

STATEMENT OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

At the Sixth Committee of the 74th Session of the United Nations General Assembly

Agenda Item 83: The rule of law at the national and international levels

11 October 2019

New York

Delivered by Dr. Gérardine Goh Escolar, First Secretary

Check against delivery please

Thank you, Chair.

1. The Hague Conference on Private International Law, or HCCH, is the world organization for the progressive unification of the rules of private international law. The HCCH strives to establish effective frameworks, including cooperation mechanisms, for the promotion of and respect for the rule of law at the national and international levels. The HCCH aims to help individuals, families, commercial operators and institutions overcome legal challenges that they often face in a cross-border context. Allow me to emphasize how much the HCCH appreciates the opportunity to share with the General Assembly, through this Committee, highlights of its work and the close parallels between the work of the HCCH and the United Nations on the promotion of the rule of law.

The Mandate and Scope of the HCCH

2. A global, intergovernmental organization, the origin of which can be traced back to 1893, the mandate of the HCCH is to progressively unify the rules of private international law through the framework of international Conventions and other instruments. The HCCH acts in the common interest of its 83 Members, which comprise 82 Member States across the globe, and the European Union. The overriding purpose of the HCCH framework is to provide individuals, families and children, businesses and investors, whose lives and activities cross the borders between different jurisdictions, with a high degree of legal certainty and predictability. The HCCH therefore establishes frameworks that include effective cooperation mechanisms that can overcome the challenges of cross-border procedures and promote the orderly and efficient settlement of disputes, good governance, sustainable development, and the rule of law. The work of the HCCH acknowledges and respects the diversity of legal systems and traditions across the globe. Its scope includes international family and child protection law, international civil procedure and recognition of documents, as well as international commercial and financial law.

The HCCH Strategic Plan 2019-2022

3. Guided by its Council on General Affairs and Policy, the Work Programme of the HCCH includes normative work in the negotiation and conclusion of Conventions that address pressing contemporary needs. The normative work of the HCCH, which is the first Priority in its Strategic Plan for 2019-2022, aims to encourage the progressive development of private international law and its codification.
4. The HCCH recognizes, as the General Assembly has re-iterated in Resolution 73/207, the important role of multilateral and bilateral treaties and treaty processes in advancing the rule of law. The HCCH considers it to be its mission to encourage its Members to further consider the promotion of treaties in areas where international cooperation could benefit from treaties. To that end, the HCCH is pleased to report the successful conclusion, on 2 July 2019 in The Hague, the Netherlands, of the 2019 HCCH *Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters*.
5. The second Strategic Priority of the HCCH focuses on non-normative work that assists with the implementation and practical operation of its Conventions and instruments. The HCCH reaffirms, as was stressed in Resolution 73/207 of the General Assembly, the importance of adherence to the rule of law, and the need to strengthen support to Members in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, in order to develop, reinforce, and maintain domestic institutions active in the promotion of the rule of law at the national and international levels.
6. The diversity of legal systems and traditions among HCCH Members, and the respect that the work of the HCCH has for this diversity, is recalled in its third Strategic Priority – that of promoting inclusiveness amongst its Members in the promotion of and respect for the rule of law.

The Work of the HCCH and Agenda 2030

7. Agenda 2030 underscores the rule of law and access to justice as essential building blocks of sustainable development. This is made explicit in SDG 16, which seeks to promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels. The work of the HCCH has a concrete, real-world impact on individuals and societies in the promotion of the rule of law, and access to justice.

Normative Work

8. Contributing to the realisation of the UN Sustainable Development Goals, and in pursuit of achieving the Priorities set out in its Strategic Plan, the HCCH continues its normative work in various fields of private international law. It is currently exploring the feasibility of advancing work on the private international law issues relating to legal parentage and the status of children, including issues arising from international surrogacy arrangements. The HCCH is also developing a navigation tool to provide best practices on how family law agreements involving children can be recognized and enforced in a foreign State under its 1980 Child Abduction, 1996 Child Protection, and 2007 Maintenance Conventions. Research relating to this navigation tool will also provide insight on the desirability and feasibility of developing a Convention on the cross-border recognition and enforcement of such agreements.

Non-Normative Work

9. The proper implementation and operation of treaties is crucial to the promotion of and respect for the rule of law. The non-normative, or post-Convention, work of the HCCH recognizes this fundamental fact.
10. In international family and child protection law, the HCCH continues to highlight the vital role of the 1980 Child Abduction Convention, the 1993 Inter-country Adoption Convention, the 1996 Child Protection Convention, the 2000 Adults Convention, and the 2007 Child Support Convention and its Protocol, in the protection of children and vulnerable individuals in cross-border situations. In cooperation with Working Groups comprised of technical experts, the HCCH develops and publishes user-friendly Notes, toolkits, Guides to Good Practice and Practical Handbooks in the area. The HCCH also convenes stakeholders through meetings of Special Commissions, conferences and networks, and provides technical assistance in the form of technical assistance programmes, and judicial and other training courses, to Members and Contracting Parties.
11. In the field of international civil procedure and litigation, the HCCH looks to enhance legal certainty and predictability in the simplification of legal procedures across borders. A critical success factor in the take-up of the HCCH Conventions in this field has been the dual approach undertaken to facilitate effective access to justice for all through the simplification of procedures, as well as leveraging the technology-neutrality of the HCCH Conventions in order to best employ information and communications technology. This leads to a significant reduction of cross-border transaction and litigation costs. The suite of HCCH civil procedure and litigation Conventions: the 1961 Apostille Convention, 1965 Service Convention, 1970 Evidence Convention, the 2005 Choice of Court Convention, the 2015 Choice of Law Principles, and the 2019 Judgments Convention comprise a formidable toolkit for Contracting Parties seeking to simplify their cross-border civil procedure and litigation mechanisms.
12. The HCCH recalls that SDG 16 is intertwined with the international legislative process, to which the HCCH contributes. When considering target 16.3, in particular, the HCCH agrees with the General Assembly in its recognition that the rule of law is not only about criminal law and transitional justice, but also about mature rule-based commerce as a stabilizing factor, and a factor for mobilizing resources for development, including due process and a strong judicial and legal infrastructure. The work of the HCCH is directly relevant to all dimensions of access to justice across borders, including normative prevention, access to effective remedies, and legal and procedural transparency.

Collaboration between the HCCH and the United Nations

13. The constructive partnership between the HCCH and various organs of the United Nations is particularly evident in its cooperation with UNCITRAL, WIPO and UNICEF. We are also pleased to contribute to the work of the well-established tripartite collaboration between the Secretariats of the HCCH, UNCITRAL and UNIDROIT.

14. The HCCH recalls SDG 17, which aims to strengthen the means of implementation and revitalize the global partnership for sustainable development. The HCCH notes in particular its continuing work in providing technical assistance and enhancing international cooperation, which adds to the steps taken towards target 17.14 in enhancing policy coherence for sustainable development. The work of the HCCH has a unique role to play as well in enhancing multi-stakeholder partnership envisaged in targets 17.16 and 17.17. The HCCH leverages its strong partnerships with many organizations active in the fields of international family and child protection law, international civil procedure and litigation, as well as international commercial and financial law. We also continue to explore novel approaches to building effective cooperative frameworks with governments, the United Nations, and other institutions and individuals related to the HCCH's mandate of progressively unifying private international law.
15. The HCCH is honoured to deepen its close working relationship with the United Nations and stands ready to further contribute to the promotion of and respect for the rule of law at the national and international levels, including to the work of the Rule of Law Cooperation and Resource Group.

Conclusion

16. The future-oriented work of the HCCH is testament to its continuing relevance as the leading global organization that develops practical and modern private international law solutions. The HCCH strives for a closer cooperation with the United Nations in the discharge of its mandate, leveraging this effective partnership in order to promote the rule of law and ensure access to justice for all.
17. Thank you.

The Hague Conference on Private International Law (HCCH) works to progressively unify the rules of private international law through the establishment of effective cooperation mechanisms to overcome the challenges of cross-border procedures, in order to promote the orderly and efficient settlement of disputes, good governance, sustainable development, and the rule of law.