

Peter Nygh Internship

2008 Recipient: Katie Price

**Intern at the Hague Conference on Private
International Law**

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Report of Activities

INTRODUCTION

For almost 5 months I was the 2008 Peter Nygh Intern at the Hague Conference on Private International Law ('Hague Conference'). This is an organisation that for over 115 years has been dedicated to the harmonisation of cross border legal affairs and in doing so it aims to make life a little easier for those whose legal affairs do not fit neatly within the borders of one country. Whilst 115 years sounds like a ridiculously long time for a conference to be going on, the Hague Conference is no ordinary conference. Rather, it is a standing body with a Permanent Bureau that makes international laws through the consensus of its member states. 39 conventions have been concluded in that time, some that break radical new ground and others that update what has gone before to ensure these conventions keep step with the modern world. Some of the work I performed as an intern had to do with trying to get new conventions off the ground and some work dealt with maintaining and ensuring the continuing relevance of conventions. There were also a number of smaller tasks involving a variety of matters.

JUDICIAL CO-OPERATION

During my internship I was a member of the Judicial Co-operation Team, which is to be distinguished from the Family Law team, although it would be fallacious to consider that all the work of the Hague Conference fitted within such a narrow dichotomy. This team was headed by Christophe Bernasconi (First Secretary of the Hague Conference).

Collectively, The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, The Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention) and The Hague Convention on International Access to Justice Convention are known as the Judicial Co-operation Conventions. Known more colloquially as the Evidence, Service, Apostille and Access to Justice Conventions they represent some of the most widely ratified and used conventions produced by the Hague Conference.

This is because these Conventions assist those whose litigation crosses borders by streamlining the procedures by which service can be effected or evidence taken. More importantly, it ensures that these streamlined procedures are reciprocal between those States which are party to the relevant Convention. States who are not member states of The Hague Conference may be members of one or more individual conventions.

The Apostille Convention, the most widely ratified of all conventions assists those who need to use a public document (for example a birth certificate, diploma, medical records etc.) in a foreign country. There is no way for that foreign authority to determine the legitimacy of those public documents

without some kind of certification from the issuing state indicating the validity of the document. That validation used to be effected by a process called legalisation whereby a chain of seals would be placed upon the document indicating that each signature below as the chain went on was valid, and validly made. A long and complicated procedure existed as a result, often requiring multiple persons and authorities to be involved. The Apostille Convention replaces that process with a single step, an Apostille certificate which is attached to the official document and indicates the signature, the authority of those signing and the seal, if present, are valid.

The Access to Justice Convention, despite the noble aim of ensuring that access to justice is not prevented on the basis of nationality, residency or citizenship, has not been widely used nor acceded to and our team helped to find out why.

Our team dealt with all matters related to these four conventions and in particular the preparation of the Special Commission which gathers all relevant parties (Member States, States who are party to one or more of the conventions and States who are actively considering becoming a party as well as interested observers). I was involved with all aspects of the preparation including:

- Drafting and proofing qualitative surveys designed to comprehensively review how the Conventions operate in practice and the opinion of non-contracting States
- Collation and analysis of responses to those surveys
- Strategic planning, drafting agendas and fielding inquiries from States
- Development of specialised documents canvassing pressing issues arising from the inquiries of States and the responses of the surveys, in particular the mandatory / non mandatory nature of the Evidence Convention, Apostilles and Diplomas and taking of evidence by video-link.
- Development of the Apostille Handbook, designed to assist States in applying the Apostille Convention.
- Proofing, following up and formatting various documents
- Translation assistance
- Dealing with inquiries regarding these conventions from State authorities and individuals covering the entire gambit of the operation of the judicial co-operation conventions.

MIGRATION

This part of my internship was involved in trying to get a migration convention off the ground and involved mainly researching current developments and putting together briefing memos. I worked roughly one day per week on this project under the direction of Hans Van Loon (Secretary General of the Hague Conference). Since 2006 there has been in principle support from Member States of the Hague Conference for the preliminary work necessary to develop a Convention dealing with migration, and in particular certain aspects of migration that might benefit from the application of the “Hague Model”. The

Hague Model exists in some, but not all, Hague Conventions and sets up an administrative framework of Central Authorities in signatory States.

The project aims to take that international co-operative method developed by The Hague Conference, starting with the Judicial Co-operation Conventions and further refined in the Adoption, Abduction and Protection of Adults Conventions, and apply it to well defined aspects of international migration. The current remit of the project is circular migration and remittances. Circular Migration refers to migrants who move abroad on a transitory basis, returning to their home (source) country for extended periods of time in between long sojourns to the host country. Remittances are the cash dividends of migration, paid by migrants to family and friends back home. Although they are often individually tiny amounts, remittances now constitute a bigger source of income for developing economies than development aid. I researched current developments of other projects in this field and kept abreast of developments reported in the media and assisted with the development of the Note ultimately presented to the General Affairs Council (the governing body of the Hague Conference).

CONCLUSION

It is impossible to surmise my experience in The Hague and at the Hague Conference into a few pages. I also worked on civil liability for transboundary harm, helped in the library, dealt with inquiries and took part in diplomatic events and expert conferences. The Hague is home to thousands of expatriates working in international organisations and is known as the city of peace and justice. Every week there is a leading academic or practitioner lecturing on fascinating aspects of international law, the University of Leiden organises amazing seminars and then there's the Peace Palace just up the road. For an international law nerd it is much like nirvana. I learnt French, Dutch and socialised with amazing and inspiring people; many of whom I now call friend. The crazy Dutch weather kept me continually on my toes but the unsurpassed cycling more than made up for it. I simply cannot recommend the Peter Nygh Internship more highly and would encourage all with an interest in Private International Law to apply. I had the time of my life thus far.