

Survey response	
Please indicate: [Name:]	Stutee Nag
Please indicate: [State:]	New York, United States
Please indicate: [Region:]	North America
Please indicate: [Affiliation:]	Attorney-at-law (New York, New Jersey and India), Cross-Border Family Law Practitioner
Please indicate your profession:	Practitioner
Do you have practical expertise in cross-border civil or commercial litigation:	Yes
1.1 What are your views on the scope of the Draft Text?	
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?	
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)?	
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).	
2. 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.	
3. What are your views on Article 4?	
4. What are your views on Article 5?	
5. What are your views on Articles 6 – 8 including how they will work in practice?	
6.1 What are your views on the ‘jurisdiction / connection’ list in Article 8(2)?	
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?	
6.3 Are there any additional factors that you believe should be included?	
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?	
7.2 What are your views on how the two approaches may work in practice?	
7.3 Do you have a preference for either approach? If so, please explain why.	
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)?	
8.2 Do you have any views on how Article 10 might work in practice?	
8.3 Are there additional considerations that, in your view, should be taken into account?	
9. 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.	
10. 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.	
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?	
11.2 Are there particular advantages and challenges you foresee in applying these methods?	
12. 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?	
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	

<p>inconsistent judgments in transnational litigation in civil or commercial matters.</p>	
<p>13.2 Do you have any views on whether the proposed rules set out in the Draft Text would improve the status quo?</p>	
<p>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?</p>	
<p>14. What other comments, if any, do you have?</p>	<p>Response to the Public Consultation on the Draft Text of a Possible Convention on Parallel Proceedings and Related Actions I submit these comments from the perspective of a practitioner with experience in cross-border civil disputes (involving asymmetric legal systems, particularly between common-law jurisdictions and jurisdictions where parallel civil, criminal, and regulatory proceedings may coexist alongside strong sovereignty considerations). At the outset, I wish to note that the Draft Text is carefully and deliberately scoped, and provides practical procedural coordination framework once parallel civil or commercial proceedings already exist. That limited and realistic ambition is a strength of the project. That said, practical experience suggests that the effectiveness of such a coordination framework will depend heavily on contextual and institutional factors that lie largely outside the text of the Convention itself. I offer the following observations with a view to calibrating expectations regarding the Convention's operation in practice, particularly in disputes involving jurisdictions with differing procedural cultures and enforcement environments.</p> <p>1. Service and sequencing effects: In many cross-border disputes, delays or disputes relating to service of process materially affect the sequencing of proceedings. Even where courts ultimately have jurisdiction or a qualifying connection, service-related delays may enable parallel proceedings to become entrenched before the Convention's coordination mechanisms are meaningfully engaged. This can influence which court is "seised" in practice and may shape subsequent</p>

	<p>suspension or continuation decisions. Consideration could therefore be given, whether in the text or in the Explanatory Note, to the role of expedited or flexible service mechanisms in supporting the Convention's objective of timely and effective coordination.</p> <p>2. Anti-suit injunctions sought in the context of service-related asymmetry: Relatedly, where service issues take center stage, it is not uncommon in some jurisdictions for a party to seek interim relief, including anti-suit injunctions, either in proceedings falling outside the Convention's scope or in closely related proceedings commenced before effective service has been completed. In practice, such applications may be pursued strategically to restrain or influence the continuation of civil proceedings pending before a Convention court at an early stage, before the coordination mechanisms contemplated in the Draft Text can be meaningfully engaged. Although an anti-suit injunction does not, as a matter of law, prevent the foreign court from continuing with its proceedings and instead operates by restraining the conduct of the enjoined party, its practical effect may nonetheless be to distort the procedural balance between parallel proceedings. Because such relief may be sought in proceedings to which the Convention does not apply, or at a point when the Convention court has not yet been effectively seised due to service-related delays, the Convention's framework does not address or constrain these dynamics, even though their practical effect may be to undermine or complicate parallel civil proceedings.</p> <p>3. Interaction with excluded matters: The Draft Text appropriately excludes family law, criminal law, intellectual property validity, and other sensitive domains. In practice, however, it is not uncommon for parties to frame related proceedings by invoking excluded matters alongside overlapping factual allegations. While Article 2(2) clarifies that excluded matters arising merely as preliminary questions should not remove a case from scope, there remains a practical risk that tactical pleading may fragment disputes and limit the Convention's coordinating effect.</p> <p>4. Convention-seised courts</p>
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and parallel family proceedings: By way of illustration, even where a court in State A has been seised under the Convention in relation to a civil or commercial dispute concerning specific assets, it remains entirely possible for a family court in State B to proceed concurrently to adjudicate a matrimonial property regime involving the same assets, in whole or in part. Such family law proceedings are expressly excluded from the Convention's scope and are therefore unaffected by the suspension or coordination mechanisms contemplated in the Draft Text. In practice, this may result in parallel determinations affecting the same economic assets through different legal characterizations, notwithstanding the proper application of the Convention by the court seised of the civil proceedings.

5. Parallel criminal or regulatory proceedings: In some jurisdictions, commercial disputes are frequently accompanied by criminal complaints or regulatory actions arising from the same factual matrix. While such proceedings are rightly outside the Convention's scope, their existence may nonetheless affect a court's willingness to suspend, defer, or coordinate civil proceedings, even where the Convention would otherwise apply.

6. Judicial attitudes toward coordination and sovereignty: The Draft Text presupposes a degree of institutional openness to coordination between courts of different States. In practice, courts in some jurisdictions may be reluctant to yield or suspend proceedings where they perceive the dispute as primarily local, particularly where one or more parties are nationals or where economic activity is concentrated within the forum State. These sovereignty-inflected considerations, while understandable, may limit the Convention's practical reach.

7. Judicial communication mechanisms: Articles 15 and 16 encourage judicial cooperation and communication, but such practices are not uniformly embedded across legal systems. In jurisdictions where direct or indirect judicial communication is uncommon or culturally unfamiliar, these mechanisms may remain underutilised despite their potential value. The absence of communication does not undermine the Convention, but it does narrow the

	<p>circumstances in which its coordination objectives can be fully realised. 8. Awareness, training, and implementation: Finally, the Convention's effectiveness will depend on awareness and uptake by judges and practitioners. In some States, the Convention may not be raised by counsel or applied by courts in early cases, not due to resistance but due to limited familiarity. This suggests that implementation efforts and explanatory materials will be at least as important as the text itself. Conclusion: In my view, the Draft Text offers a useful and pragmatic framework for managing parallel civil and commercial proceedings where institutional conditions permit coordination. It should not, however, be understood as a comprehensive solution to all forms of cross-border procedural conflict. Clear expectation-setting, particularly in explanatory materials, will help ensure that courts and practitioners view the Convention as a facilitative tool operating within defined limits, rather than as a mechanism that can override broader structural and cultural constraints.</p>
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