



ACADÉMIE DE DROIT INTERNATIONAL DE LA
HAYE

Palais de la Paix, Carnegieplein 2, 2517 KJ La
Haye, Pays-Bas

HAGUE ACADEMY OF INTERNATIONAL LAW

Peace Palace, Carnegieplein 2, 2517 KJ The
Hague, Netherlands



The Protection of the Child in International Law

Seminar for Advanced Studies in Public and Private International Law

5th Session

The Hague, 14-20 June 2009

Organized by The Hague Academy of International Law, in collaboration with the Hague Conference on Private International Law (HCCH)

Bilingual Seminar (English and French) with simultaneous translation – Séminaire bilingue (français et anglais) avec traduction simultanée

The theme of the 5th session of the Seminar for Advanced Studies in Public and Private International Law is *The Protection of the Child in International Law*. It is organized jointly with the Hague Conference on Private International Law.

The seminar aims to provide participants with extended and specialized knowledge of the guarantees and mechanisms of protection of children and their rights in public and private international law. After a general introduction to the development of international (universal and regional) legal standards for the protection of the child and the relationship between public and private law guarantees and enforcement mechanisms, the seminar will be divided in two. During the first part of the week, scholars and practitioners in the field will present the background regime of child protection in public international law, and in particular the main guarantees of the UN Convention on the Rights of the Child and the mechanisms for the implementation and monitoring of those guarantees, as well as three specific cases for the protection of children at particular risk through the Convention and other public international law instruments: the protection of children against exploitation and violence, the protection of children in the context of administrative detention, and the protection of children in armed conflicts. The second part of the seminar concerns the private international law protection of the child. Experts from the Hague Conference on Private International Law and academics will present the different Hague Conventions relative to the protection of the child and focus on four specific cases of application of those Conventions: the protection of abducted children, measures for the international protection of children more generally, the protection of children adopted or deprived of parental care and, finally, the protection of children in the context of the recovery of maintenance obligations.

Introduction

Sunday, 14 June (Seminar Room, Academy)

15.00-15.30 Welcome and Opening Speeches

Speakers: Prof. Yves Daudet, Secretary General of The Hague Academy of International Law and Professor of Public International Law, University Paris I Panthéon-Sorbonne (in French) and Dr Hans van Loon, Secretary General of The Hague Conference on Private International Law (in French)

15.30-16.00 Organizational Matters

Speaker: Prof. Samantha Besson, Seminar Coordinator for The Hague Academy of International Law and Professor of Public International Law, University of Fribourg (in French)

16.15-18.30 The Child in International Law: Child-Specific and General Protection

The Child as Object of Protection and Subject of Rights (16.15-17-00)

- The notion of child
- Their specific need for protection
- The child as subject of rights
- Human rights and child-specific rights
- Equality and difference in children's rights
- Children's rights and cultural relativism

The Protection of the Child by International Law (17.15-18.30)

- Public and private international law
- Public universal and regional international law
- Public general and specific international law
- Human rights and children's rights
- Relationship and conflicts between child protection regimes
- Implementation of children's protection guarantees and monitoring
- National and regional reception of children's rights

Speaker: Prof. Samantha Besson, Seminar Coordinator for The Hague Academy of International Law and Professor of Public International Law, University of Fribourg (in French)

19.30

Welcome dinner

Location: Restaurant Tapat Senang, Laan van Meerdervoort 6, The Hague

I. Child Protection in Public International Law

Monday to Wednesday, 15-17 June

1. The Background Regime of Child Protection: The UN Convention on the Rights of the Child

Monday, 15 June (Seminar Room, Academy)

Main Guarantees and Principles in the UN Convention on the Rights of the Child (9.30-12.30)

9.30-10.00 Rights of the Child – From the Declaration to the Convention

10.00-11.30 The Convention on the Rights of the Child – Main Guarantees and Principles

11.45-12.30 The Optional Protocols to the Convention on the Rights of the Child

Speaker: Prof. Nevena Vuckovic-Sahovic, Member of the UN Committee on the Rights of the Child, Geneva and Professor of Public International Law, Belgrade Union University (in English)

14.00-15.00 *Guided Tour of the Peace Palace*

Mechanisms of Implementation and Monitoring of the UN Convention on the Rights of the Child (15.00-16.30)

15.00-15.30 Monitoring the Rights of the Child

15.30-16.00 International Courts and the Rights of the Child

16.00-16.30 General Measures of Implementation – National Mechanisms for the Protection and Promotion of the Rights of the Child

Speaker: Prof. Nevena Vuckovic-Sahovic, Member of the UN Committee on the Rights of the Child, Geneva and Professor of Public International Law, Belgrade Union University (in English)

The Role of the Hague Children's Conventions in Implementing the UN Convention on the Rights of the Child (16.45-17.00)

16.45-17.00 The Role of the Hague Children's Conventions in Implementing the UN Convention on the Rights of the Child

Speaker: Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)

Case studies (17.00-18.00)

17.00-18.00 Case studies

Committee on the Rights of the Child, *Concluding Observations on the implementation of the CRC in Bulgaria*

Speaker: Prof. Nevena Vuckovic-Sahovic, Member of the UN Committee on the Rights of the Child, Geneva and Professor of Public International Law, Belgrade Union University (in English)

2. A Case of Child Protection I: Exploitation and Detention**Tuesday, 16 June (Seminar Room, Academy)****The Protection of Children against Violence and Exploitation (9.30-12.30)**

9.30-10.15

Violence against children

- Violence and the Convention on the Rights of the Child
- Torture and other inhuman, cruel and degrading treatment or punishment
- Abuse and neglect
- UN Study on violence against children
- Settings

10.15-11.00

Exploitation of children

- Exploitative nature of violence
- Forms of exploitation
- Protection from child exploitation in the CRC and the OPSC
- Protection from child exploitation in other international instruments
- Trafficking as a method/context

11.15-12.30

Case study

European Court of Human Rights, *A v. United Kingdom*

Speaker: Prof. Nevena Vuckovic-Sahovic, Member of the UN Committee on the Rights of the Child, Geneva and Professor of Public International Law, Belgrade Union University (in English)

The Protection of Children in Administrative Detention (14.00-15.30)

14.00-15.30

The Protection of Children in Administrative Detention

15.45-17.00

Case studies

Speaker: Prof. Carolyn Hamilton, Director of the Children Legal Center, University of Essex (in English)

3. A Case of Child Protection II: Armed Conflicts

Wednesday, 17 June (Seminar Room, Academy)

- 9.30-10.15 Child Soldiers in Armed Conflicts
- 10.15-11.00 Forced Marriage in Armed Conflicts
- 11.30-12.30 Case studies

The cases will involve decisions of the Special Court of Sierra Leone and their impact. Two invented case studies will also be discussed with participants to envisage possible scenarios on how to conduct legal action.

Speaker: Dr Renate Winter, President of the Appeals Chamber of the Special International Court for Sierra Leone and President of the International Association of Youth and Family Court Judges (in English)

II. Child Protection in Private International Law

Wednesday to Saturday, 17-20 June

1. Background Regime: The Hague Conventions concerning the Protection of the Child

Wednesday, 17 June (Seminar Room, Academy)

- 14.00-14.45 History and Context of the Hague Conventions
- 15.00-16.00 General Introduction to the Hague Conventions

Speakers: Dr Hans van Loon, Secretary General, Hague Conference on Private International Law (in French) and Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)

16.00-18.00 *Possibility to work at the Peace Palace Library*

2. A Case of Child Protection I: Child Abduction and Protection of Children

Thursday, 18 June (Seminar Room, Academy)

The 1980 Hague Convention on Child Abduction (9.30-12.30)

- 9.30-10.15 Current Status and Challenges confronting the Convention
- Speaker: Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)
- 10.15-11.00 Information Technology and the Convention
- Speaker: Mr Philippe Lortie, First Secretary, Hague Conference on Private International Law (in French)
- 11.15-12.30 Case studies
- The cases will involve the issues of “habitual residence”, Article 13, the views of the child, and abductions by primary carers.
- Speakers: Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English) and Mr Philippe Lortie, First Secretary, Hague Conference on Private International Law (in French)
- 14.00-16.00 *Conference by specialists on children’s rights from the International Criminal Court Seminar Room, Academy*

The 1996 Hague Convention on the Protection of Children (16.00-18.30)

- 16.00-17.00 Background to the Convention and Analysis of the Principal Provisions concerning Jurisdiction, Recognition and Enforcement, and Applicable Law
- Speaker: Prof. Paul Lagarde, Professor of Private International Law, Paris I Panthéon-Sorbonne (in French)
- 17.00-17.30 Specific Applications of the Convention – Contact, Abduction, Refugee Children and Other
- Speaker: Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)
- 17.45-18.30 Case studies
- The cases will cover transfer of jurisdiction, the law applicable to parental responsibility, family relocation and the protection of contact rights.
- Speakers: Prof. Paul Lagarde, Professor of Private International Law, Paris I Panthéon-Sorbonne (in French) and Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)

3. A Case of Child Protection II: Intercountry Adoption and International Recovery of Child Support

Friday, 19 June (Seminar Room, Academy)

The 1993 Hague Convention on Intercountry Adoption (9.30-12.30)

- 9.30-10.10 History, Background and Main Characteristics of the Convention
 Speaker: Prof. Nadia De Araujo, Professor of International Law, Pontifical Catholic University of Rio de Janeiro (in English)
- 10.10-10.30 The Role of the Central Authority
 Speaker: Ms Jennifer Degeling, Secretary at the Permanent Bureau, Hague Conference on Private International Law (in English)
- 10.30-11.00 Challenges to Successful Implementation in Countries of Origin (Prof. Nadia De Araujo) and Receiving Countries (Ms Jennifer Degeling)
 Speakers: Prof. Nadia De Araujo, Professor of International Law, Pontifical Catholic University of Rio de Janeiro (in English) and Ms Jennifer Degeling, Secretary at the Permanent Bureau, Hague Conference on Private International Law (in English)
- 11.15-12.30 Case studies
 Speakers: Prof. Nadia De Araujo, Professor of International Law, Pontifical Catholic University of Rio de Janeiro (in English) and Ms Jennifer Degeling, Secretary at the Permanent Bureau, Hague Conference on Private International Law (in English)

The 2007 Hague Convention on the International Recovery of Child Support, and the 2007 Protocol on Applicable Law (14.00-17.00)

- 14.00-15.00 General Introduction to the Convention and Protocol
 Speaker: Prof. Nadia De Araujo, Professor of International Law, Pontifical Catholic University of Rio de Janeiro (in English)
- 15.00-15.30 Implementation of the Convention
 Speaker: Mr Philippe Lortie, First Secretary, Hague Conference on Private International Law (in French)
- 15.45-17.00 Case studies and discussion of the preparation for implementation
 Speakers: Prof. Nadia De Araujo, Professor of International Law, Pontifical Catholic University of Rio de Janeiro (in English) and Mr Philippe Lortie, First Secretary, Hague Conference on Private International Law (in French)

19.30 *Farewell drinks*
Location: Peace Palace

4. Future Directions

-Saturday, 20 June (Seminar Room, Academy)

- 9.30-10.00 Direct Judicial Communication
- Speaker: Judge Robine de Lange-Tegelaar, Vice-President of the Court of First Instance of The Hague, President of the Department of Youth and Family Law of the Court and Liaison Judge for International Child Protection in the Netherlands (in English)
- 10.00-10.30 International Co-operation involving States from within the Islamic World
- Speaker: Mr Philippe Lortie, First Secretary, Hague Conference on Private International Law (in French)
- 10.30-11.00 Transfrontier Mediation in Child Protection Cases
- Speaker: Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)

Conclusions

Saturday, 20 June (Seminar Room, Academy)

- 11.15-12.00 Concluding Panel: The Relationship between Public and Private International Law Mechanisms for the Protection of the Child
- Speakers: Prof. Samantha Besson, Seminar Coordinator for The Hague Academy of International Law and Professor of Public International Law, University of Fribourg (in French) and Prof. William Duncan, Deputy Secretary General, Hague Conference on Private International Law (in English)