

Workshop

The Convention on the Civil Aspects of the International Child Abduction (the Hague 1980 Convention): Interpretation and Application in cross-border family disputes

The workshop took place on 10-11 March 2023 in Yerevan. 60 Lawyers from eight countries shared their experiences related to the application and enforcement of The Convention on the Civil Aspects of the International Child Abduction in their jurisdictions.

The implementation of conventional provisions causes difficulties all around the world. The key problems are the lack of understanding of the autonomous concepts of the convention among judges, lawyers and state authorities; the collisions between conventional rules and domestic substantial and procedural rules; the small number of the specialised judges and lawyers.

The progress of implementation differs from country to country. Therefore, it is important for lawyers to get to know best practices from their colleagues representing the jurisdictions where case-law is better developed and judges have more experience. Workshop participants had an opportunity to learn about the application of the Convention by the courts in England and Wales and to compare this practice with similar cases at their domestic courts.

The discussions covered some issues relating to the interpretation of Article 13 of the Convention. Experts observed the application of the exceptional norms regulating cases where judicial or administrative authorities may refuse the return of a child.

Workshop participants also focused on the interrelation of the 1980 Hague Convention and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (the 1996 Hague Convention). Special attention was paid to the violation of the right to respect for family life (Article 8 of the ECHR) in cross-border family matters such as international child abduction.

The workshop was held in a very practical format: practitioners discussed real cases and brainstormed various strategies for the future. They participated in eight case study exercises relating to several aspects of the application of the Convention.

The intensive peer dialogue led workshop participants to the idea of continuation of the cooperation on national and international levels. One of the opportunities is the development of professional contacts with the International Academy of Family Lawyers (IAFL). There is also a high demand to establish and keep strong professional relations on a bilateral level.

All participants mentioned their high satisfaction of the workshop outcomes. They greatly appreciated contributions from keynote speakers, IAFL leaders and fellows, and expressed their gratitude to the law firm “Concern Dialog” (Yerevan) for the organisational support.

In addition to the workshop presentations, three video talks were recorded and made available to the participants.

Recommendations for lawyers representing families in cross-border conflicts over children (130 pp) were specifically written for the purposes of this training programme.

Feedback from the participants:

Everything was interesting, including the experience of foreign colleagues and the specifics of dealing with transborder disputes in the United Kingdom, the history of the development of the application of the Hague Convention in Russia, and, the most useful, judicial practice and practical advice from the experts on how best to act in a given situation.

Almost all topics were interesting and useful: both the Russian experience and the approaches adopted in England and Wales.

The conference allowed me to immerse myself more in the topic, I now have new ideas for using the Convention in my human rights work.

An extremely useful event both for professional development and networking.

Practical examples from speakers and the exercise on case analysis allowed me to consolidate the acquired knowledge. Also, conversations with the speakers during breaks and their detailed answers to our questions were especially helpful.

I really liked all the material of the programme and all presentations. It was very useful to exchange views with those involved in private international law and cross-border disputes, to see what we have come to in 12 years of applying the 1980 Hague Convention, how we should go further, in what direction the jurisprudence is moving. It was very nice to see how much interest lawyers, especially young colleagues all over Russia and in other countries, have in the application and interpretation of the international child protection treaty.

I thank the organisers for the invitation to speak at the workshop and share my experience in cross-border disputes at the appeal stage. It was a great pleasure to communicate with so many colleagues - professionals, whose eyes shined when they discussed most difficult issues trying to find the most effective solutions. The atmosphere of the conference inspired new thoughts, ideas and plans. I hope they will be realised. Together we can do more!

In my opinion, the workshop turned out to be very interesting both for experienced lawyers and younger colleagues. It was useful to listen to the presentations of the UK colleagues, especially considering that the mechanism of the Hague Convention of 1980 really works in England and Wales. The presentations by our Russian colleagues were also useful, as we exchanged views and approaches in the work on conventional cases against the backdrop of a general negative trend in such disputes in Russia. The practical sessions were especially effective for beginning colleagues - we were able to discuss and identify the main aspects of practice in conventional cases. And, in general, in contrast to the political crisis that is raging in the world, it was great to be in a circle of like-minded colleagues from completely different countries. Thank you very much for organising this event!

The most useful was the practical aspect of the issues we discussed, the experience that the experts shared with us, as well as the materials of the programme, which in general were a practice-oriented. For example, the information on the appeal hearings of cases on cross-border disputes, as well as the enforcement of court decisions on cross-border disputes in the North Caucasus region, were very useful. All, without exception, materials of the programme will be used in my work, but I would like to single out the talk by Jennifer Perrins "Hearing the voice of a child." From it, I learned a lot about resolving child abduction disputes resolved in the UK. It turned out to be very

educational also in terms of comparison with our justice system, and the circumstances of a child's participation in the legal process. I was very impressed by the presentation of Teertha Gupta KC, in comparison with our judicial system and advocacy.