Judicial Conference for Common Law and Commonwealth

States has grown considerably since its conception (initiated by Lord Justice Mathew Thorpe (Head of International Family Justice for England and Wales)). At the first such conference, which took place in Washington DC, USA in 2000, five common law jurisdictions were present; at the second conference, in 2009, which took place at Cumberland Lodge in England, 42 judges from 23 jurisdictions participated.

The aim of the conference is to promote judicial co-operation and understanding in international family law matters between jurisdictions with a common law or Commonwealth tradition, as well as to share experience between these States.

At the 2009 conference it was decided to make the conference a regular, tri-annual event. The Conclusions and Recommendations of this 2012 conference establish a 'Standing Committee' to prepare for the next conference, which will be held in 2015.

Several areas of interest to international family lawyers were discussed by judicial participants at this conference, including the International Hague Network of Judges and direct judicial communications in international child protection cases, issues of timing in relation to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (the 1980 Convention), current research projects concerning international family relocation, as well as the complex legal issues arising as a result of international surrogacy arrangements.

The conclusions and recommendations of the conference can be found in this issue of IFL at pp 384–386 (above).

Second Meeting of the Central American Judicial Council (CJC), (Antigua, Guatemala, 26–27 June 2012)

From 26–27 June 2012, the Liaison Legal Officer for Latin America was invited to present the Hague Children's Conventions and Legal Cooperation Conventions to the Second Meeting of the Central American Judicial Council (CJC) in Antigua, Guatemala. The Central American Judicial Council (CJC) is an official body of the System of Central American Integration (SICA). Its membership is comprised of the Presidencies of the Supreme Courts of Costa Rica, El Salvador, the Dominican Republic, Guatemala, Honduras, Nicaragua, Panamá, and Puerto Rico. The general purpose of the CJC is the integration of policies in matters of application of justice and legal certainty through the establishment of permanent coordination channels and the adoption of institutional commitments.

The Hague Conference's presentation was welcomed by participants who realised the importance of developing international judicial co-operation. It was also understood that the work of the Hague Conference in this field would be an effective means to harmonise solutions at both the regional and global level. With regards to the Hague

Conference, it was agreed that the CJC should explore the best way to follow up on these matters so as to facilitate the analysis and possible incorporation of these Conventions in the region.

Finally, the CJC runs a Judicial Training Centre for Central America and the Caribbean (Centro de Capacitación Judicial para Centroamérica y el Caribe), which was represented at the meeting and showed interest in the Hague Conference's work.

The Hague Children's Conventions: status update

On 20 August 2012, the Russian Federation deposited its instrument of accession to 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). The 1996 Convention will enter into force for the Russian Federation on 1 June 2013.

On 18 June 2012, Lesotho deposited its instruments of accession to the 1980, the 1993 and the 1996 Hague Conventions. The deposit was followed by the designation of a Central Authority under all of these Conventions on 24 August 2012. The 1980 Convention will enter into force for Lesotho on 1 September 2012, the 1993 Convention on 1 December 2012, and the 1996 Convention on 1 June 2013.

On 27 July 2012, the United Kingdom of Great Britain and Northern Ireland deposited its instrument of ratification in respect of the 1996 Convention. The 1996 Convention will enter into force for the UK on 1 November 2012.